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# NOTICE OF MEETING

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## LICENSING COMMITTEE

**WEDNESDAY, 22 FEBRUARY 2017 AT 9.30 AM**

**EXECUTIVE MEETING ROOM, FLOOR 3 OF THE GUILDHALL, PORTSMOUTH**

Telephone enquiries to Lucy Wingham 02392 834662

Email: [lucy.wingham@portsmouthcc.gov.uk](mailto:lucy.wingham@portsmouthcc.gov.uk)

If any member of the public wishing to attend the meeting has access requirements, please notify the contact named above.

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### Licensing Committee Members:

Councillors Julie Bird (Chair), Hannah Hockaday (Vice-Chair), Dave Ashmore, Jennie Brent, Ken Ellcome, Paul Godier, Scott Harris, Steve Hastings, Suzy Horton, Leo Madden, Lee Mason, Stephen Morgan, Steve Pitt, David Tompkins and Gerald Vernon-Jackson CBE

### Standing Deputies

Councillors Ryan Brent, Ian Lyon, Hugh Mason, Darren Sanders and Rob Wood

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(NB This Agenda should be retained for future reference with the minutes of this meeting.)

Please note that the agenda, minutes and non-exempt reports are available to view online on the Portsmouth City Council website: [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

Deputations by members of the public may be made on any item where a decision is going to be taken. The request should be made in writing to the relevant officer by 12 noon of the working day before the meeting, and must include the purpose of the deputation (eg. for or against the recommendations). Email requests are accepted. Contact: Lucy Wingham as listed above.

## AGENDA

- 1 Apologies for Absence**
- 2 Declarations of Members' Interests**
- 3 Minutes of the previous meeting held on 24 February 2016 (Pages 3 - 8)**  
RECOMMENDED that the minutes of the previous meeting of the Licensing Committee held on 24 February 2016 be approved as a correct record.

**4      The Gambling Act 2005 - Draft Statement of Licensing Policy (Pages 9 - 104)**

Purpose

The purpose of this report is for the Licensing Committee to consider the draft statement of Licensing Policy prepared in accordance with section 349 of the Gambling Act 2005 ("the Act"). This report sets out a draft policy statement upon which the Council proposes to consult.

**RECOMMENDATION**

That the Licensing Committee agrees, with any necessary amendments, the draft Gambling Act 2005 Statement of Licensing Policy as set out in Appendix A and instructs the Licensing Manager to undertake a process of consultation and to prepare a final draft of the policy statement for further consideration by the Committee by no later than the end of July 2017, and for subsequent approval by the full Council.

**5      The Licensing Act 2003 - Draft Statement of Licensing Policy (Pages 105 - 212)**

Purpose

The purpose of this report is for the Licensing Committee to consider the draft statement of Licensing Policy prepared in accordance with Section 5 of the Licensing Act 2003 ("the Act") and to give approval for commencement of the consultation in relation to the draft statement.

**RECOMMENDATION**

That the Licensing Committee agrees, with any necessary amendments, the draft statement of licensing policy prepared in accordance with Section 5 of the Act as set out in appendix A; and instructs the Licensing Manager to undertake a process of consultation and to prepare a final draft of the policy for further consideration by the Committee and approval by Council by no later than end of July 2017.

Members of the public are now permitted to use both audio visual recording devices and social media during this meeting, on the understanding that it neither disrupts the meeting or records those stating explicitly that they do not wish to be recorded. Guidance on the use of devices at meetings open to the public is available on the Council's website and posters on the wall of the meeting's venue.

# Agenda Item 3

## LICENSING COMMITTEE

MINUTES OF A MEETING of the Licensing Committee held on Wednesday, 24 February 2016 at 9.30 am in the executive meeting room, floor 3 of the Guildhall, Portsmouth.

### Present

Councillors Julie Swan (Chair)  
Dave Ashmore  
Jennie Brent  
Margaret Foster  
Paul Godier  
Scott Harris  
Stephen Hastings  
David Tompkins

### Also in attendance

Simon Potter, Service Manager, Adams Morey  
David Watkins, Blue Lamp Trust  
And approximately 70 private hire and hackney carriage drivers.

#### 6. Apologies for Absence (AI 1)

Apologies for absence were received from Councillors Phil Smith, David Fuller, Gerald Vernon-Jackson, Lee Mason, Hannah Hockaday and Aiden Gray. Standing deputy Councillor Ken Ellcome was in attendance for Councillor Lee Mason. Apologies for absence were also received from standing deputies, Councillors Rob Wood and Lee Hunt.

#### 7. Declarations of Members' Interests (AI 2)

Councillor David Tompkins declared an interest in agenda item 4 - Town Police Clauses Act 1847 and Part III, Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Matters - Draft Statement of Licensing Policy - in that he owns a language school in Portsmouth and would therefore abstain from the discussions on that particular issue.

#### 8. Minutes of the previous meeting held on 15 January 2016 (AI 3)

RESOLVED that the minutes of the Licensing Policy Committee held on 15 January 2016 be agreed as a correct record and signed by the chair.

#### 9. Town Police Clauses Act 1847 and Part II, Local Government (Miscellaneous Provisions) Act 1976 - Hackney Carriage and Private Hire Matters - Draft statement of Licensing Policy (AI 4)

The Licensing Manager introduced the report and explained that the Licensing Committee in 2014 had instructed that the head of service "undertake a thorough

review of hackney carriage and private hire policy in respect of drivers, vehicles and private hire operators".

The draft policy has been subject to public consultation via "consultations" on the council website, with copies being distributed to all licensed private hire operators, recognised trade representatives and to all the 'big' fleet garages within the city and with copies being made available in the Licensing Service public reception area.

The principal licensing officer gave a presentation to the committee on the draft policy statement. Members were also shown CCTV footage, which had been taken from a forward facing camera installed in a hackney carriage vehicle involved in a car accident.

Deputations were heard from Viv Young (Taxi Trade rep), Carolyn Holmes (Hackney Carriage Proprietor), Bruce Hall (General Manager, Aquacars), Perry McMillan (Unite Union Southern Area Taxi Trade) and Chris Dixon (Hackney Carriage rep).

Viv Young included the following points in his representations:

- Have 40years experience in the taxi trade.
- Taxis are over-ranking. Request a survey is undertaken.
- Drivers sit on a rank for hours at a time.
- The minimum working wage is going up but taxi drivers earn less than that.
- Must retain quality and quantity in the trade.
- Fully support 3year licence for private hire drivers - good to have that option.
- Regarding the bulb kit, not practical. Police and bus drivers do not change their vehicle bulbs and are not expected to. Some drivers would just sell the kits.
- Regarding CCTV, not all drivers are technical. Would assume if the light is on the CCTV is working.
- Age of a driver should be decided on merit. I was 19years old when I joined the trade. Applicants should hold a driver licence for two years.
- Support driver standards.
- Geography standards, my eyes are always on the road not the sat nav. Good local knowledge is essential.
- Fully support disability/wheelchair training. Commend Aquacars who insist drivers are trained. Is there any funding available from Southern Tourist for this training?
- 120,000 motorway miles on a vehicle is better than 40,000 miles from driving around town for the vehicle.
- Vehicle age limit should remain at 8years. Should clamp down on persistent offenders not those drivers who look after their vehicles.
- Cost of installing CCTV for 31 days will be £700.
- Taxi ranks at the Kings, the new Tesco and Liquid and Envy need addressing, as does the temporary rank at The Hard.
- The council need to clamp down on illegal parking on taxi ranks.
- Rear loading wheelchair accessible vehicles are better for most Portsmouth streets. The vehicles are cheaper and smaller.
- The trade and council need to work together.



At this point in the proceedings the Licensing Manager clarified that the policy statement would be forwarded to neighbouring local authorities, the chair confirmed that she had agreed to write to the Licensing Committee chairs for the neighbouring local authorities asking them to consider the policy and Councillor Ken Ellcome, as the Cabinet Member for Traffic and Transportation, clarified that the issue of taxi ranks is ongoing and that trade reps are welcome to attend the Taxi Liaison Group meeting, taking place a week Friday with any suggestions.

Carolyn Holmes included the following points in her representations:

- Have been in the trade for over 40years and a trade rep for over 20 of them.
- Have never known it to be so quiet.
- The use of mobile phones over the last 10years has certainly affected the hackney carriage trade.
- The number of private hire drivers/vehicles have increased but not in line with the population of the city.
- The introduction of Uber and Andicars operating in the city have also had an impact on the hackney carriage trade.
- Driver standards are a good thing.
- The geography knowledge test needs to be tightened up.
- CCTV is good for both the driver and the travelling public.
- Livery - slight changes have crept in.
- First licensed vehicle under one year will be a huge financial burden on proprietors.
- Garages are making a profit on every car so can afford it unlike individuals.
- Vehicles over five years old will be subject to two tests. This is a good thing but also another financial burden.
- Change is a good thing but there are financial expectations for both private hire and hackney carriage.

Bruce Hall included the following points in his representations:

- There is an unmet demand for hackney carriage. A survey should be undertaken so the committee can make an informed decision/
- The age for drivers should be 21years.
- Three year vehicles are generally good, not one year. Do not have an issue with testing over 5-6year old vehicles.
- Speaking and understanding the English language is welcomed for drivers. Should be a minimum entry level for the trade.
- Aquacars require drivers to do the MiDAS training.
- Everyone needs to understand the needs of their passengers.
- Agree with CCTV in cars. 72 hours is not long enough and 31 days is too long. Insurance will be lowered if CCTV is fitted.
- Cardiff Council have asked for four cameras, two inside, one looking out the front and one looking out of the rear of the vehicle at a cost of £260.
- Cannot legally record conversations in the vehicle so you cannot pick up the start of the confrontation. Is it the driver or the customer?
- Everything is App based now with Uber so please bear in mind of anything you ask to be implemented and the costs.
- Want support from both sides.

Perry McMillan included the following points in his representations:

- If members agree to retain hackney carriage numbers then a survey must be undertaken.
- In Southampton the last survey was undertaken in 2015 and there was found to be no unmet demand. The evidence backs up what the drivers on the ranks had been saying. This is a city with cruise ships etc.
- There just isn't the work.
- There were too many cars ranking at Portsmouth&Southsea train station and we were asked to deal with that.
- CCTV now could cost up to £700. There were some issues with the heads of the cameras snapping when vehicles went over ramps.
- Taxi drivers are chatty. We want a tip!
- Be minded that this is people's livelihood and things should be phased in.
- The turnout today shows how important this is.

Chris Dixon included the following points in his representations:

- Fantastic turnout today.
- Vehicle age, one year is draconian, three years is tough but more acceptable.
- Test for 'fit and proper' - only want people who are fit and proper representing this city.
- CCTV is the way forward to protect the travelling public and the driver.
- The principle could be voted on today and the details discussed at a later date.
- Hackney carriage trade have not asked for a fare rise in six years because private hire is so competitive in the city.
- Portsmouth is one of the cheapest cities to travel in private hire.
- Please retain the hackney carriage numbers otherwise we will become extinct.
- You as a committee have a duty of care to do the right thing.
- We have to pay for the survey.
- Council must abide by the decision of any survey.
- Special thanks to Ross Lee for his hard work on this policy.

Councillor Swan wished to place on record the committee's thanks to Ross Lee for all this work on this policy.

Simon Potter, the Service Manager, from Adams Morey explained that 'bulb' failure is quite a common thing and carrying a bulb kit in the vehicle could make working much easier. Adams Morey are always willing to fit bulbs to get drivers back out working as quickly as possible. There is more and more pressure to make vehicles leaner and greener.

David Watkins from the Blue Lamp Trust ("BLT") explained that the trust was set up in 2010 between Hampshire Fire and Rescue Service and Hampshire Constabulary. The BLT is a lead supplier to local authorities, Havant being the first one the trust started with, of driver assessments for taxi licence applicants and existing drivers. The aim of the trust is to reduce risk and improve the standard of driving. The cost of an assessment is £87 which includes a de-brief session. Many drivers have a number of bad habits so the trust recommends having a driving lesson with a qualified instructor first. The money raised from the assessments is ploughed back into a scheme to secure the homes of persons aged over 60years.

### Members' questions

Members sought clarification from the licensing manager on the use of prescription drugs, the geography test and the need to build in further questions into the test, the current language test, the phasing in of the use of CCTV in vehicles and the use of the audio function and the pros and cons of undertaking a survey.

Members agreed to the recommendations contained within the statement of licensing policy including the proposed final amendments as listed at appendix C to the report and the following additional amendments:

Chapter 4: Hackney Carriages - Demand and Quantity Control. The committee agreed to retain the existing numeric limit (234 vehicles) on the number of hackney carriage licensed to ply for hire within the City of Portsmouth and to instruct the head of service to identify a suitably qualified independent transport consultant to carry out a survey on the demand or otherwise for the services of hackney carriages within Portsmouth.

Chapter 8: The Test of "Fit and Proper" - 'minimum entry age limit to the trade of 21 with a requirement for applicants to have held a full driving licence for 2 years';

Chapter 10: Vehicle Specification Requirements: paragraph 4.4 - 'any newly licensed fully wheelchair accessible private hire or hackney carriage after 1 April 2016 may be licensed with either rear, side loading or both';

Chapter 11: Vehicle Testing Requirements: paragraph 8 - remove the reference to the need to carry a replacement bulb and fuse kit;

Chapter 12: Vehicle Age Limits - 'all private hire and hackney carriage vehicles presented for initial licensing shall be under 3 years of age on first licensing and may remain licensed until 8 years of age';

Chapter 13: CCTV Provision in Vehicles - paragraph 3 'to retain such data for a period of 31 days'; and paragraph 5 'that all licensed hackney carriage and private hire vehicles as appropriate be fitted with compliant CCTV cameras by 30 September 2017 and that any newly licensed private hire or hackney carriage vehicle from 1 April 2016 onwards be required to be fitted with compliant CCTV cameras with immediate effect'.

### RESOLVED that:

- 1) The report and draft statement of licensing policy for the control, supervision and enforcement of the hackney carriage and private hire trades within the City of Portsmouth together with the scheme of delegations and relevant appendices be noted and approved by the Licensing Committee with effect from 1 April 2016.
- 2) That the policy be reviewed by the Licensing Committee every 3 years with the appropriate head of service authorised to make such minor typographical and other corrective administrative amendments from time to time as required.
- 3) Recommends to council the formal approval of the licensing policy for a 3 year period commencing 1 April 2016 and to seek approval for the Licensing

Committee to retain future responsibility for the control and administration of the policy.

The meeting concluded at 2.45 pm.

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Signed by the chair, Councillor Julie Swan.

# Agenda Item 4



**Portsmouth**  
CITY COUNCIL

<b>Title of meeting:</b>	LICENSING COMMITTEE
<b>Date of meeting:</b>	22 February 2017
<b>Subject:</b>	The Gambling Act 2005 - Draft Statement of Licensing Policy
<b>Report by:</b>	Licensing Manager
<b>Wards affected:</b>	All
<b>Key decision:</b>	No
<b>Full Council decision:</b>	Yes

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## **1. Purpose of report**

- 1.1 The purpose of this report is for the Licensing Committee to consider the draft statement of Licensing Policy prepared in accordance with section 349 of the Gambling Act 2005 ("the Act"). This report sets out a draft policy statement upon which the Council proposes to consult.

## **2. Recommendations**

- 2.1 That the Licensing Committee agrees, with any necessary amendments, the draft Gambling Act 2005 Statement of Licensing Policy as set out in Appendix A and instructs the Licensing Manager to undertake a process of consultation and to prepare a final draft of the policy statement for further consideration by the Committee by no later than the end of July 2017, and for subsequent approval by the full Council.

## **3. Background**

- 3.1 In accordance with the provisions of the Gambling Act 2005, the Council is the licensing authority and is responsible for licensing and overseeing gambling premises in its area which include the following:
- Licensing of premises where gambling activities are to take place by issuing premises licences;
  - Issuing of provisional statements (in respect of premises yet to be built, altered or acquired);
  - Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities by issuing club gaming permits and/or club machine permits;
  - Issuing club machine permits to commercial clubs;
  - Granting permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
  - Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;

- Issuing licensed premises gaming machine permits for premises licensed to sell/supply alcohol for consumption on the licensed premises (under the Licensing Act 2003) where more than two machines are required;
- Registering small lotteries below prescribed thresholds;
- Issuing prize gaming permits;
- Receiving and endorsing temporary use notices;
- Receiving occasional use notices;
- Providing information to the Gambling Commission regarding details of licences issued; and
- Maintaining registers of the permits and licences that are issued under these functions.

In addition, the Council, as licensing authority, is also required to prepare and publish a statement of the principles it proposes to apply in exercising its functions under the Act (the statement of licensing policy).

- 3.2 The statement of licensing policy is the policy document that the licensing authority, and indeed applicants', will refer to when considering applications for licences or permits under the Act.
- 3.3 In determining its principles, the Act states that the Council must consult with the following:
- The chief officer of Police;
  - 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 person 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.
- 3.4 The statutory guidance issued by the Gambling Commission in accordance with section 25 of the Act advises that the list of persons to be consulted when preparing the statement of licensing policy is deliberately wide. This enables licensing authorities to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the statement of licensing policy.
- 3.5 To ensure that the consultation process is as effective as possible, the following steps will be taken in addition to the statutory requirements:
- Copies of the draft statement will be made available on the Council's website and social media;
  - A press release will be prepared for the media;
  - Copies of the statement will be made available in the offices of the Licensing Service, City Helpdesk and all libraries;
  - An item on the proposed draft policy will be published in the Members Information Sheet and distributed to all members; and

- A copy of the draft policy will be made available in each of the Group Rooms together with a copy of the existing policy. A copy of the Act and the Statutory Guidance is already available in the Group Rooms.

3.6 There are legally prescribed procedures that the Council must follow before the policy statement can take effect. This involves making the statement publically available by a variety of means for at least 4 weeks and by advertising that it has been published.

3.7 The final policy statement must be adopted by full Council. This function cannot be delegated to the Licensing Committee or Cabinet, however the proposed final policy statement will be considered by the Licensing Committee in due course and it will commend it to Council for adoption.

#### **4. Reasons for recommendations**

4.1 To fulfil the Council's statutory obligations as set out in section 349 of the Act.

#### **5. Equality impact assessment (EIA)**

5.1 A preliminary EIA has been undertaken and is attached as Appendix C.

#### **6. Legal Implications**

6.1 All legal comments are contained within the body of the report.

#### **7. Finance Comments**

7.1 There are no financial implications in respect of this report.

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Signed by:

#### **Appendices:**

<b>Appendix A</b>	Draft Statement of Licensing Policy for 2017 - 2020.
<b>Appendix B</b>	Existing Statement of Licensing Policy.
<b>Appendix C</b>	Preliminary Equality Impact Assessment.

**Background list of documents: Section 100D of the Local Government Act 1972**

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
Signed by:



# Gambling Act 2005

Section 349 - Statement of Licensing Policy - 2017/2020

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)



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# PART A

## 1.0 Introduction to the Statement of Licensing Policy

- 1.1 Section 349 of the Gambling Act 2005 ("The Act") requires the Licensing Authority to prepare and publish a statement of licensing principles that it proposes to apply in exercising its functions under the Act, commonly known as a statement of policy. The statement of policy forms the Licensing Authority's mandate for managing local gambling provision and will set out how the Licensing Authority views the local risk environment and therefore its expectations in relation to operators with premises within Portsmouth.
- 1.2 Portsmouth City Council is the Licensing Authority for the Gambling Act 2005 for the administrative area of Portsmouth as shown on the map at **Appendix A**. Any references to "the Licensing Authority" in this document refers to Portsmouth Licensing Authority.
- 1.3 The statement of policy acts as the primary vehicle for setting out the licensing authority's approach to regulation having taken into account local circumstances. The Licensing Authority considers that the existence of a clear and robust statement of policy will provide greater scope for the Licensing Authority to work in partnership with operators, other local businesses, communities, and responsible authorities to identify and to proactively mitigate local risks to the licensing objectives.
- 1.4 This statement of licensing policy can be reviewed and revised by the Licensing Authority at any time, but must be produced following consultation with those bodies and persons set out in section 349(3) of the Act. Further information concerning the consultation process is set out in paragraph 4.0 of this policy.
- 1.5 The Licensing Authority will ensure that the statement of policy balances the need for a degree of certainty on the part of gambling businesses with the need to remain responsive to emerging risks.
- 1.6 The Licensing Authority, in carrying out its functions under section 153 of the Act will aim to permit the use of the premises for gambling in so far as it thinks it:
- In accordance with any relevant code of practice under section 24;
  - In accordance with any relevant guidance issued by the Gambling Commission under section 25;
  - Reasonably consistent with the licensing objectives; and
  - In accordance with the Authority's statement of licensing policy.
- 1.7 The effect of this legal duty is that the Licensing Authority must approach its functions in a way that seeks to regulate gambling by using its powers to attach conditions to licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.
- 1.8 The "aim to permit" framework does provide a wide scope for the Licensing Authority to impose conditions on a premises licence, reject, review or revoke premises licences where there is potential conflict with the relevant codes of practice, relevant Guidance issued by the Commission, the licensing objectives or the Licensing Authority's own statement of licensing policy.
- 1.9 Whilst this statement of licensing policy sets out a general approach to the exercise of the Licensing Authority's functions under the Act, it will not override the right of any person to make application and to have that application considered on its merits. The only exception to this is where a licensing authority has passed a "no casino" resolution under section 166(1) of the Act. Additionally, this policy will not



undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

- 1.10 The Council recognises that legal gambling in a fair and open way, with suitable protection for children and vulnerable persons, contributes much to the growth of the local economy for Portsmouth and offers an important role for employment within the city.
- 1.11 A map of the Portsmouth area is attached as **Appendix A** to this policy.

## **2.0 Introduction to Portsmouth area**

- 2.1 The City of Portsmouth is situated in the ceremonial county of Hampshire and is at the heart of Britain's southern coastline with long established direct road and rail links to London, the Midlands and Wales.
- 2.2 Portsmouth is undergoing great change with a £2billion investment plan underway. Elements such as the Tipner motorway junction and park and ride are already completed while there is more to come with new homes, businesses and jobs to come from the City Deal sites and the exciting regeneration plans for The Hard.
- 2.3 Portsmouth has a population of 200,000 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country outside London.
- 2.4 As the local highway authority, the Council is responsible for approximately 458km of vehicular carriageway in partnership with Colas and Ensign. Up to 90,000 inbound vehicle movements are recorded in any one 24 hour period and previous census data indicates 397 vehicles per 1000 people in Portsmouth. Traffic growth is predicted to generally rise between 19% and 55% by 2040.

- 2.5 A significant naval port for centuries, it is home to the world's oldest dry dock and to world famous ships including HMS Victory, HMS Warrior 1860 and the Mary Rose. Major investment around the harbour has transformed the "great waterfront city".

Home to Ben Ainslie Racing and hosting the preliminary 2015 and 2016 America's cup racing series, the dynamic waterfront city still has an important role as a major dockyard and home base to the Royal Navy.

- 2.6 The city offers a vibrant mix of entertainment facilities for residents and visitors alike with two established theatres, restaurants, cinemas, concert venues and a variety of pubs and clubs. The late night economy is well served with venues in the north located at Port Solent, the city centre located near the Guildhall and in the south both at Gunwharf Quays and in Southsea. Major music festivals are held during the summer months attracting tens of thousands of revellers.

## **3.0 The Licensing Objectives**

- 3.1 In exercising its statutory functions under the Act, the Licensing Authority will have regard to and will be consistent with the licensing objectives as set out in Section 1 of the Act which are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.

## 4.0 Consultation on Policy

4.1 As referred to in paragraph 1.1, the Licensing Authority is required by the Act to publish a statement of licensing policy which it proposes to apply when exercising its functions. The policy must be published at least every three years and must also be reviewed from "time to time" and any amended parts re-consulted upon. The statement must then be re-published.

4.2 The Licensing Authority consulted widely upon this revision to the policy statement before finalising and publishing. The consultation took place between XXXXX and XXXXX. A list of those persons consulted is provided at **Appendix B**.

4.3 The Act requires that the following parties are consulted by the Licensing Authority:

- The Chief Officer of Police for Hampshire;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the Portsmouth area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

4.4 In determining this revised statement of licensing policy, the Licensing Authority gave appropriate weight to the views of those it consulted. In deciding what weight to give, the factors taken into account included:

- Who is making the representations, the nature of their interest and their expertise;
- Relevance of the factors to the licensing objectives;
- How many other people have expressed the same or similar views;

- How far the representations relate to matters that the Licensing Authority should consider including in its policy statement.

4.5 The revision to the policy was approved at a meeting of Full Council on XXXXX and was published on our website on XXXXX

4.6 Copies of the reports and minutes of the decision made by the Council can be found on the council's website at [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk).

4.7 Any comments regarding this policy should be sent to:

The Licensing Manager  
Licensing Service  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AL  
Tel: 023 9283 4604 Fax: 023 9283 4811  
Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)

## 5.0 Declaration

5.1 In reviewing this statement of licensing policy, the Licensing Authority has had regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission and any responses from those consulted on this statement of licensing policy

## 6.0 Responsible authorities and interested parties

6.1 When dealing with applications for and reviews of premises licence, the Licensing Authority is obliged to consider representations from two categories of persons, referred to as "responsible authorities" and "interested parties". Representations made by persons other than responsible authorities or interested parties will be considered inadmissible.

- 6.2 **Responsible authorities** are public bodies that must be notified of applications and that are entitled to make representations to the Licensing Authority in relation to applications for, and in relation to, premises licences.
- 6.3 Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:
- The Licensing Authority in whose area the premises is wholly or partly situated;
  - The Gambling Commission;
  - The Chief Officer of Police;
  - The Fire and Rescue Authority;
  - The Environmental Health Service;
  - The Local Planning Authority;
  - Children's Social Care and Safeguarding Service;
  - HM Revenue & Customs; and
  - Any other person prescribed by the Secretary of State.
- 6.4 In relation to a vessel, but no other premises, responsible authorities will also include navigation authorities<sup>1</sup>
- 6.5 A full list and contact details of the responsible authorities referred to above are attached as **Appendix D** to this statement.
- 6.6 The Licensing Authority is legally required to state the principles it will apply in exercising its powers under Section 157 (h) of the Act to designate, in writing, the body which is competent to advise the authority about the protection of children from harm. The principles are:
- The need for the body to be responsible for an area covering the whole of the Licensing Authority's area; and
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group
- 6.7 The Licensing Authority has designated the Children's Social Care and Safeguarding Service as the body which is competent to advise the authority about the protection of children from harm.
- 6.8 "Interested parties" are persons who can make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Act as a person, who in the opinion of the Licensing Authority which issues the licence or to which the application is made:
- Live sufficiently close to the premises to be likely to be affected by the authorised activities; or
  - Have business interests that might be affected by the authorised activities; or
  - Represent persons in either of those two groups referred to above.
- 6.9 In order to determine whether a person is an interested party with regard to particular premises, the Licensing Authority will consider each case on its merits. However, when determining whether a person is an interested party the following factors will be taken into consideration:
- Size of the premises;
  - Nature of the premises;
  - Distance of the premises from the habitual residence or workplace of the person making the representation;
  - Potential impact of the premises (number of customers, routes likely to be taken by those visiting the premises);

<sup>1</sup> As defined in section 221(1) of the Water Resources Act 1991

- Circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.

6.10 In determining whether a person or organisation "has business interests", the Licensing Authority will adopt the widest possible interpretation and will include residents', trade associations, trade unions, residents' and tenants' associations, partnerships, charities, faith groups and medical practices, as appropriate.

6.11 Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the area likely to be affected.

Other than this, the Licensing Authority will generally require written confirmation that a person/body (e.g. an advocate/relative) "represents" someone who either lives sufficiently close to the premises and/or has business interests that might be affected by the authorised activities.

6.12 If individuals wish to approach councillors to ask them to represent their views then those councillors shall not sit on a Licensing Sub-Committee that meets to determine the licensing application. If there are any doubts then either the interested parties or councillors should contact the Licensing Service for further advice and guidance.

## 7.0 Exchange of Information

7.1 The Licensing Authority will undertake its functions in accordance with the provisions of Section 350 of the Act in its exchange of information with the Gambling Commission and other persons. This includes the provision that the Data Protection Act 1998 will not be contravened.

7.2 Section 350 allows the Licensing Authority to exchange information with the following persons or bodies:

- A constable or police force;
- An enforcement officer;
- A licensing authority;
- HMRC;
- The First Tier Tribunal;
- The Secretary of State;

7.3 The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided by virtue of the Act.

## 8.0 Compliance and Enforcement

8.1 The Licensing Authority is required to set out the principles it will apply when exercising its powers and functions under Part 15 of the Act in respect of the inspection of premises and instigating criminal proceedings in accordance with Section 346 of the Act.

8.2 The Licensing Authority will adopt a risk-based approach to inspection programmes which will focus upon targeting high-risk premises which require greater attention, whilst operating a lighter touch in respect of low-risk premises in order to ensure that resources are more effectively concentrated on potential problem premises. This will be based upon:

- The licensing objectives;
- Relevant Codes of Practice;
- Guidance issued by the Gambling Commission in particular Section 36;
- The principles set out in this statement.



- 8.3 This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Act. When undertaking test purchasing activities, the Licensing Authority will undertake to liaise with the Gambling Commission and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.
- 8.4 The principles of natural justice will apply and will have regard to the Human Rights Act 1998. The Licensing Authority will also be guided by the Commission Guidance to local authorities and will endeavour to be:
- **Proportionate:** intervention only when necessary: remedies will be appropriate to the risk posed and costs identified and minimised;
  - **Accountable:** decisions will be justified and subject to public scrutiny;
  - **Consistent:** rules and standards will be joined up and implemented fairly;
  - **Transparent:** regulators will be open and keep regulation simple and user friendly; and
  - **Targeted:** focused on the problem and minimise side effects.
- 8.5 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 8.6 The main enforcement and compliance role for the Licensing Authority will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for operating licences and personal licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but it

will be alert to the way premises are being operated and will notify the Commission if it becomes aware of matters of concern in the operation of the premises.

## 9.0 The Licensing Authority Functions

- 9.1 The Licensing Authority is required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences;
  - Issue Provisional Statements;
  - Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
  - Issue Club Machine Permits to Commercial Clubs;
  - Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres;
  - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines;
  - Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines;
  - Register small society lotteries below prescribed thresholds;
  - Issue Prize Gaming Permits;
  - Receive and Endorse Temporary Use Notices;
  - Receive Occasional Use Notices;

- Provide information to the Gambling Commission regarding details of licences issued (see section above on "Information Exchange");
- Maintain registers of the permits and licences that are issued under these functions;
- Set and collect fees.

9.2 The Licensing Authority is not involved in licensing remote gambling as this function is the responsibility of the Gambling Commission.

## 10.0 Local Risk Assessments

10.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) which were revised and published in February 2015<sup>2</sup>, formalise the need for operators to consider local risks.

10.2 Social responsibility (SR) code 10.1.1 requires all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account any relevant matters identified in the Licensing Authority's statement of policy.

10.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Their risk assessment must also be updated:

- When applying for a variation of a premises licence;
- To take account of significant changes in local circumstances, including those which may be identified in the Licensing Authority's statement of policy;
- When there are significant changes at a licensee's premises that may affect their mitigation of local risks.

10.4 The new SR provision is supplemented by an ordinary code provision that requires licensees to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the Licensing Authority, such as when they are inspecting a premises. Both of these provisions came into effect from April 2016.

10.5 Where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority may request that the licensee share a copy of its own risk assessment which will set out the measures that the licensee has in place to address specific concerns. It is intended that this practice will reduce the occasions on which a premises review and the imposition of licence conditions is required. There is no statutory requirement for licensees to share their risk assessments with responsible authorities or interested parties, however responsible businesses will wish to assist licensing authorities and responsible authorities as far as possible in their consideration of applications by making relevant information available as part of their applications.

10.6 Where the Licensing Authority's statement of licensing policy sets out its approach to regulation with clear reference to local risks, it will facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. In some circumstances, it might be appropriate to offer the licensee the opportunity to volunteer specific conditions that could be attached to the premises licence.

10.7 The Licensing Authority does not propose at this time to develop a Local Area Profile having regard to the minimal complaints or intelligence relating to gambling premises. However, this position will remain under review and if it decides, in the future, to develop a Local Area Profile it will be separate to this policy.

<sup>2</sup> <http://www.gamblingcommission.gov.uk/Publications-consultations/LCCP.aspx>

# PART B - Premises Licences

## 11.0 General Principles

- 11.1 The main business of the Licensing Authority in terms of local gambling regulation is to consider applications for premises licences. Premises licences are issued by the Licensing Authority with responsibility for the area in which the premises are situated.
- 11.2 In accordance with section 150 of the Act, premises licences can authorise the provision of facilities on:
- Casino premises;
  - Bingo premises;
  - Betting premises, including tracks and premises used by betting intermediaries;
  - Adult gaming centre (AGC) premises (for category B3, B4, C and D machines);
  - Family entertainment centre (FEC) premises (for category C and D machines) - the Licensing Authority may also issue a FEC gaming machine permit, which authorises the use of category D machines only.
- 11.3 By distinguishing between premises types, the Act makes it clear that the gambling activity of the premises should be linked to the premises described. Therefore, in a bingo premises, the gambling activity should be bingo, with gaming machines as an ancillary offer on the premises. This principle also applies to existing casino licences (but not to licences granted under the Act) and betting premises licences. The Licence Conditions and Codes of Practice (LCCP) sets out in full the requirements on operators. Subject to the gaming machine entitlements which various types of licence bring with them (and except in the case of tracks), the Act does not permit premises to be licensed for more than one of the above activities.

## Meaning of Premises

- 11.4 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But in principle, there is no reason why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as pleasure parks, tracks or shopping malls to obtain discrete premises licences, where appropriate safeguards are in place. However the Licensing Authority will pay particular attention in those instances where there may be issues about subdivision of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 11.5 In most cases, the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the Licensing Authority.
- 11.6 In line with the Guidance issued to Licensing Authorities by the Gambling Commission, the Licensing Authority does 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. If a premises is located within a wider venue, the Licensing Authority will require a plan

of the venue on which the premises should be identified as a separate unit.

- 11.7 It is recognised that different configurations may be appropriate under different circumstances but the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence - with the machine entitlements that brings - and are not an artificially created part of what is readily identifiable as a single premises.

### **Multiple activity premises - layout and access**

- 11.8 With the exception of bingo clubs, tracks on race-days and licensed FECs, children will not be permitted to enter licensed gambling premises. Therefore businesses will need to consider carefully how they wish to configure their buildings if they are seeking to develop multi-purpose sites.

- 11.9 The Licensing Authority will take particular care in considering applications for multiple premises licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, it will take into account the following factors:

- The third licensing objective seeks to protect children from being harmed or exploited by gambling. In practice this means not only preventing them from taking part in gambling, but also prevents them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating;
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it

should normally be possible to access the premises without going through another licensed premises or premises with a permit;

- Customers should be able to participate in the activity named on the premises licence.

- 11.10 In determining whether two or more proposed premises are truly separate, the Licensing Authority will consider the following factors:

- Is a separate registration for business rates in place for the premises?
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from other gambling premises?

- 11.11 Where a building consists of a number of areas which hold separate premises licences, each individual licence must not exceed its permitted gaming machine entitlement. The position is different for tracks and is covered in Section 19 of this document.

- 11.12 The proper application of Section 152 of the Act means that different premises licences cannot apply in respect of single premises at different times. There is no temporal element to a premises licence. Therefore, premises could not, for example, be licensed as a bingo club on weekdays and a betting shop at weekends.

### **Access to premises**

- 11.13 An issue that may arise when division of a premises is being considered is the nature of the unlicensed area from which a customer may access a licensed gambling premises. The precise nature of this public area will depend on the location and nature of the premises. The Licensing Authority will need to consider

whether the effect of any division is to create an environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities being made available.

11.14 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations<sup>3</sup> set out the access provisions for each type of premises. The broad principle is that there can be no access from one licensed gambling premises to another, except between premises which allow access to those under the age of 18 and with the further exception that licensed betting premises may be accessed from other licensed betting premises. Under 18s can go into FECs, tracks, pubs and some bingo clubs, so access is allowed between these types of premises.

11.15 These Regulations define street as "including 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". This is to allow access through areas which the public might enter for purposes other than gambling, for example, access to casinos from hotel foyers.

11.16 There is no definition of "direct access" in the Act or regulations, but the Licensing Authority may consider that there should be an area separating the premises concerned, for example a street or café, which the public go to for purposes other than gambling, for there to be no direct access.

11.17 The relevant access provisions for each premises type is as follows:

#### Casinos

- The principle entrance to the premises must be from a "street";

- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

#### Adult Gaming Centres (AGCs)

- No customer must be able to access the premises directly from any other licensed premises.

#### Betting Shops

- Access must be from a "street" or from other premises with a betting premises licence;
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.

#### Tracks

- No customer must be able to access the premises directly from a casino or AGC.

#### Bingo Premises

- No customer must be able to access the premises directly from a casino, an AGC or a betting premises other than a track.

#### Family Entertainment Centres (FECs)

- No customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track.

<sup>3</sup> <http://www.legislation.gov.uk/ukxi/2007/1409/contents/made>



## **Access to gambling by children and young people**

11.18 The Act contains the objective of "protecting children and other vulnerable persons from being harmed or exploited by gambling" and sets out offences at section 46 and section 47 of inviting, causing or permitting a child or young person to gamble, or to enter certain gambling premises. Children are defined in the Act as under 16s and young persons as 16-17 year olds. An adult is defined as 18 and over.

11.19 Children and young persons may take part in private and non-commercial betting and gaming, but the Act restricts the circumstances in which they may participate in gambling or be on premises where gambling is taking place as follows:

- Casinos are not permitted to admit anyone under 18;
- Betting shops are not permitted to admit anyone under 18;
- Bingo clubs may admit those under 18 but have policies to ensure that they do not play bingo, or play category B or C machines that are restricted to those over 18;
- AGCs are not permitted to admit those under 18;
- FECs and premises with an alcohol licence (for example pubs) can admit under 18s but they must not play category C machines which are restricted to those over 18;
- Clubs with a club premises certificate can admit under-18s, but they must have policies to ensure those under 18 do not play machines other than category D machines;
- All tracks can admit under-18s, but they may only have access to gambling areas on days where races

or other sporting events are taking place, or are expected to take place.<sup>4</sup> Tracks will be required to have policies to ensure that under-18s do not participate in gambling other than on category D machines.

11.20 The Licensing Authority will take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling purposes). In particular, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not "drift" into a gambling area. The plan of the premises should clearly denote entrances and exits.

11.21 For bingo and FEC premises, it is a mandatory condition that under-18s should not have access to areas where category B and C gaming machines are located and this is achieved through further mandatory conditions that require the area to be:

- Separated from the rest of the premises by a physical barrier which is effective to prevent access other than by an entrance designed for that purpose;
- Supervised at all times to ensure that under-18s do not enter the area, and supervised by either:
  - One or more persons whose responsibilities include ensuring that under-18s do not enter the areas;
  - CCTV monitored by one or more persons whose responsibilities include ensuring that under-18s do not enter the areas;

<sup>4</sup> This was extended to other sporting venues under the Gambling Act 2005 (Exclusion of Children from Track Areas) Order 2007.

- Arranged in a way that ensures that all parts of the area can be observed;
- A notice must be displayed in a prominent place at the entrance to the area stating that no person under the age of 18 is permitted to enter the area.

11.22 The Licensing Authority is aware that products made available for use in gambling premises will often contain imagery that might be of particular appeal to children or young people. For example, cartoon imagery that is abundant on gaming machine livery. Where any such product is sited on age-restricted premises or in the age-restricted area of premises (and in particular, if sited close to the entrance or threshold and therefore visible to children or young people) licence holders should consider whether it might risk inviting under-18s to enter the restricted area.

11.23 The LCCP requires licence holders to ensure that their policies and procedures for preventing underage gambling take account of the structure and layout of their gambling premises. This therefore requires licensees not only to be able to supervise their premises but also that they should mitigate the risks of under-18s being attracted to enter premises by the products available within them. Where the Licensing Authority has concerns that such products are visible, it may require the licensee to re-site the products out of view.

### **Consideration of planning permission and building regulations**

11.24 When determining applications, the Licensing Authority will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. The Licensing Authority is aware that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use

premises for gambling will only be issued in relation to premises that the Licensing Authority is satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. (Equally, licences will only be issued where they are expected to be used for the gambling activity named on the licence). It is for these reasons the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete or they need alteration, or the applicant does not yet have a right to occupy them. Further information regarding provisional statements is set out in Section 21 of this document.

11.25 As the High Court has held in a 2008 case<sup>5</sup>, operators can apply for a premises licence in respect of premises which have still to be constructed or altered, and the Licensing Authority is required to determine any such applications on their merits. Such cases should be considered in a two stage process; first, the Licensing Authority must decide whether, as a matter of substance after applying the principles in section 153 of the Act, the premises ought to be permitted to be used for gambling; second, in deciding whether or not to grant the application the Licensing Authority will need to consider if appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

11.26 For example, where the operator has still to undertake final fitting out of the premises but can give a reasonably accurate statement as to when the necessary works will be completed, it may be sufficient to simply issue the licence with a future effective date, as is possible under the Regulations<sup>6</sup>. The application form allows the applicant to

<sup>5</sup> *The Queen (on the application of) Betting Shop Services Ltd -v- Southend-on-Sea Borough Council* [2008] EWHC 105 (Admin)

<sup>6</sup> SI 2007/459: Premises Licensing and Provisional Statement Regulations

suggest a commencement date and the notice of grant allows the Licensing Authority to insert a date indicating when the premises licence comes into effect. In other cases, it may be appropriate to issue the licence subject to a condition that trading in reliance on it shall not commence until the premises have been completed in all respects in accordance with the scale plans that accompanied the licence application. If changes to the pre-grant plans are made, then parties who have made representations should be able to comment on the changes made.

11.27 If the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence, then the applicant will be in breach of the licence. If the applicant wishes to change the proposed plans after grant, then, in order to avoid breaching the licence, it will be necessary for the application to either make a fresh application under section 159 or seek an amendment to a detail of the licence under section 187 of the Act. If there are substantive changes to the plans then this may render the premises different to those for which the licence was granted. In such a case, variation of the licence under section 187 is not possible. For this reason, and while this is a matter of judgement for the Licensing Authority, the Gambling Commission's guidance to licensing authorities considers that it would be more appropriate in the case of any material post grant change, for the applicant to make a fresh application under section 159 to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.

11.28 The Licensing Authority will need to be satisfied in any individual case that the completed works comply with the original, or changed, plan attached to the premises licence. Depending upon circumstances, this will be achieved either through physical inspection of the premises or written confirmation from the

applicant or surveyor that the condition has been satisfied.

11.29 The requirement for the building to be complete before trading commences will ensure that the Licensing Authority could, if considered necessary, inspect it fully, as could other responsible authorities with inspection rights under Part 15 of the Act. Inspection will allow the authorities to check that gambling facilities comply with all necessary legal requirements. For example, category C and D machines in a licensed FEC must be situated so that people under 18 do not have access to the category C machines. The physical location of higher stake gaming machines in premises to which children have access will be an important part of this, and inspection allows the Licensing Authority to check that the layout complies with the operator's proposals and the legal requirements.

11.30 In those circumstances where an application in respect of uncompleted premises which it appears are not going to be ready to be used for gambling for a considerable period of time, the Licensing Authority will consider whether, applying the two stage approach advocated above, it should grant a licence or whether the circumstances are more appropriate to a provisional statement application. For example, the latter would be the case if there was significant potential for circumstances to change before the premises opens for business. In such cases, the provisional statement route would ensure that the limited rights of responsible authorities and interested parties to make representations about matters arising from such changes of circumstances are protected. The Licensing Authority may choose to discuss with individual applicants which route is appropriate, to avoid them having to pay a fee for an application that the Licensing Authority did not think was grantable.



11.31 When dealing with a premises licence application for finished buildings, the Licensing Authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Similarly, no fire or health and safety risks will be taken into account. Those matters will be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the Act prevents the Licensing Authority taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

## 12.0 The Licensing Objectives

12.1 As stated previously, in exercising its functions under the Act, particularly in relation to premises licences, temporary use notices and some permits, the Licensing authority must have regard to the licensing objections set out in Section 1 of the Act.

12.2 Set out below are the factors that the Licensing Authority will take into consideration when undertaking its statutory functions:

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

12.3 The Licensing Authority will take into consideration the location of the premises in the context of this licensing objective. For example, in considering an application for a premises licence or permit that is in an area noted for particular problems with disorder, organised criminal activity etc or if there is a history of crime and disorder associated with the premises or its use by

those involved in crime to associate or dispose of the proceeds of crime.

In those circumstances, the Licensing Authority will take into account the following considerations, where relevant in determining applications and reviews:

- Additional conditions on the licence for the requirement of door supervisors, provision of CCTV and minimum levels of staffing;
- Suitability of the premises in terms of the layout, lighting and fitting out of the premises to ensure that it has been designed so as to minimise conflict and reduce opportunities for crime and disorder to arise;
- Whether sufficient management measures are proposed or in place;
- Consideration of the operator's own risk assessment.

12.4 In the context of gambling premises licences, the Licensing Authority will generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors which will be considered in determining whether a disturbance was serious enough to constitute disorder will include (but not limited to):

- Whether police assistance was required;
- How threatening the behaviour was to those who could see or hear it.

The Licensing Authority recognises that there is not a clear line between nuisance and disorder so it will take appropriate advice before determining what action to take in circumstances in which disorder may be a factor.

12.5 Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences. However, if there are persistent or serious disorder problems that an operator could or should do more to

prevent, the Licensing Authority will bring this to the attention of the Gambling Commission so it can consider the continuing suitability of the operator to hold an operating licence.

12.6 The Licensing Authority is aware that there are a number of voluntary initiatives that the gambling industry participates in to address issues such as underage access, staff safety and security, and will undertake enquiries with operators as to which (if any) scheme the operator is a part of.

12.7 The Licensing Authority will not investigate the suitability of an applicant for a premises licence, including in relation to crime. The issue of suitability will already have been considered by the Gambling Commission, because any applicant (except occupiers of tracks who do not propose to offer gambling themselves) will have to hold an operating licence from the Commission before the premises licence can be issued. However, if the Licensing Authority receives information during the course of considering a premises licence application or at any other time, that causes it to question the suitability of the applicant to hold an operating licence, these concerns will be brought to the attention of the Commission without delay.

**Objective 2: Ensuring that gambling is conducted in a fair and open way.**

12.8 In accordance with the Guidance issued by the Commission, the Licensing Authority does not expect to have to involve itself with issues of fairness and openness on a frequent basis. Fairness and openness is likely to relate to either the way specific gambling products are provided and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. However if the Licensing Authority suspects that gambling is not being conducted in a fair and open way

this will be brought to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence or of an individual to hold a personal licence.

12.9 In relation to the licensing of tracks, the Licensing Authority's role will be different from other premises in that track owners will not necessarily have an operating licence. In those circumstances it may be appropriate for the imposition of conditions to ensure that the environment in which betting takes place is suitable. Factors which will be considered in determining whether such measures are in place to ensure that the gambling activity is conducted in a fair and open way will include (but not limited to):

- Whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way;
- Whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way;
- Whether the management and operation of the premises is open and transparent;
- Whether the operators of the premises have been or will be fully co-operative with enforcement agencies;
- Whether the Commissions Codes of Practice have been complied with.

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

12.10 In exercising its powers under Section 153, the Licensing Authority will consider whether staff will be able to adequately supervise the gambling premises, as adequate staffing levels is a factor to consider regarding the prevention of underage gambling. The Licensing Authority will seek to work with an operator to consider how many impediments to the supervision of

premises might be most appropriately remedied. Supervision also applies to premises that are themselves not age-restricted (eg bingo and family entertainment centre (FEC) premises) but which make gambling products and facilities available.

12.11 In those situations where the Licensing Authority believes that the structure or layout of a premises to be an inhibition or potential inhibition to satisfying this licensing objective, the licence holder should consider what changes are required to ensure the risk is mitigated. Such changes might include:

- The positioning of staff or CCTV;
- The use of floor-walkers;
- Relocation of the staff counter to enable direct line of sight.

The Licensing Authority will consider the proportionality of changes to the physical layout in relation to other measures that could be put into place.

12.12 If an operator fails to satisfy the Licensing Authority that the risks are sufficiently mitigated, it may consider it appropriate to instigate a review of the premises licence.

12.13 In relation to casinos, the Gambling Commission has issued a code of practice on access to casino premises by children and young persons, as provided for by section 176 of the Act. This is available as part of the Licence Conditions and Codes of Practice (LCCP) and in accordance with section 176 of the Act, adherence to the code will be a condition of the premises licence.

12.14 The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Licensing Authority notes that the Commission does not seek to define "vulnerable persons" but it does, for regulatory purposes, assume that this group includes:

- People who gamble more than they want to;
- People who gamble beyond their means; and
- People who may not be able to make informed or balanced decisions about gambling due to, for example, mental health, a learning disability or substance misuse relating to alcohol or drugs.

## 13.0 Premises Licence Conditions

13.1 The Act provides that licences may be subject to conditions in a number of ways:

- They may attach automatically, having been set in the Act;
- They may attach through regulations made by the Secretary of State;
- They may be attached to operating and personal licences by the Gambling Commission;
- They may be attached to premises licences by the Licensing Authority.

13.2 Conditions may sometimes be general in nature attaching to all licences or all licences of a particular class, or they may be specific to a particular licence.

13.3 Conditions on premises licences shall only relate to gambling, as considered appropriate in the light of the principles to be applied by the Licensing Authority under section 153. Accordingly, if the Gambling Commission's LCCP or other legislation places particular responsibilities or restrictions on an employer or the operator of premises, it is not appropriate to impose the same through conditions on a premises licence.

13.4 The Licensing Authority will make decisions on conditions on a case-by-case basis, and in the context of the principles of section 153. It will aim to permit the use of premises for gambling and so will not attach conditions that limit their use except where it is necessary in

accordance with the licensing objectives, the Commission's codes of practice and Statutory Guidance, or its own statement of licensing policy. Conversely, the Licensing Authority will not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

13.5 Conditions imposed by the Licensing Authority will be proportionate to the circumstances which they are seeking to address. In particular, the Licensing Authority shall ensure that the premises licences conditions are:

- Relevant to the need to make the proposed building suitable as a gambling facility;
- Directly related to the premises (including the locality and any identified local risks) and the type of licence applied for;
- Fairly and reasonably related to the scale and type of premises;
- Reasonable in all other respects.

13.6 Where there are risks associated with a specific premises, the Licensing Authority may consider it necessary to attach conditions to the licence to address those risks, taking account of the local circumstances.

#### **Conditions that may not be attached to premises licences by the Licensing Authority**

13.7 The Act sets out certain matters that may not be the subject of conditions:

- Section 169(4) prohibits a Licensing Authority from imposing a condition on a premises licence which makes it impossible to comply with an operating licence condition;
- Section 170 provides that membership of a club or body cannot be required by attaching a condition to a premises licence (the Act specifically removed the membership requirement for casino and bingo

clubs and this provision prevents it being reinstated); and

- Section 171 prevents a Licensing Authority imposing conditions in relation to stakes, fees, winnings or prizes.
- Section 172(10) provides that conditions may not relate to gaming machine categories, numbers, or method of operation;

## **14.0 Adult Gaming Centres (AGCs)**

14.1 Persons operating an adult gaming centre (AGC) must hold a "gaming machines general operating licence (adult gaming centre) from the Gambling Commission and a premises licence from the Licensing Authority. They are able to make category B, C and D gaming machines available.

14.2 No-one under the age of 18 is permitted to enter an AGC. The Act sets out offences of inviting, causing or permitting a child or young person to gamble, or to enter certain gambling premises. In addition, Social Responsibility (SR) code 3.2.3(3) in the Licence Conditions and Codes of Practice (LCCP) states that *"licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises in order to prevent underage gambling"*.

14.3 The Licensing Authority will have particular regard to the location of and entry to AGCs to minimise the opportunities for under-18s to gain access. This will be of particular importance in those areas where young people may be unsupervised for example where an AGC is in a complex, such as a shopping centre.

14.4 The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives, however



appropriate measures/licence conditions may encompass issues such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances/machine areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive and is merely indicative of example measures.

14.5 Gaming machine provisions by premises are set out in the Act and provides that the holder of an AGC premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on those premises.

14.6 Premises subject to a licence granted before 13 July 2011 are entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater. AGC premises licences granted on or after 13 July 2011 are entitled to 20% of the total number of gaming machines only. Regulations specify that the category B machines should be restricted to sub-category B3 and B4 machines, but not B3A machines.<sup>7</sup>

14.7 Where the operator of an existing AGC premises licence applies to vary the licence and acquire additional AGC premises licences - so that the area that was the subject of a single licence will become divided between a number of separate licensed premises - each separate licensed premises must only contain the permitted machine entitlement. For example, where two separate AGC premises have been created adjacent to each other by splitting a pre-existing premises, it is not permissible to locate eight category B3 gaming machines in one of the resulting premises and none in the other, as the gaming machine entitlement for that premises would be exceeded.

### **AGC premises licences conditions**

14.8 As set out in paragraph 13 above, premises licences can be subject to mandatory and default conditions that attach to premises licences.

14.9 Currently there are no default conditions specific to AGCs.

14.10 The following mandatory conditions apply to AGCs:

- A notice must be displayed at all entrances to AGCs stating that no person under the age of 18 years will be admitted to the premises;
- There can be no direct access between an AGC and any other premises licensed under the Act or premises with a family entertainment centre (FEC), club gaming, club machine or alcohol licensed premises gaming machine permit;
- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so;
- The consumption of alcohol in AGCs is prohibited at any time during which facilities for gambling are being provided on the premises.

<sup>7</sup> SI 2158 The Categories of Gaming Machine Regulations 2007

A notice stating this should be displayed in a prominent place at every entrance to the premises.

## 15.0 (Licensed) Family Entertainment Centres

15.1 The Act creates two classes of family entertainment centre (FEC). Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits. Persons operating a licensed FEC must hold a gaming machine general operating licence (Family Entertainment Centre) from the Gambling Commission and a premises licence from the Licensing Authority. They will be able to make category C and D gaming machines available.

15.2 FECs are commonly located at seaside resorts, in airports and at motorway service stations, and cater for families, including unaccompanied children and young persons.

15.3 Children and young persons are permitted to enter an FEC and may use category D machines. They are not permitted to use category C machines and it is a requirement that there must be clear segregation between the two types of machine, so that under 18s do not have access to them. Social Responsibility (SR) code 3.2.5(3) in the LCCP states that *"licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling"*.

15.4 SR 3.2.5(2) requires operators to ensure that employees prevent access and challenge children or young persons who attempt to use category C machines.

15.5 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures in place to ensure that persons under the age of 18 do not

have access to the adult only gaming machine areas.

15.6 The Licensing Authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures/licence conditions may encompass issues such as:

- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare;
- Measures/training for staff on how to deal with suspected truant school children on the premises.

This list is not mandatory, nor exhaustive and is merely indicative of example measures.

15.7 The Licensing Authority will have regard to the Gambling Commission's guidance on any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated but may require further measures on physical separation and controls on entry.

### Licensed FEC premises licence conditions

15.8 Currently there are no default conditions specific to FECs.

15.9 The following mandatory conditions apply to FECs:

- The summary of the terms and conditions of the premises licence issued by the Licensing Authority under section 164(1)(c) of the Act

must be displayed in a prominent place within the premises;

- The layout of the premises must be maintained in accordance with the plan;
- The premises must not be used for the sale of tickets in a private lottery or customer lottery, or the National Lottery;
- No customer shall be able to enter the premises directly from a casino, an adult gaming centre or betting premises (other than a track);
- Any ATM made available for use on the premises must be located in a place that requires any customer who wishes to use it to cease gambling at any gaming machine in order to do so;
- Over-18 areas within FECs that admit under-18s, must be separated by a barrier with prominently displayed notices at the entrance stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young persons are not able to access these areas or the category C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV;
- The consumption of alcohol in licensed FECs is prohibited at any time during which facilities for gambling are being provided. A notice stating this should be displayed in a prominent position on the premises.

## 16.0 Casinos

- 16.1 Under the Act, the Licensing Authority has the role of issuing premises licence for casinos and monitoring those licences.
- 16.2 New casino premises issued under the Act fall into one of two categories namely large casino premises licence or small casino premises licence, however, this Licensing Authority cannot grant any new

casino premises licences having regard to the regulations governing the grant of new casino licences.

- 16.3 There is a third category of casino that is permitted through transitional arrangements under Schedule 18 of the Act, which may be referred to as "*1968 Act converted casinos*". This policy will only relate to this category of casino licences in relation to variation applications. In addition to the standard variation applications (eg. To remove a default condition, increase the licensable area of the premises etc) an existing converted casino premises licence can be varied to relocate the licence to another premises providing those premises are wholly or partly situated in the area of the Licensing Authority which issued the licence.<sup>8</sup>
- 16.4 These casinos retain the rights to gaming machines equivalent to their entitlements under previous legislation. That means they are permitted no more than 20 machines of category B to D (except B3A machines), or they may elect to have any number of category C or D machines instead (as was the case under the Gaming Act 1968). There is no table-to-machine ratio in these casinos.
- 16.5 No-one under the age of 18 is permitted to enter a casino and operators are required to display notices to this effect at all entrances to a casino. Social Responsibility (SR) code 3.2.1(2) states that "*licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises*" in order to prevent underage gambling. There must also be a door supervisor at every entrance to a casino to ensure that this restriction is enforced (SR 3.2.1(3)). Children and young persons are not allowed to be employed at premises with a casino premises licence.

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<sup>8</sup> Paragraph 65, Part 7, Schedule 4 of the Gambling Act 2005 (Commencement No.6 and Transitional Provisions) Order 2006.

## No Casinos resolution

- 16.6 The Licensing Authority has not passed a "no casino" resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.
- 16.7 Any such decision will be made by the Full Council.

## Casino premises licence conditions

- 16.8 The following default condition applies to all casino premises licences:
- The default opening hours of all casinos are noon to 6 am.
- 16.9 The following mandatory conditions apply to **ALL** casino premises licences:
- Access to premises is regulated to add additional safeguards for both the public and industry. The principal entrance to the casino should be from a street. A street is defined as including any bridge, road, lane, footway, subway, square, court, alley or passage (including passages through enclosed premises such as shopping centres), whether it is a thoroughfare or not.
  - No customer must be able to enter the casino from any other premises holding a casino, bingo, adult gaming centre (AGC), family entertainment centre (FEC) or betting premises licence, or from premises where a FEC, club gaming and club machine, or licensed premises gaming machine permit, has effect;
  - There should be no access to a casino from premises wholly or mainly used by children and young persons;
  - No other gambling equipment may be situated within two metres of any ordinary gaming table. For the purposes of these conditions an ordinary gaming table means one

which is not wholly or partially automated;

- A maximum of 40 separate player positions may be made available for use in relation to wholly automated gaming tables at any time;
- All casinos must display the rules of each type of casino game that can be played on the premises in a prominent place within both the table gaming area and other gambling areas to which customers have unrestricted access. Licensees may do this either by displaying clear and legible signs or by making available to customers leaflets or other written material setting out the rules;
- ATMs must be positioned so that customers must cease to gamble at tables or gaming machines in order to use them;

## and in respect of converted casino premises licences the following mandatory conditions apply:

- A notice shall be displayed at all entrances to the casino stating that no person under the age of 18 will be admitted;
- Casinos with converted licences, and that have a gambling area of over 200 square metres, must offer a minimum non-gambling area equivalent to at least 10% of its total gambling area. In determining the floor area of the gambling area, all areas in which facilities for gambling are provided should be taken into account. The non-gambling area may consist of one or more areas within the casino. These areas must be readily available to customers (ie offices, kitchen areas, employee areas will not count). They may include, but should not consist exclusively of, lavatories and lobby areas. The area must also include recreational facilities for casino customers that are available for use when the casino is open; where there is more than one area each area must contain recreational



facilities. No gambling facilities may be offered in the non-gambling areas.

## 17.0 Bingo

17.1 Bingo is not given a statutory definition in the Act although two types of bingo are commonly understood:

- Cash bingo, where the stakes paid make up the cash prizes that are won;
- Prize bingo, where various forms of prizes are won, not directly related to the stakes paid.

17.2 The game and rules of bingo have evolved to the point where, despite the absence of any formal industry standard, the way in which bingo is played is broadly similar throughout Great Britain. Bingo is equal chance gaming.

17.3 Cash bingo is the main type of bingo played in commercial bingo premises. They also offer prize bingo, largely as games played in the intervals between main stage games. This means that only premises with a bingo premises licence, or a large casino premises licence issued under the Act (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms.

17.4 As well as commercial bingo premises, bingo can be found in other gambling premises. Prize bingo is traditionally a game played in arcades, especially seaside amusement arcades, or at travelling funfairs. For these operators, prize bingo is subject to the allowances for prize gaming in the Act. This means that, subject to limits on participation fees and prizes, adult gaming centres, licensed and unlicensed family entertainment centres, and travelling fairs, (or any premises with a prize gaming permit) are able to offer prize gaming, which includes prize bingo. In this form of gaming, the nature of the prize must not be determined by reference to the number of people playing

the game, and the nature or the size of the prize must not be determined by reference to the amount paid for or raised by the gaming.

17.5 The Licensing Authority will need to be satisfied that bingo can be played in any premises for which it issues a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site and therefore the applicant will need to demonstrate to the Licensing Authority's satisfaction that bingo can be played at each of those new premises.

17.6 Under the Act, children and young persons (anyone up to the age of 18) cannot be employed in providing any facilities for gambling on bingo premises, and children (under the age of 16) cannot be employed. However, young persons, aged 16 and 17, may be employed in bingo premises (while bingo is being played), provided the activities on which they are employed are not connected with the gaming or gaming machines. Further information on the restrictions that apply are set out in the Licence Conditions and Code of Practice (LCCP) issued by the Gambling Commission.

17.7 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed. Social Responsibility (SR) code 3.2.5(3) states that *"licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling"*.

17.8 Section 172(7) of the Act, as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3 (but not B3A) and B4 machines.

17.9 The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstances that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.

17.10 Bingo is a class of equal chance gaming permitted on alcohol-licensed premises, and in clubs and miners' welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. There are regulations setting controls on this form of gaming, to ensure that it remains a low stakes and prizes activity.<sup>9</sup>

17.11 In addition, rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners' welfare institutes. Where the

level of bingo played in these premises reaches a certain threshold, it will no longer be authorised by these rules and a bingo operating licence will have to be obtained by the Gambling Commission for future bingo games. Even in this circumstance, bingo can still only be offered under the rules for exempt gaming. The aim of these provisions is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.

17.12 The threshold is reached if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded) once in a year, referred to as "high turnover bingo". There is a legal duty on the licensee or club to inform the Gambling Commission if they offer high turnover bingo in any seven day period. This allows the Commission to monitor the bingo activity on the premises, and discuss with the relevant licensee or club the point at which a bingo operating licence may be needed. A "high turnover period" begins with the first day of the seven day period in which the threshold was exceeded and lasts for a year. If a second period of high turnover bingo occurs within that year, a bingo operating licence will be required. Where bingo is played in a members club under a bingo operating licence no premises licence will be required.

17.13 If it comes to the attention of the Licensing Authority that alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes, that makes it possible that the £2,000 in seven days is being exceeded, it will inform the Gambling Commission.

### **Bingo premises licence conditions**

17.14 The following default condition applies to bingo premises licences:

- Bingo facilities in bingo premises may not be offered between the hours of midnight and 09:00 hours.

<sup>9</sup> SI 2007/1940: The Gambling Act 2005 (Exempt Gaming in Alcohol-Licensed Premises) Regulations 2007

However, there are no restrictions on access to gaming machines in bingo premises.

17.15 The following mandatory conditions apply to bingo premises licences:

- A notice stating that no person under the age of 18 years is permitted to play bingo on the premises shall be displayed in a prominent place at every entrance to the premises;
- No customer shall be able to enter bingo premises directly from a casino, an adult gaming centre or betting premises (other than a track);
- Over 18 areas within bingo halls that admit under-18s must be separated by a barrier with prominently displayed notices stating that under-18s are not allowed in that area and with adequate supervision in place to ensure that children and young people are not able to access these areas or the category B or C machines. Supervision may be done either by placing the terminals within the line of sight of an official of the operator or via monitored CCTV;
- Any admission charges, the charges for playing bingo games and the rules of bingo must be displayed in a prominent position on the premises. Rules can be displayed on a sign, by making available leaflets or other written material containing the rules, or running an audio-visual guide to the rules prior to any bingo game being commenced;
- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

## 18.0 Betting premises

18.1 The Act contains a single class of licence for betting premises although within this, there are different types of premises which require licensing. This paragraph covers off-course betting which is betting

that takes place other than at a track (more commonly known as licensed betting office). Tracks are discussed in paragraph 19 below. For information, there are also betting offices on tracks that have a separate premises licence from the track licence, which is also discussed in paragraph 19.

18.2 The Act also permits betting intermediaries to operate from premises. Section 13 of the Act defines a betting intermediary as a person who provides a service designed to facilitate the making or acceptance of bets between others. Although betting intermediaries usually offer their services via remote communication, such as the internet, a betting intermediary can apply for a betting premises licence to offer intermediary services upon the premises, such as a premises based trading room.

18.3 Children and young persons are not permitted to enter premises with a betting premises licence, although exemptions apply to tracks. Sections 46 and 47 of the Act set out the offences of inviting, causing or permitting a child or young person to gamble, or to enter certain gambling premises.

Social Responsibility (SR) code 3.2.7(3) in the Licence Conditions and Codes of Practice (LCCP) states that *"licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises"* in order to prevent underage gambling. Children and young persons are not allowed to be employed at premises with a betting premises licence.

18.4 Section 172(8) of the Act provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines.

18.5 Section 235(2)(c) of the Act provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These machines are known as Self-Service Betting Terminals (SSBTs) and are not deemed to be gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine.

18.6 However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine **is** a gaming machine and counts towards the maximum permitted number of gaming machines, and must meet the relevant category limitations for the premises.

18.7 Section 181 of the Act contains an express power for Licensing Authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence (or a casino premises licence where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the Licensing Authority, amongst other things, shall take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.

18.8 Where SSBTs include the functionality to be marketed or presented in foreign languages, the Licensing Authority will seek to ensure that the operator has considered the ordinary code provision about making the following information also available in those languages:

- The information on how to gamble responsibly and access to help referred to in the LCCP;
- The players guides to any game, bet or lottery required to be made available to customers under provisions in LCCP;
- The summary of the contractual terms on which gambling is offered, which is required to be provided to customers as a condition of the licensee's operating licence.

### **Betting premises licence conditions**

18.9 The following default condition applies to betting premises licences:

- Gambling facilities may not be offered in betting premises between the hours of 10pm on one day and 7am on the next day, on any day.

18.10 The following mandatory conditions apply to betting premises licences:

- A notice shall be displayed at all entrances to the betting premises stating that no person under the age of 18 will be admitted. The notice should be clearly visible to people entering the premises;
- There must be no access to betting premises from other premises that undertake a commercial activity (except from other premises with a betting premises licence including tracks). Except where it is from other licensed betting premises, the entrance to a betting shop should be from a street (defined as including any bridge, road, lane, footway, subway, square, court, alley or passage - including passages through enclosed premises such as shopping centres - whether a thoroughfare or not);
- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to leave any gaming



machine or self-service betting terminal (SSBT) in order to do so;

- No apparatus for making information or any other material available in the form of sounds or visual images may be used on the licensed premises, except where used to communicate:
  - Information about or coverage of sporting events, including information relating to betting on such events (and incidental information including advertisements);
  - Information relating to betting (including results) on any event in connection with which bets may have been affected on the premises.

Betting operator-owned TV channels are permitted.

- No music, dancing or other entertainment is permitted on betting premises. This includes any form of entertainment such as apparatus producing sound or visual images which do not fall within the condition above or machines which do not come within the categories of machine explicitly allowed in betting premises under section 172(8) of the Act;
- The consumption of alcohol on the premises is prohibited during any time which facilities for gambling are being provided on the premises;
- The only publications that may be sold or made available on the premises are racing periodicals or specialist betting publications;
- A notice setting out the terms on which a bet may be placed must be displayed in a prominent position on the premises.

## 19.0 Tracks

- 19.1 Section 353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

- 19.2 The Act does not give a list of premises that are officially recognised as "tracks" but there are a number of venues where sporting events do or could take place, and accordingly could accommodate the provision of betting facilities. Examples of tracks include:

- A horse racecourse;
- A greyhound track;
- A point-to-point horserace meeting;
- Football, cricket and rugby grounds;
- An athletics stadium;
- A golf course;
- Venues hosting darts, bowls, or snooker tournaments;
- A premises staging boxing matches;
- A section of river hosting a fishing competition;
- A motor racing event.

- 19.3 The above list is not exhaustive as, in theory, betting could take place at any venue where a sporting or competitive event is occurring. While many of these venues are not commonly understood to be "tracks", they fall within the definition of "track" in the Act.

- 19.4 The Act does not define what constitutes a sporting event or race and the Licensing Authority will decide this on a case by case basis.

- 19.5 If an individual or company wants to offer betting facilities at a sporting event then different forms of "approval" are available, one of which must be obtained if betting is to be provided, irrespective of whether the betting is generally incidental to the main sporting activity. The different types of approval for the provision of facilities at premises are:

- A premises licence;
- An occasional use notice;

- 19.6 There are differences between track premises licences and most other premises licences. In essence, tracks admit third-party operators to provide betting facilities whereas other premises licence holders - betting shops, bingo clubs and casinos for instance - provide

the gambling facilities themselves and are subject to the conditions of the operating licence as well as the premises licence.

- 19.7 The Act recognises that tracks are primarily premises intended for entertainment other than gambling and therefore places no restrictions on offering ancillary entertainment including allowing music, dancing or other entertainment on the premises and the sale of alcohol.
- 19.8 Premises licences in relation to tracks differ from other types of premises licences in a number of ways. Most importantly, the applicant for the licence need not hold an operating licence from the Commission.
- 19.9 Tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. For example, a limited number of track premises licences will be held by operators of pool betting licences, who may also have an alcohol licence for the premises. The Act sets out that there can be a primary premises licence for the track and, in addition, subsidiary premises licences for other parts of the track. This allows track venues to develop leisure facilities such as a casino and apply for a premises licence for that part of the track.
- 19.10 The offence of inviting or permitting a child or young person to enter gambling premises under section 47 of the Act does **not** apply to tracks (section 47(4)). Children and young persons are allowed to be present on the track while a sporting event is taking place on those licensed premises.
- 19.11 The Licensing Authority expects the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons are permitted to enter track areas where facilities for betting are provided but that they are still prevented

from entering areas where gaming machines (other than category D machines) are provided.

- 19.12 The Licensing Authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes;
- CCTV;
- Supervision of entrances/machine areas;
- Physical separation of areas;
- Location of entry;
- Notices/signage;
- Self-exclusion schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

### **Gaming machines**

- 19.13 Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines other than category D machines) should be located in areas from which children are excluded.

### **Betting machines**

- 19.14 The Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons. (It is an offence for those under 18 to bet) or by vulnerable people, when considering the number, nature, and circumstances of betting machines an operator wants to offer.

## **Track betting premises licence conditions**

19.15 The following default condition applies to track betting premises licences:

- Subject to paragraph 2 below, no facilities for gambling shall be provided on the premises between the hours of 10 pm on one day and 7 am on the next day.
- The prohibition in paragraph 1 above does not apply on days when a sporting event is taking place on the premises, in which case gambling transactions may take place at any time during the day.

19.16 The following mandatory conditions apply to track betting premises licences:

- No customer shall be able to access the premises directly from any other premises in respect of which one of the following premises licences has effect:
  - A casino premises licence;
  - An adult gaming centre premises licence.
- A notice stating that no person under the age of 18 is permitted to bet on the premises shall be displayed in a prominent place at every public entrance to the premises;
- The terms on which a bet may be placed must be displayed in a prominent place within the premises to which customers wishing to use facilities for betting have unrestricted access;
- The premises licence holder shall make arrangements to ensure that betting operators who are admitted to the premises for the purpose of accepting bets:
  - Will be operating under a valid operating licence; and
  - Are enabled to accept such bets in accordance with the conditions imposed under sections 92 (general betting

operating licence) or 93 (pool betting operating licence) of that Act or an authorisation under section 94 (horse-race pool betting operating licence) of that Act.

- The premises licence holder shall make arrangements to ensure that reasonable steps are taken to remove from the premises any person who is found to be accepting bets on the premises otherwise than in accordance with the Act;
- Any ATM made available for use on the premises shall be located in a place that requires any customer who wishes to use it to cease gambling in order to do so.

19.17 The following mandatory conditions apply to track premises licences in respect of premises that are dog racing tracks:

- A totalisator on the premises shall only be operated:
  - While the public are admitted to the premises for the purpose of attending dog races and no other sporting events are taking place on the premises; and
  - For effecting with persons on the premises betting transactions on dog races taking place on the premises.
- At any time during which the totalisator is being lawfully used on the premises:
  - No betting operator or betting operator's assistant shall be excluded from the premises by reason only of the fact that he proposes to accept or negotiate bets on the premises; and
  - There shall be made available on the premises space for betting operators and betting operators' assistants where they can conveniently accept and negotiate bets in connection with dog races run

on the premises on that day.  
(This is without prejudice to section 180 (pool betting on dog races) of the Act.

- For the purposes of the Act "totalisator" means the apparatus for betting known as the totalisator or pari mutual, or any other machine or instrument of betting of a like nature, whether mechanically operated or not.

## 20.0 Travelling Fairs

- 20.1 The Act defines a travelling fair as "*wholly or principally*" providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year. The Act does not change the principles on which travelling fairs have been regulated under previous legislation.
- 20.2 Travelling fairs may provide an unlimited number of category D gaming machines provided that facilities for gambling amount to no more than an ancillary amusement at the fair. They do not require a permit to provide these gaming machines but must comply with legal requirements about how the machine operates.
- 20.3 Higher stake category B and C fruit machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Gambling Commission licensed supplier and employees working with gaming machines must be at least 18 years old.
- 20.4 The 27 day maximum is during a calendar year and not in any 12-month period, and applies to the piece of land on which fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will monitor the use of the land and record the dates on which it is used.

## 21.0 Provisional Statements

- 21.1 Section 204 of the Act allows a person to make an application for a provisional statement in respect of premises that he or she:
- Expects to be constructed;
  - Expects to be altered; or
  - Expects to acquire a right to occupy.
- 21.2 Developers may wish to apply for provisional statements before they enter into a contract to buy or lease property or land, to judge whether a development is worth taking forward in light of the need to obtain a premises licence. It is also possible for an application for a provisional statement to be made for premises that already have a premises licence, either for a different type of gambling or the same type.
- 21.3 Whilst applicants for premises licences must hold or have applied for an operating licence from the Commission (except in the case of a track), and they must have the right to occupy the premises in respect of which their premises licence application is made, these restrictions do not apply in relation to an application for a provisional statement.
- 21.4 In circumstances where an applicant has applied to the Commission for an operating licence, the Commission will not be able to comment on whether the application is likely to be granted. The Licensing Authority will not speculate on or otherwise take into account the likelihood of an operating licence being granted in its consideration of the application for a provisional statement.
- 21.5 Subject to any necessary modifications, the process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested



parties may make representations and there are rights of appeal.

21.6 Once the premises are constructed, altered, or acquired the holder of a provisional statement can put in an application for the necessary premises licence. A premises licence application for a premises where the applicant already holds a provisional statement for that premises attracts a lower application fee. Section 205 of the Act sets out rules on how the Licensing Authority must deal with the application.

21.7 If a provisional statement has been granted, the Licensing Authority is constrained in the matters it can consider when an application for a premises licence is made subsequently in relation to the same premises.

21.8 No further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances.

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

- Which could not have been raised by way of representations at the provisional licence stage;
- Which, in the authority's opinion, reflect a change in the operator's circumstances;
- Where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change to the plan and the Licensing Authority will seek to discuss any concerns they have with the applicant before making a decision.

21.10 Section 210 of the Act, which applies to both premises licences and provisional statements, makes it clear that the Licensing Authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

## 22.0 Reviews

22.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the Licensing Authority's statement of principles.

22.2 The request for the review will also be subject to the consideration by the Authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause the authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

22.3 The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

22.4 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 a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

22.5 The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

22.6 The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the licence. If action is justified, the options open to the Licensing Authority are:-

- Add, remove or amend a licence condition imposed by the Licensing Authority;
- Exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months;
- Revoke the premises licence.

22.7 In determining what action, if any, should be taken following a review, the Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

22.8 In particular, the Licensing Authority may also initiate a review of a premises licence on the grounds that 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.

22.9 Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)

- the Gambling Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs.

## **PART C - Permits/Temporary & Occasional Use Notices**

### **23.0 Permits - General**

23.1 Permits regulate gambling and the use of gaming machines in a premises which does not hold a premises licence. They are required when a premises provides gambling facilities but either the stakes are very low or gambling is not the main function of the premises.

23.2 The Licensing Authority is responsible for issuing the following permits:

- Unlicensed family entertainment gaming machine permits;
- Alcohol-licensed premises gaming machine permits;
- Prize gaming permits;
- Club gaming permits and club machine permits.

23.3 The Licensing Authority can only grant or reject an application for a permit and cannot attach conditions. Therefore, the Authority will consider a number of factors before determining an application for a permit to ensure that the permit holder and the premises are suitable for the proposed gambling activities.

### **24.0 Unlicensed Family Entertainment Centre (UFEC) Gaming Machine Permits**

24.1 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.

24.2 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.

24.3 Having regard to the fact that category D machines have no age restrictions, it is likely that the premises will particularly appeal to children and young persons, the Licensing Authority will give weight to matters relating to the protection of children from being harmed or exploited by gambling.

24.4 The Licensing Authority will only grant a permit if it is satisfied that the premises will be used as an UFEC and following consultation with the Chief Officer of Police.

24.5 The Licensing Authority will require applicants to demonstrate:

- 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); and
- That staff are trained to have a full understanding of the maximum stakes and prizes.

24.6 The Licensing Authority will also expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies will each be considered on their merits, however, they may include the following:

- Appropriate measures/training for staff as regards suspected truant school children on the premises;
- Measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on/around the premises;
- Measures/training covering how staff would identify the signs and symptoms of persons engaged in the illegal use of controlled drugs.

## 25.0 Alcohol Licensed Premises Gaming Machine Permits

### Automatic entitlement to two machines

25.1 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.

25.2 The Licensing Authority may remove the automatic authorisation in respect of any particular premises by making an order under section 284 of the Act 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 section 182 of Act (for example that written notice has been provided to the Licensing Authority that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- The premises are mainly used for gaming; or

- An offence under the Gambling Act has been committed on the premises.

### **Permit for 3 or more gaming machines**

- 25.3 If an alcohol licensed premises wishes to have more than 2 category C or D machines then it needs to apply to the Licensing Authority for a permit.
- 25.4 Holders of licensed premises gaming machine permits are required to comply with a code of practice issued by the Gambling Commission on the location and operation of machines.
- 25.5 In determining an application, the Licensing Authority will have regard to the licensing objectives and the Commission Guidance. It may also take account of any other matters that are considered relevant to the application.
- 25.6 Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures in place to ensure that persons under the age of 18 do not have access to the adult only gaming machines. Measures may include:
- The adult machines being in sight of the bar, or in the sight of staff who will ensure that the machines are not being used by persons under the age of 18;
  - Notices and signage;
  - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 25.7 If the Licensing Authority is not satisfied that appropriate measures have been taken by the applicant to comply with this policy, it will refuse to grant the permit, or it may vary the number or category of gaming machines authorised by the permit.

25.8 The Authority may also cancel a permit or may vary the number or category (or both) of gaming machines authorised by it if:

- It would not be reasonably consistent with the promotion of the licensing objectives for the permit to have effect;
- Gaming has taken place on the premises in purported reliance on the permit but otherwise than in accordance with the permit or a condition of the permit;
- The premises are mainly used or to be used for making gaming machines available; or
- An offence under the Act has been committed on the premises.

25.9 Some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for and dealt with as an Adult Gaming Centre Premises Licence.

## **26.0 Prize Gaming Permits**

- 26.1 Section 288 of the Act defines gaming as 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.
- 26.2 Prize gaming may take place without a permit at various premises which are casinos, bingo halls, adult gaming centres, licensed FECs and unlicensed FECs (restricted to equal chance prize gaming).
- 26.3 When exercising its functions in considering applications for permits, the Licensing Authority recognises that this type of gaming could appeal to children and young persons and therefore it will take the following factors into consideration in determining the suitability of the applicant:

- That they understand the limits to stakes and prizes that are set out in Regulations;
- That the gaming offered is within the law; and
- Clear policies that outline the steps to be taken to protect children from harm.

26.4 The Licensing Authority can grant or refuse an application but cannot add conditions. It may only grant a permit if it has consulted the Chief Officer of Police about the application. The Licensing Authority will have regard to any objections raised by the Police which are relevant to the licensing objectives. Such considerations would include the suitability of the applicant in terms of any convictions 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.

26.5 Section 293 of the Act sets out four conditions that permit holders, AGCs, FECs and travelling fairs must comply with to lawfully offer prize gaming. These are:

- The limits on participation fees, as set out in regulations, must be complied with;
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- The prize for which the game is played must not exceed the amount set out in Regulations (if a money prize), or the prescribed value (if non-monetary prize);
- Participation in the gaming must not entitle the player to take part in any other gambling.

## 27.0 Club Gaming and Club Machine Permits

27.1 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) and;
- Commercial clubs.

27.2 Members clubs and Miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club machine permit. Commercial clubs may apply for a club machine permit.

27.3 The club gaming permit will enable the premises to provide gaming machines (three machines of categories B3A, B4, C or D), equal chance gaming, and games of chance as set out in the Regulations.

27.4 A club machine permit will enable the premises to provide gaming machines (three machines of categories B3A (except that category B3A machines may not be made available for use in commercial clubs), B4, C or D).

27.5 A club must meet the following criteria to be considered a members' club:

- It must have at least 25 members;
- It must be established and conducted wholly or mainly for purposes other than gaming (unless the gaming is permitted by separate regulations<sup>10</sup>);
- It must be permanent in nature;
- It must not be established to make a commercial profit;
- It must be controlled by its members equally.



Examples of these types of clubs include working men's clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations.

- 27.6 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.
- 27.7 In determining a club's status, the Licensing Authority will have regard to the Gambling Commission's guidance when considering applications for and monitoring of club gaming or club permits.<sup>11</sup>
- 27.8 The Licensing Authority may only refuse an application on the grounds that:
- 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 is has applied;
  - The applicant's premises are used wholly or mainly by children and/or young persons;
  - An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - A permit held by the applicant as been cancelled in the previous ten years; or
  - An objection has been lodged by the Commission or the Police.

### **Bingo in clubs**

- 27.9 Clubs and miners' welfare institutes are able to provide facilities for playing bingo under section 275 of the Act or in accordance with a permit under 271, provided that the restrictions in section 275 are complied with. These include:

- In any seven day period, the aggregate stakes or prizes for bingo must not exceed £2,000. (If that limit is breached the club must hold a
- bingo operator's licence and the relevant operating, personal and premises licences must be obtained);
- The bingo must comply with any code issued by the Commission under section 24 of the Act.

### **Betting in clubs**

- 27.10 Commercial betting, regardless of the level of stakes, is not allowed in clubs. Those who facilitate such betting - whether designated premises supervisors or club officials - are providing illegal facilities for gambling and are breaking the law. Even where designated premises supervisors or club officials accept bets on behalf of licensed bookmakers, or just facilitate betting through their own telephone accounts, they are acting as betting intermediaries and could be prosecuted.
- 27.11 Licensed bookmakers with a full or ancillary remote licence may accept telephone bets from a customer watching an event in a club, as long as that customer has an individual account with them. It is illegal for bookmakers to sit in the club taking bets themselves. Similarly, it is also illegal for operators to put their agent in clubs, for example, in a working men's club on a Saturday, to take bets.

### **Exempt gaming**

- 27.12 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.
- 27.13 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally

<sup>11</sup> See Chapter 25 of the Commission's guidance to licensing authorities - 5<sup>th</sup> edition.

favourable to all participants. This would include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

27.14 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 are set by Regulations.

27.15 Exempt gaming should comply with any code of practice issued by the Commission under section 24 of the Act.

27.16 Clubs may levy a charge for participation in equal chance gaming under the exempt gaming rules. The amount that may be charged is as prescribed in Regulations.

27.17 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.

### **Fast-track procedure**

27.18 There is a fast-track procedure for clubs in England and Wales which hold a club premises certificate under section 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 an authority can refuse a permit are reduced. This is because the club or institute will already have been through a licensing process in relation to its club premises certificate under the Licensing Act 2003, and it is therefore unnecessary to impose the full requirements of the Act. Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

27.19 The grounds on which an application under this process may be refused are that:

- The club is established primarily for gaming, other than gaming prescribed by regulations under section 266 of the Act;
- In addition to the prescribed gaming, the applicant provides facilities for other gaming;
- A club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

27.20 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **28.0 Temporary Use Notices**

28.1 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. Premises that might be suitable for a Temporary Use Notice would include hotels, conference centres and sporting venues.

28.2 The Licensing Authority may only grant a Temporary Use Notice to a person or company holding a relevant operating licence.

28.3 Currently, the Regulations restrict the type of gambling to be offered under a Temporary Use Notice. These restrictions are:

- It can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration will be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both;
- Gambling may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises;



- It can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner;
- Gaming machines may not be made available.

28.4 In relation to tournaments, the requirement that the gaming is "intended to produce a single overall winner" does not restrict the gaming to only one winner through the course of the tournament, although there will ultimately be one final tournament winner. It is considered acceptable for each qualifying round of the tournament; (for example comprising several hands/games of poker) to produce a single overall winner of that qualifying round, whose prize may be the right to progress to the next stage in the tournament. There can also be additional competitions run alongside or leading up to the main event, provided that each of these also only provides one winner.

28.5 Cash games are games where each hand provides a winner and are not permitted under a Temporary Use Notice.

28.6 The Licensing Authority will consider raising an objection to a notice where it appears that their effect would be to permit regular gambling in a place that could be regarded as one set of premises. For example, a large exhibition centre with a number of exhibition halls may come within the definition of "premises". A Temporary Use Notice will not then be granted for 21 days in respect of each of its exhibition halls. In relation to other covered areas, such as shopping centres, the Licensing Authority will give due consideration as to whether different units are in fact different "sets of premises", given that they may be occupied and controlled by different people.

## 29.0 Occasional Use Notices

29.1 Section 39 of the Act provides that where there is betting on a track on 8 days or fewer in a calendar year, betting may be

permitted by an Occasional Use Notice (OUN) without the need for a full premises licence. The intention behind Occasional Use Notices is to permit licensed betting operators with appropriate permission from the Gambling Commission, to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. The Notice must be served by a person who is responsible for the administration of events on the track or by an occupier of the track. The following matters should be noted:

- OUNs can only be relied upon for 8 days or fewer in a calendar year and therefore the Licensing Authority will keep a record of the number of notices served in relation to each track. The period of 8 days applies to the venue and not the individual who has submitted the notice;
- An OUN must be submitted for each day that betting activity will be conducted on the premises. If betting activity is to be held over a period of 8 consecutive days, the operator will be required to submit 8 separate notices;
- The notice must specify the day on which it has effect. An event running past midnight and ending on the following day accounts for 2 occasional use days, even though in practice it is one event;
- No objection or counter-notice (refusal) is possible unless the maximum number will be exceeded;
- Notice must be given to the Licensing Authority and Police, in writing, before the event starts;
- No premises licence can exist for the place which is the subject of the notice;
- Land can be used temporarily as a track, for example for a point-to-point race, provided that sporting events or races take place there. There is no need for a track to be permanently established.

29.2 The Licensing Authority has, therefore, very little discretion as regards Occasional Use Notices to accept bets at "tracks", aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. It will, however, consider the definition of a "track" and whether the applicant will need to demonstrate that they are in fact responsible for the administration of the "track" or is an occupier, and therefore permitted to avail themselves of the notice.

30.2 An appeal has to be commenced by the giving of a notice of appeal by the appellant to the local Magistrates' court within a period of 21 days beginning with the day on which the appellant was formally notified by the Licensing Authority of the decision to be appealed against.

30.3 Any person who wishes to pursue an appeal is strongly advised to seek independent professional legal advice from a legal advisor who specialises in the law on gambling.

## **PART D - Other Information**

### **30.0 Rights of appeal and judicial review**

30.1 The Act provides that decisions of the Licensing Authority may be subject to an appeal in accordance with the provisions of the Act and judicial review.

As is recommended by the Gambling Commission the Licensing Authority considers it best practice, when making determinations, to:

- Give clear and comprehensive reasons for a rejection of an application where there is a requirement in the Act to do so; and
- Wherever practicable, give clear and comprehensive reasons for all decisions connected to its functions under the Act, regardless of whether there is a requirement under the Act to do so.

### **31.0 Other matters**

31.1 In order to ensure that applicants and persons who make representation have the necessary information to be able to do so, the following information will be available on the Council's website ([www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)) or by contacting the Licensing Service directly:

- Register of premises licences issued by the Licensing Authority;
- Fees;
- Guidance on how to make an application;
- List of responsible authorities and contact details;
- Application forms, where appropriate;
- Making representations;
- Applying for a review of a licence.



## 32.0 Table: The Licensing Authority Delegations

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

Map of Portsmouth



 <b>Portsmouth</b> CITY COUNCIL	Title: <b>PORTSMOUTH CITY COUNCIL ADMINISTRATIVE AREA</b>			Drawing No.	
	Prepared by: <b>DIRECTORATE OF ENVIRONMENT &amp; TRANSPORT</b>			Scale: 1:54000	
	Section: <b>INFORMATION SERVICES GROUP</b>			Drawn by: 141eepr Date: 22/06/2008	
	On behalf of: <b>LICENSING OFFICE</b>			Check by:	
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## APPENDIX B

List of Consultees	
All current holders of licences, permits and registrations issued under the Gambling Act 2005	Safer Portsmouth Partnership <a href="http://www.saferportsmouth.org.uk">www.saferportsmouth.org.uk</a>
Association of British Bookmakers (ABB) <a href="http://www.abb.uk.com">www.abb.uk.com</a>	The Bingo Association <a href="http://www.bingo-association.co.uk">www.bingo-association.co.uk</a>
British Amusement Catering Trade Association (BACTA) <a href="http://www.bacta.org.uk">www.bacta.org.uk</a>	The Football Association <a href="http://www.thefa.com">www.thefa.com</a>
British Beer and Pub Association (BBPA) <a href="http://www.beerandpub.com">www.beerandpub.com</a>	Working Men's Club and Institute Union <a href="http://www.wmciu.org.uk">www.wmciu.org.uk</a>
British Holiday and Home Parks Association (BHHPA) <a href="http://www.bhhpa.org.uk">www.bhhpa.org.uk</a>	Ward Councillors
British Institute of Innkeeping (BII) <a href="http://www.bii.org">www.bii.org</a>	The Chief Officer of Police <a href="http://www.hampshire.police.uk">www.hampshire.police.uk</a>
Dransfields <a href="http://www.dransfields.com">www.dransfields.com</a>	The Gambling Commission <a href="http://www.gamblingcommission.gov.uk">www.gamblingcommission.gov.uk</a>
Flick Drummond, MP for Portsmouth South	The Chief Fire Officer <a href="http://www.hantsfire.gov.uk">www.hantsfire.gov.uk</a>
Gam-Anon <a href="http://www.gamanon.org.uk">www.gamanon.org.uk</a>	Head of Planning Services <a href="http://www.portsmouth.gov.uk">www.portsmouth.gov.uk</a>
Gamblers Anonymous (UK) <a href="http://www.gamblersanonymous.org.uk">www.gamblersanonymous.org.uk</a>	Head of Regulatory Services <a href="http://www.portsmouth.gov.uk">www.portsmouth.gov.uk</a>
Gamble Aware <a href="http://www.gambleaware.co.uk">www.gambleaware.co.uk</a>	Head of Children's Social Care and Safeguarding Service <a href="http://www.portsmouth.gov.uk">www.portsmouth.gov.uk</a>
Greyhound Board of Great Britain (GBGB) <a href="http://www.gbgb.org.uk">www.gbgb.org.uk</a>	HM Revenues & Customs <a href="https://www.gov.uk/government/organisations/hm-revenue-customs">https://www.gov.uk/government/organisations/hm-revenue-customs</a>
GamCare <a href="http://www.gamcare.org.uk">www.gamcare.org.uk</a>	Public Health Portsmouth City Council <a href="http://www.portsmouth.gov.uk">www.portsmouth.gov.uk</a>
National Casino Forum <a href="http://www.nationalcasinoforum.co.uk">www.nationalcasinoforum.co.uk</a>	Racecourse Association Ltd <a href="http://www.britishracecourses.org">www.britishracecourses.org</a>
Penny Mordaunt, MP Portsmouth North <a href="http://www.pennymordaunt.com">www.pennymordaunt.com</a>	Portsmouth & SE Hampshire Chamber of Commerce & Industry <a href="http://www.hampshirechamber.co.uk">www.hampshirechamber.co.uk</a>

**Please note that this is not an exhaustive list. Where it comes to light that other consultees should be included in the consultation, this will be carried out.**

## APPENDIX C

Glossary of Terms	
<b>Applications</b>	Application for licences and permits under the Gambling Act 2005.
<b>Betting ring</b>	An area that is used for temporary "on course" betting facilities.
<b>Betting machine</b>	A machine designed or adapted for use to bet on future real events (not a gaming machine).
<b>Bingo</b>	A game of equal chance.
<b>Casino</b>	An arrangement whereby people are given an opportunity to participate in one or more casino games.
<b>Child</b>	Individual who is less than 16 years old.
<b>Club gaming machine permit</b>	Permit to enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D).
<b>Club gaming permit</b>	Permit to enable the premises to provide gaming machines (3 machines of categories B3A (except that category B3A machines may not be made available or use in commercial clubs), B4, C or D), equal chance gaming and games of chance.
<b>Code of Practice</b>	Any relevant code of practice issued by the Gambling Commission under section 24 of the Gambling Act 2005.
<b>Council</b>	Portsmouth City Council.
<b>Default conditions</b>	Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all premises licence, to a class of premises licences or licences for specified circumstances.
<b>Delegated powers</b>	Decisions delegated either to a Licensing Committee, Sub-Committee or Officers.
<b>Disorder</b>	No set interpretation, however, likely to be connected to the way gambling is being conducted. In the case of gambling premises, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
<b>Equal Chance Gaming</b>	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
<b>Gaming</b>	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. The prizes will be determined by the operator before the play commences.
<b>Gaming machine</b>	Machine covering all types of gambling activity, including betting on virtual events.



<b>Guidance</b>	Statutory Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005.
<b>Information exchange</b>	Exchanging of information with other regulatory bodies under the Gambling Act 2005.
<b>Irrelevant representations</b>	Where other legislation can address the representation made or if it relates to demand for gambling premises.
<b>Licences</b>	As defined in paragraph 9.0 of this policy statement.
<b>Licensing Authority</b>	Portsmouth City Council.
<b>Licensing Committee</b>	A committee of no less than 10 but no more than 15 councillors appointed by the Council to represent the Licensing Authority.
<b>Licensing objectives</b>	As set out in paragraph 3 of this policy document.
<b>Licensing Sub-Committee</b>	A sub-committee of members appointed from the Licensing Committee to whom the functions of the Licensing Committee can be delegated under the Gambling Act 2005 to determine applications.
<b>Mandatory conditions</b>	Conditions that must be attached to a licence. This may apply to all premises licences, to a class of premises licences or licences for specified circumstances.
<b>Members club</b>	<p>A club that must:</p> <ul style="list-style-type: none"> <li>• Have at least 25 members;</li> <li>• Be established and conducted "wholly or mainly" for purposes other than gaming;</li> <li>• Be permanent in nature;</li> <li>• Not established to make commercial profit; and</li> <li>• Controlled by its members equally.</li> </ul>
<b>Notifications</b>	Notifications of temporary and occasional use notices.
<b>Occasional use notice</b>	To permit betting on a "track" without the need for a full premises licence.
<b>Off course betting</b>	Betting that takes place other than at a track, i.e. at a licensed betting shop.
<b>On course betting - Tracks</b>	Betting that takes place on a track while races are taking place.
<b>Operating Licences</b>	Licences issued by the Gambling Commission to permit individuals and companies to provide facilities for certain types of gambling including remote or non-remote gambling.
<b>Permits</b>	Authorisations to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.

<b>Personal Licences</b>	Formal authorisation issued by the Gambling Commission to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies.
<b>Pool Betting - Tracks</b>	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track.
<b>Premises</b>	Defined as "any place". It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.
<b>Premises Licence</b>	Licence issued by the Licensing Authority to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres.
<b>Prize gaming</b>	Where 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. The prizes will be determined by the operator before play commences.
<b>Prize gaming permit</b>	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
<b>Provisional statement</b>	Where an applicant can make an application to the Licensing Authority in respect of premises that he/she: <ul style="list-style-type: none"> <li>• Expects to be constructed;</li> <li>• Expects to be altered;</li> <li>• Expects to acquire a right to occupy.</li> </ul>
<b>Regulations</b>	Regulations made under the Gambling Act 2005
<b>Relevant representations</b>	Representations that relate to the licensing objectives or that raise issues under the Statement of licensing policy or the Gambling Commission's Guidance or Codes of Practice.
<b>Responsible authorities</b>	<p>Responsible authorities can make representations about licence applications or apply for a review of an existing licence.</p> <p>For the purposes of the Gambling Act 2005, the following are responsible authorities in relation to premises:</p> <ul style="list-style-type: none"> <li>• The Council's Licensing Authority in whose area the premises are wholly or mainly situated;</li> <li>• The Gambling Commission;</li> <li>• Hampshire Constabulary;</li> <li>• Hampshire Fire &amp; Rescue Service;</li> <li>• Planning Service, Portsmouth City Council;</li> <li>• Environmental Health Service, Portsmouth City Council;</li> <li>• Children's Social Care and Safeguarding Service;</li> <li>• HM Revenue &amp; Customs.</li> </ul>

<b>SIA</b>	The Security Industry Authority
<b>Skills with prizes</b>	A machine on which the winning of a prize is determined only by the player's skill and there is no element of chance, e.g. trivia game machine, Formula 1 simulators, shooting games. Skill machines are unregulated.
<b>Statement of Licensing Policy</b>	Policy statement issued by the Licensing Authority which indicates those matters which will be taken into account when considering an application for a licence or permit.
<b>Temporary use notice</b>	To 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.
<b>Totalisator or Tote</b>	Pool betting on tracks.
<b>Track</b>	Sites where races or other sporting events takes place e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
<b>Travelling fair</b>	A fair that "wholly or principally" provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
<b>Vehicles</b>	Defined as trains, aircraft, seaplanes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
<b>Vessel</b>	Anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything, or part of any place, situated on or in water.
<b>Vessel and relevant Licensing Authority</b>	The relevant Licensing Authority is that for the area in which the vessel is usually moored or berthed.
<b>Vulnerable persons</b>	Includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental impairment, alcohol or drugs. For example this may include those persons who are under the influence of alcohol and/or are drunk.
<b>Young person</b>	An individual who is not a child but who is under the age of 18 years.

## Appendix D

Contact Details for Licensing Authority and other Responsible Authorities	
<p>Licensing Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9283 4607 or 023 9268 8367 Fax: 023 9283 4811 Email: <a href="mailto:licensing@portsmouthcc.gov.uk">licensing@portsmouthcc.gov.uk</a></p>	<p>The Chief Officer of Police Hampshire Constabulary Portsmouth Licensing and Violent Crime Reduction Licensing Office Civic Offices Guildhall Square Portsmouth PO1 2AL</p> <p>Tel: 0845 045 4545 Direct Dial: 023 9268 8754 Fax: 023 9268 8513 Email: <a href="mailto:force.licensing@hampshire.pnn.police.uk">force.licensing@hampshire.pnn.police.uk</a></p>
<p>Environmental Health Service (Pollution) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8366 Email: <a href="mailto:publicprotection@portsmouthcc.gov.uk">publicprotection@portsmouthcc.gov.uk</a></p>	<p>Environmental Health (Business Support) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8362 Email: <a href="mailto:publicprotection@portsmouthcc.gov.uk">publicprotection@portsmouthcc.gov.uk</a></p>
<p>Head of Planning Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9283 4334 Fax: 023 9283 4660 Email: <a href="mailto:planning@portsmouthcc.gov.uk">planning@portsmouthcc.gov.uk</a></p>	<p>Children's Social Care and Safeguarding Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9282 2251 Email: <a href="mailto:safeguardingnotifications@portsmouthcc.gov.uk">safeguardingnotifications@portsmouthcc.gov.uk</a></p>

<p>The Chief Fire Officer Hampshire Fire and Rescue Service HQ Leigh Road Eastleigh Hants SO50 9SJ</p> <p>Tel: 023 9285 5180 Fax: 023 9288 5175 Email: <a href="mailto:csprotection.admin@hantsfire.gov.uk">csprotection.admin@hantsfire.gov.uk</a></p>	<p>The Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP</p> <p>Tel: 0121 230 6666 Fax: 0121 233 1096 Email: <a href="mailto:info@gamblingcommission.gov.uk">info@gamblingcommission.gov.uk</a></p>
<p>HM Revenue &amp; Customs National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ</p> <p>Tel: 0141 555 3492 Email: <a href="mailto:nru.betting&amp;gaming@hmrc.gsi.gov.uk">nru.betting&amp;gaming@hmrc.gsi.gov.uk</a></p>	
<b>In respect of vessels only:</b>	
<p>Navigation Authority:</p> <p>Queen's Harbour Master Semaphore Tower PP70 HMS Nelson HM Naval Base Portsmouth Hants PO1 3LT</p> <p>Tel: 023 9272 3124 <a href="http://www.qhmpportsmouth.com">www.qhmpportsmouth.com</a></p>	<p>Environment Agency Hampshire and IOW Area Office Wessex Business Park Wessex Way Colden Common Winchester Hants SO21 1WP</p> <p>Tel: National Call Centre <b>08708 506 506 (Mon – Fri 8-6)</b></p>
<p>Maritime and Coastguard Agency Spring Place 105 Commercial Road Southampton Hants SO15 1EG</p> <p>Tel: 0870 6006505 Email: <a href="mailto:www.infoline@mcga.gov.uk">www.infoline@mcga.gov.uk</a></p>	

Licensing Service  
Civic Offices  
Guildhall Square, Portsmouth  
PO1 2AL

Telephone: 023 9283 4607  
Email: [licensing@portsmouthcc.gov.uk](mailto:licensing@portsmouthcc.gov.uk)

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)



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# Gambling Act 2005

Section 349: Statement of principles 31 January 2010 – 31 January 2013

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)



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# Part A

## 1.0 Licensing Objectives

- 1.1 Portsmouth City Council is the Licensing Authority for the Gambling Act 2005 for the administrative area of Portsmouth as shown on the map at Appendix A. Any references to “the Licensing Authority” in this document refers to Portsmouth Licensing Authority.
- 1.2 In exercising most of the functions under the Gambling Act 2005, the Licensing Authority must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives 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.
- 1.3 It should be noted that the Gambling Commission has stated “the requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.4 The Licensing Authority is aware that in accordance with Section 153 of the Act, in making its decisions about premises licences and temporary use notices it should aim to permit the use of the premises for gambling in so far as it thinks it:
  - in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the Authority’s statement of licensing principles.

## 2.0 Introduction

- 2.1 The City of Portsmouth is situated in the ceremonial County of Hampshire which contains 11 District Councils in total. It is at the heart of Britain’s southern coastline, with long established direct rail and road links to London, the Midlands and Wales and close to three international airports.

Portsmouth is a thriving city whose history is firmly rooted in the defence of the realm. Portsmouth remains the home of the Royal Navy and the UK’s premier naval port. Now no longer just a dockyard city, Portsmouth is a modern and dynamic city that offers a prime location for industry, commerce, leisure and pleasure.

More than 3 million people travel to and from Portsmouth every year through the Continental Ferry Port that links the city with northwest France, northern Spain and the Channel Islands.

Portsmouth has a population of 190,400 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country, outside London.

Portsmouth offers a vibrant mix of entertainment facilities for residents and visitors alike. It has a number of casinos, bingo halls and other types of licensed betting premises.

The Council recognises that legal gambling in a fair and open way, with suitable protection for children and vulnerable persons, contributes much to the growth of the local economy for Portsmouth and offers an important role for employment within the city.

- 2.2 A map of the Portsmouth Area is attached as Appendix A

## 3.0 Consultation on the Statement of Principles

- 3.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must then be re-published.
- 3.2 The Licensing Authority consulted widely upon this statement before finalising and publishing. Our consultation took place between 7 September 2009 and 6 November 2009. A list of those persons consulted is provided at Appendix B. It should be noted that unsolicited comments may have been received from other persons but we will have not listed all of these.
- 3.3 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police for Hampshire;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the Portsmouth area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Act.
- 3.4 The full list of comments made and the consideration by the Council of those comments is available by request to: The Licensing Section, Legal, Licensing & Registrars, Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, Hants, PO1 2AL or via the Council’s website at [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk).
- 3.5 The policy was approved at a meeting of the Full Council on 15 December 2009 and was published via our website on 31 December 2009. Copies were placed in the public libraries of the area as well as being available in the Licensing Section of the Civic Offices.
- 3.6 The Licensing Authority will also consult the above and any other relevant persons as may be appropriate for any subsequent revision of the policy.
- 3.7 Any comments as regards this policy should be sent to:
- The Licensing Manager  
Legal, Licensing & Registrars  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AL  
Tel: 023 9283 4604 Fax: 023 9283 4811  
Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)
- 3.8 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## 4.0 Declaration

- 4.1 In producing the final statement, the Licensing Authority declares that it has had regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission and any responses from those consulted on the policy statement.



## 5.0 Responsible authorities and interested parties

5.1 When dealing with applications for and reviews of premises licences, the Licensing Authority are obliged to consider representations from two categories of persons, referred to as “responsible authorities” and “interested parties.” (It should be noted that these are defined differently to those defined in the Licensing Act 2003). Representations made by persons other than responsible authorities or interested parties will be inadmissible.

5.2 “Responsible authorities” are public bodies that must be notified of applications by the applicant. They are as follows:

- the Licensing Authority in whose area the premises are wholly or partly situated;
- the Gambling Commission;
- the Chief Officer of Police;
- the Fire and Rescue Authority;
- the local Planning Authority;
- the Public Protection Service;
- the Directorate of Children, Families & Learning;
- HM Revenues and Customs; and
- Any other person prescribed by the Secretary of State.

A full list and contact details of all the Responsible Authorities under the Act are contained on the Council’s web-site at [insert link to appropriate web page]

5.3 The Licensing Authority is required by the 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. The principles are:

- The need for the body to be responsible for an area covering the whole of the licensing authority’s area; and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

5.4 In accordance with the suggestion in the Gambling Commission’s Guidance for local authorities, this authority has designated the Directorate of Children, Families & Learning as the body which is competent to advise the authority about the protection of children from harm.

5.5 “Interested parties” are persons who can make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Act as follows:

“A person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person-

- 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; or
- represents persons in either of those two groups referred to above.

5.6 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an interested party. The principles are:

5.7 Each case will be considered on its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance for local authorities (specifically 8.11 to 8.19). It will also consider the Gambling Commission’s Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

5.8 Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise parish councils likely to be affected will be considered to be interested parties. Other than these

however, this Authority will generally require written evidence that a person/body (e.g. and advocate/relative) “represents” someone who either lives sufficiently close to the premises 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 the representation is sufficient.

- 5.9 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact Democratic Services at Portsmouth City Council, Civic Offices, Guildhall Square, Portsmouth, PO1 2AL.

## 6.0 Exchange of Information

- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1988 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 7.0 Compliance and Enforcement

- 7.1 Licensing authorities are required by regulation under the Act to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 The Licensing Authority's principles are that:
- It will be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:
- Proportionate: intervention only when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - Accountable: decisions must be justified, and subject to public scrutiny;
  - Consistent: rules and standards must be joined up and implemented fairly;
  - Transparent: regulators should be open, and keep regulations simple and user friendly; and
  - Targeted: focused on the problem, and minimise side effects.
- 7.3 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 The main enforcement and compliance role for the Licensing Authority 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 operating and personal licences. It is also worth noting that concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but should be notified to the Gambling Commission.

- 7.5 The Licensing Authority will keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 7.6 Having regard to the principle of transparency, the Licensing Authority enforcement/compliance protocols/written agreements will be available on request to the licensing section. Our risk methodology will also be available on request.

## 8.0 The Licensing Authority Functions

### 8.1 The Licensing Authority will:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

- 8.2 The Licensing Authority will not be involved in licensing remote gambling. This is regulated by the Gambling Commission via Operating Licences.



# Part B – Premises Licences

## 9.0 General Principles

- 9.1 Premises licences are subject to the requirements set out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 9.2 In making decisions about premises licences, the Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with this statement of licensing policy.
- 9.3 The Licensing Authority appreciates that as per the Gambling Commission's Guidance "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any "no casino" resolution – see section on Casinos below – page 16) and also that unmet demand is not a criterion for the Licensing Authority.

### Definition of "premises"

- 9.4 In the Act "premises" is defined as including "any place". Section 152 of the Act therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 9.5 The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the Licensing Officer. However, the Commission does 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."

9.6 The Licensing Authority takes particular note of the Gambling Commission's Guidance for local authorities which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the premises licence.

9.7 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

The Authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the

9.8 The Gambling Commission's relevant access provisions for each premises type are reproduced below:

### Casinos

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance).
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons.
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

### Adult Gaming Centre

- No customer must be able to access the premises directly from any other licensed gambling premises.

### Betting Shops

- Access must be from a street (as per paragraph 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence.
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### Tracks

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### Bingo Premises

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track



## Family Entertainment Centre

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

## Premises “ready for gambling”

- 9.9 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.
- 9.10 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.
- 9.11 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this Authority will determine applications on their merits, applying a two stage consideration process:
- First, whether the premises ought to be permitted to be used for gambling;
  - Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 9.12 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it's not obliged to grant such a licence.
- 9.13 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59 – 7.66 of the Guidance.

## Location

- 9.14 The Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. As per the Gambling Commission's guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

## Planning

- 9.15 The Gambling Commission Guidance to Licensing Authorities states:

In determining applications, the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. (paragraph 7.59 of the Guidance).





- 9.16 This Authority will not take into account irrelevant matters as per the above guidance. In addition this Authority notes the following excerpt from the Guidance:

When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. These matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building. (Paragraph 7.66 of the Guidance).

### **Duplication with other regulatory regimes**

- 9.17 The Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 9.18 When dealing with a premises licence application for finished buildings, this Authority will not taken into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

## **10.0 The Licensing Objectives**

- 10.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below:

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

- 10.2 The Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime, this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. The Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction.

### **Ensuring that gambling is conducted in a fair and open way;**

- 10.3 The Licensing Authority has noted that the Gambling Commission has stated that it generally would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the "tracks" section below – pages 17 – 18.

## Protecting children and other vulnerable persons from being harmed or exploited by gambling;

- 10.4 The Licensing Authority has noted that the Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The Licensing Authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.
- 10.5 The Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.
- 10.6 As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." The Licensing Authority will consider this licensing objective on a case by case basis.

## 11.0 Conditions on premises licences

- 11.1 The Licensing Authority will ensure that any conditions imposed are proportionate to the circumstances which they are seeking to address, and will ensure that any premises licence conditions are:
- relevant to the need to make the proposed building suitable as a gambling facility;
  - directly related to the premises and the type of licence applied for;
  - fairly and reasonably related to the scale and type of premises; and
  - reasonable in all other respect.
- 11.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.
- 11.3 The Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include:
- supervision of entrances;
  - segregation of gambling from non-gambling areas frequented by children;
  - supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

These matters are in accordance with the Gambling Commission's Guidance.

11.4 The Licensing Authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

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

These considerations will apply to premises including buildings where multiple premises licences are applicable.

11.5 The Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, the Licensing Authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

11.6 It is noted that there are conditions which the Licensing Authority cannot attach to premises licence which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or methods of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated); and
- conditions in relation to stakes, fees, winnings or prizes.

### Door Supervisors

11.7 The Gambling Commission advises in its Guidance to Local Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a condition on the premises licence to this effect.

11.8 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## 12.0 Adult Gaming Centres (AGC)

- 12.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure, for example, that persons under the age of 18 do not have access to the premises.
- 12.2 The Licensing Authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - Self-exclusion schemes
  - Provision of information leaflets/helpline numbers for organisations such as GamCare.

This list is not mandatory nor exhaustive and is merely indicative of example measures.



## 13.0 (Licensed) Family Entertainment Centres

- 13.1 The Act creates two classes of family entertainment centre (FEC). Licensed FECs can provide category C and D machines and require a premises licence. Unlicensed family entertainment centres provide category D machines only and are regulated through FEC gaming machine permits.
- 13.2 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under the age of 18 do not have access to the adult only gaming machine areas.
- 13.3 The Licensing Authority may consider measures to meet the licensing objectives such as:
- CCTV
  - Supervision of entrances/machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - Self-exclusion schemes
  - Provision of information leaflets/helpline numbers for organisations such as GamCare
  - Measures/training for staff on how to deal with suspected truant school children on the premises

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

- 13.4 The Licensing Authority will, as per the Guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

## 14.0 Casinos

### No Casinos resolution

- 14.1 The Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.
- 14.2 Any such decision will be made by the Full Council.

### Licence considerations/conditions

- 14.3 This Licensing Authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.

### Betting machines

- 14.4 The Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.



## 15.0 Bingo premises

- 15.1 This Licensing Authority notes that the Gambling Commission's Guidance at paragraph 18.4 states:
- Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.
- 15.2 This Authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.
- 15.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

## 16.0 Betting premises

- 16.1 Betting machines – The Licensing Authority will, in accordance with the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.



## 17.0 Tracks

- 17.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the “totalisator” or “tote”), and also general betting, often known as “fixed-odds” betting.
- 17.2 The Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission’s Guidance, the Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 17.3 The Licensing Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 17.4 The Licensing Authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage
  - Specific opening hours
  - Self-exclusion schemes
  - Provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not mandatory, nor exhaustive, and is merely indicative of example measures.

### Gaming machines

- 17.5 Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

### Betting machines

- 17.6 The Licensing Authority will, as per Part 6 of the Gambling Commission’s Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/ circumstances of betting machines an operator wants to offer.

### Applications and plans

- 17.7 Section 51 of the Act requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, paragraph 20.28).
- 17.8 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by the regulations. (See Guidance to Licensing Authorities, paragraph 20.29).
- 17.9 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises. (See Guidance to Licensing Authorities, paragraph 20.31).



- 17.10 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See Guidance to Licensing Authorities, paragraph 20.32).
- 17.11 This Authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this Authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, paragraph 20.33).

## 18.0 Travelling Fairs

- 18.1 This Licensing Authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 18.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 18.3 It is noted that the 27-day statutory maximum for the land being used as a fair, applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.



## 19.0 Provisional Statements

- 19.1 Developers may wish to apply to this Authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 19.2 Section 204 of the Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
  - expects to be altered; or
  - expects to acquire a right to occupy.
- 19.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 19.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional statement application is made.
- 19.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matter which could not have been addressed at the provisional statement stage, or
  - they reflect a change in the applicant's circumstances.
- 19.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
  - which in the authority's opinion reflect a change in the operator's circumstances; or
  - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this Licensing Authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 20.0 Reviews of premises licences

- 20.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below:
- In accordance with any relevant code of practice issued by the Gambling Commission;
  - In accordance with any relevant guidance issued by the Gambling Commission;
  - Reasonably consistent with the licensing objectives; and
  - In accordance with the Licensing Authority's statement of principles.
- 20.2 The request for the review will also be subject to the consideration by the Authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause the authority to wish alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 20.3 The Licensing Authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 20.4 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 a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 20.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 20.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- Add, remove or amend a licence condition imposed by the licensing authority;
  - Exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
  - Suspend the premises licence for a period not exceeding three months; and
  - Revoke the premises licence.
- 20.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 20.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that 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.
- 20.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder
  - the applicant for review (if any)
  - the Gambling Commission
  - any person who made representations
  - the chief officer of police or chief constable; and
  - Her Majesty's Commissioners for Revenue and Customs.





# Part C – Permits/Temporary & Occasional Use Notices

## 21.0 Unlicensed Family Entertainment Centre Gaming Machine Permits

21.1 Where a premises does not hold a premises licence and wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

21.2 The Gambling Act 2005 states that a Licensing Authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Gambling Commission under Section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles for permits..., licensing authorities will want to give weight to child protection issues." (24.6)

21.3 The Guidance also states: "...An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application...Licensing authorities might wish to consider asking applicants to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- That staff are trained to have a full understanding of the maximum stakes and prizes (Guidance to Licensing Authorities, paragraph 24.7).

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

### Statement of Principles

21.5 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include the following:

- appropriate measures / training for staff as regards suspected truant school children on the premises,
- measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

21.6 The Licensing Authority will also expect, as per Gambling Commission Guidance that:

- applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

## 22.0 (Alcohol) Licensed premises gaming machine permits

- 22.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. The Licensing Authority can remove the automatic authorisation in respect of any particular premises 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 section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
  - the premises are mainly used for gaming; or
  - an offence under the Gambling Act has been committed on the premises.
- 22.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission, issued under Section 25 of the Act and “such matters as they think relevant.”
- 22.3 The Licensing Authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that persons under the age of 18 do not have access to the adult only gaming machines. Measures which will satisfy the authority may include:
- The adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by persons under the age of 18;
  - Notices and signage; and
  - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 22.4 The Licensing Authority recognises that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 22.5 The Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 22.6 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.



## 23.0 Prize Gaming Permits

23.1 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under Schedule 14 paragraph 8(3)” which “may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit”.

23.2 This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law; and
- clear policies that outline the steps to be taken to protect children from harm.

23.3 In making its decision on an application for this permit the Licensing Authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Schedule 14, paragraph 8(3) of the Act).

23.4 It should be noted that there are conditions in the Act by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.



## 24.0 Club Gaming and Club Machines Permits

- 24.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in statutory regulations. A Club Gaming Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 24.2 The Gambling Commission Guidance states that "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations".
- 24.3 The Commission Guidance also notes that licensing authorities may only refuse an application on the grounds that:
- 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;
  - the applicant's premises are used wholly or mainly by children and/or young persons;
  - an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - a permit held by the applicant has been cancelled in the previous ten years; or
  - an objection has been lodged by the Commission or the police.
- 24.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12, paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the police, and the ground upon which an authority can refuse a permit are reduced" and "the grounds on which an application under the process may be refused are:
- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 24.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## 25.0 Temporary Use Notices

- 25.1 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. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 25.2 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 25.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this statement the relevant regulations (SI No. 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 25.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission's Guidance to Licensing Authorities. As with "premises" the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of a set of premises the Licensing Authority will look at, amongst other things, the ownership/occupation and control of the premises.
- 25.5 This Licensing Authority expects to 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, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## 26.0 Occasional Use Notices

- 26.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## Part D – Other Information

### 27.0 Rights of appeal and judicial review

27.1 The Licensing Authority is aware that its decisions may be subject to an appeal in accordance with the provisions of the Act and judicial review. It also recognises that failure to give reasons for a decision may compel a person to appeal. The Licensing Authority will:

- give clear and comprehensive reasons for a rejection of an application where there is a requirement in the Act to do so; and
- wherever practicable, as best practice, give clear and comprehensive reasons for all decisions connected to its functions under the Act, regardless of whether there is a requirement under the Act to do so.

27.2 An appeal has to be commenced by the giving of a notice of appeal by the appellant to the local magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by the Licensing Authority of the decision to be appealed against.

27.3 Any person who wishes to pursue an appeal is strongly advised to seek independent professional legal advice from a legal advisor who specialises in the law on gambling.

### 28.0 Other matters

28.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, the information below will be available on the Council's web site ([www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)) or by contacting the Licensing Section at Portsmouth City Council:

- Register of premises licences issued by The Licensing Authority
- Fees
- Guidance on how to make an application
- List of responsible authorities and contact details
- Application forms, where appropriate
- Making representations
- Applying for a review of a licence

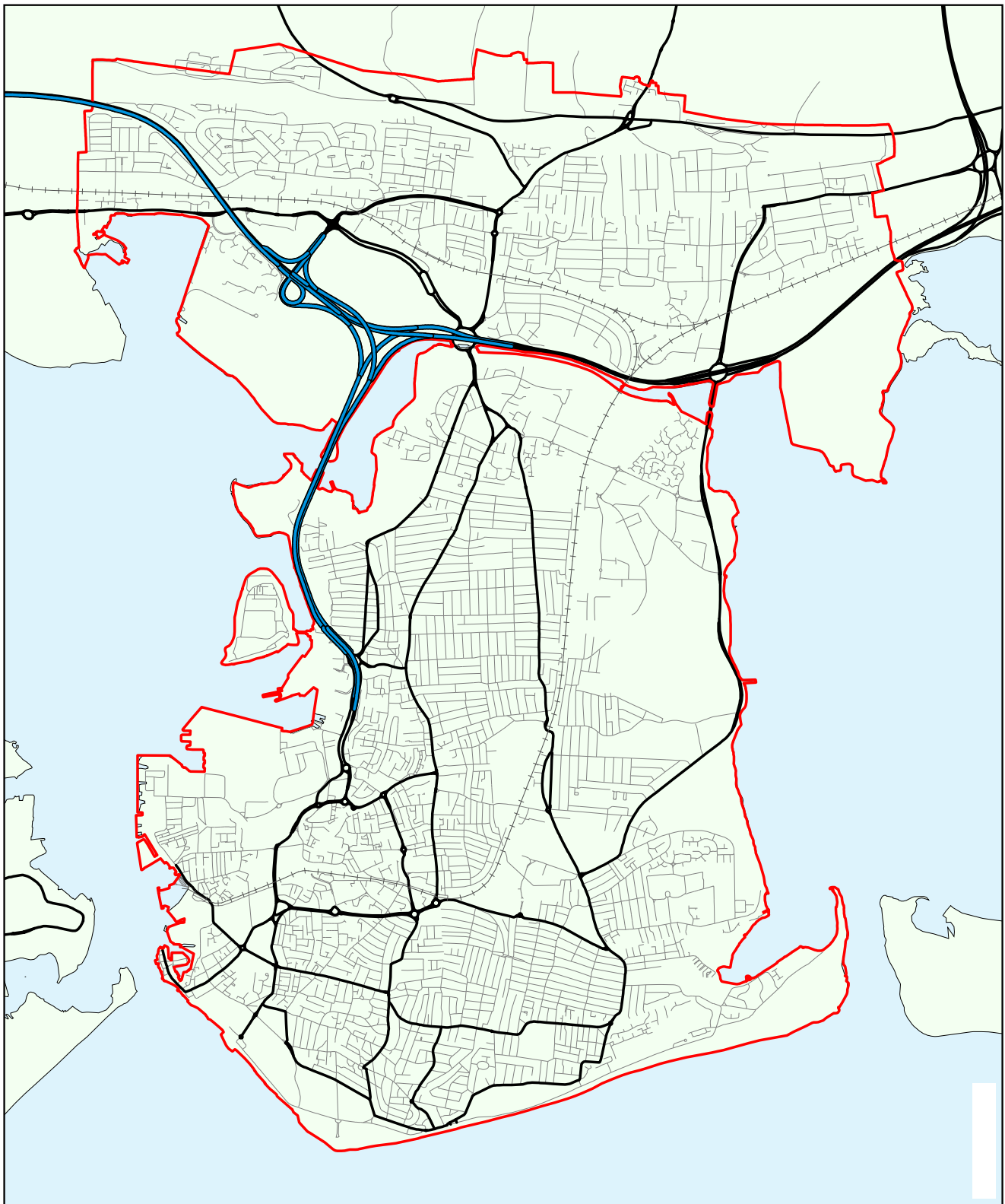


## 29.0 The Licensing Authority Delegations

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Three year statement of licensing principles	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a premises licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a premises licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional transfer		Where representations have been received and not withdrawn	Where no representations received/ 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 made/ objections have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
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 – Map of Portsmouth Area



**Portsmouth**  
CITY COUNCIL

Title: **PORTSMOUTH CITY COUNCIL  
ADMINISTRATIVE AREA**

Prepared for: **LICENSING OFFICE**

Prepared by: **Geographic Information Service**

Drg No:

Scale: **1:54000**

Date: **18/12/2009**

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# Appendix B – List of Consultees

All current holders of licences, permits and registrations issued under the act

Association of British Bookmakers (ABB)

British Amusement Catering Trade Association (BACTA)

British Beer & Pub Association

British Casino Association (BCA)

British Greyhound Racing Board

British Holiday & Home Parks Association

British Institute of Innkeeping

Business In Sport & Leisure

Casino Operators' Association of the UK (COA (UK))

Citizens Advice Bureau

Connexions

Councillor Mike Hancock CBE MP

Dransfields

Gam-Anon

Gamblers Anonymous (UK)

GamCare

LACORS

Neighbourhood Forums

Policy & Participation Manager, PCC in respect of Tenants & Residents Associations

Portsmouth & SE Hampshire Chamber of Commerce & Industry

Portsmouth & SE Hampshire Partnership

Portsmouth City Primary Care Trust

Portsmouth Council of Community Service

Racecourse Association Limited

RAL Limited

Responsibility in Gambling Trust

Safer Portsmouth Partnership

Sarah McCarthy-Fry MP

Southsea Town Council

The Bingo Association

The Football Association

The Lotteries Council

Working Men's Club and Institute Union

Ward Councillors

The Chief Officer of Police

The Gambling Commission

The Chief Fire Officer

Head of Planning Services

Head of Public Protection Service

Head of Children, Families & Learning

HM Revenues & Customs

Please note that this is not an exhaustive list and where it comes to light that other consultees should be included in the consultation, this will be carried out.

## Appendix C – Glossary of Terms

<b>Applications</b>	Application for licences and permits.
<b>Betting Ring</b>	An area that is used for temporary “on course” betting facilities.
<b>Betting Machines</b>	A machine designed or adapted for use to bet on future real events (not a Gaming Machine).
<b>Bingo</b>	A game of equal chance.
<b>Casino</b>	An arrangement whereby people are given an opportunity to participate in one or more casino games.
<b>Child</b>	Individual who is less than 16 years old.
<b>Club Gaming Machine Permit</b>	Permit to enable the premises to provide gaming machines (3 machines of Categories B, C or D).
<b>Club Gaming Permit</b>	Permit to enable the premises to provide gaming machines (3 machines of Categories B, C or D), equal chance gaming and games of chance.
<b>Code of Practice</b>	Any relevant code of practice under section 24 of the Gambling Act 2005
<b>Council</b>	Portsmouth City Council
<b>Default Conditions</b>	Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all premises licences, to a class of premises licence or licences for specified circumstances.
<b>Delegated Powers</b>	Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.
<b>Disorder</b>	No set interpretation, however, likely to be connected to the way gambling is being conducted. In the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
<b>Equal Chance Gaming</b>	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
<b>Gaming</b>	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. The prizes will be determined by the operator before the play commences.
<b>Gaming Machine</b>	Machine covering all types of gambling activity, including betting on virtual events.
<b>Guidance</b>	Guidance issued by the Gambling Commission dated April 2006.
<b>Information Exchange</b>	Exchanging of information with other regulatory bodies under the Gambling Act 2005.

<b>Irrelevant Representations</b>	<ul style="list-style-type: none"> <li>• Where other legislation can cover the representation;</li> <li>• Demand in premises licensing.</li> </ul>
<b>Licences</b>	As defined in paragraph 8.1 of this statement.
<b>Licensing Authority</b>	Portsmouth City Council
<b>Licensing Committee</b>	A committee of 10 to 15 councillors appointed by the Council to represent the Licensing Authority.
<b>Licensing Objectives</b>	As defined in paragraph 1.2 of this statement.
<b>Licensing Sub-Committee</b>	A sub-committee of members appointed from the Licensing Committee to whom the functions of the Licensing Committee can be delegated under the Act to determine applications.
<b>Mandatory Conditions</b>	Conditions that must be attached to a licence. This may apply to all premises licences, to a class of premises licences or licences for specified circumstances.
<b>Members Club</b>	<p>A club that must:</p> <ul style="list-style-type: none"> <li>• Have at least 25 members;</li> <li>• Be established and conducted “wholly or mainly” for purposes other than gaming;</li> <li>• Be permanent in nature;</li> <li>• Not established to make commercial profit; and</li> <li>• Controlled by its members equally.</li> </ul>
<b>Notifications</b>	Notifications of temporary and occasional use notices.
<b>Occasional Use Notice</b>	Betting may be permitted on a “track” without the need for a full premises licence.
<b>Off Course Betting</b>	Betting that takes place other than at a track, i.e. at a licensed betting shop.
<b>On Course Betting – Tracks</b>	Betting that takes place on a track while races are taking place.
<b>Operating Licences</b>	Licence issued by the Gambling Commission to permit individuals and companies to provide facilities for certain types of gambling. They may authorise remote or non-remote gambling.
<b>Permits</b>	Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.
<b>Personal Licences</b>	Formal authorisation issued by the Gambling Commission to individuals who control facilities for gambling or are able to influence the outcome of gambling. <b>Page 97</b> Personal licences cannot be held by companies.

<b>Pool Betting - Tracks</b>	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track.
<b>Premises</b>	Defined as “any place”. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.
<b>Premises Licence</b>	Licence issued by the Licensing Authority to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres.
<b>Prize Gaming</b>	Where 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. The prizes will be determined by the operator before play commences.
<b>Prize Gaming Permit</b>	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
<b>Provisional Statement</b>	Where an applicant can make an application to the Licensing Authority in respect of premises that he: <ul style="list-style-type: none"> <li>• Expects to be constructed;</li> <li>• Expects to be altered;</li> <li>• Expects to acquire a right to occupy.</li> </ul>
<b>Regulations</b>	Regulations made under the Gambling Act 2005
<b>Relevant Representations</b>	Representations that relate to the licensing objectives, or that raise issues under the Statement of Licensing Principles or the Gambling Commission’s Guidance or Codes of Practice
<b>Responsible Authorities</b>	<p>Responsible authorities can make representations about licence applications, or apply for a review of an existing licence.</p> <p>For the purposes of the Gambling Act 2005, the following are responsible authorities in relation to premises:</p> <ul style="list-style-type: none"> <li>• The Council’s Licensing Authority in whose area the premises must wholly or mainly be situated;</li> <li>• The Gambling Commission;</li> <li>• Hampshire Constabulary;</li> <li>• Hampshire Fire &amp; Rescue Service;</li> <li>• Planning Services, Portsmouth City Council;</li> <li>• Public Protection Service, Portsmouth City Council;</li> <li>• Directorate of Children, Families &amp; Learning, Portsmouth City Council;</li> <li>• HM Revenues &amp; Customs.</li> </ul> <p>The contact details for all responsible authorities under the Gambling Act 2005 will be available via the Council’s website at <a href="http://www.portsmouth.gov.uk">www.portsmouth.gov.uk</a></p>



<b>SIA</b>	Security Industry Authority
<b>Skills with prizes</b>	A machine on which the winning of a prize is determined only by the player's skill and there is no element of chance, e.g. trivia game machine, Formula 1 simulators, shooting games. Skills machines are unregulated.
<b>Statement of Licensing Principles</b>	Policy statement issued by the Licensing Authority which indicate those matters which will be taken into account when considering an application for a licence or permit.
<b>Temporary Use Notice</b>	To 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.
<b>Totalisator or Tote</b>	Pool betting on tracks.
<b>Track</b>	Sites where races or other sporting events take place e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.
<b>Travelling Fair</b>	A fair that "wholly or principally" provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.
<b>Vehicles</b>	Defined as trains, aircraft, seaplanes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
<b>Vessel</b>	Anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything, or part of any place, situated on or in water.
<b>Vessel and relevant Licensing Authority</b>	The relevant Licensing Authority is that for the area in which the vessel is usually moored or berthed.
<b>Vulnerable Persons</b>	Includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to mental impairment, alcohol or drugs. For example, this may include those persons who are under the influence of alcohol and /or are drunk.
<b>Young Person</b>	An individual who is not a child but who is less than 18 years old.

Legal, Licensing & Registrars  
Portsmouth City Council  
Civic Offices  
Guildhall Square  
Portsmouth  
PO1 2AL

Tel: 023 9283 4604 Fax: 023 9283 4811  
Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

You can get this Portsmouth City Council information in large print, Braille, audio or in another language by calling 9283 4604.



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Plain English Campaign  
Committed to clearer communication.

**264**



# Equality Impact Assessment

Preliminary assessment form v5 / 2013

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

The preliminary impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies which require a full EIA by looking at:
  - negative, positive or no impact on any of the equality groups
  - opportunity to promote equality for the equality groups
  - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

**Directorate:**

Director of City development & culture

**Function e.g. HR,  
IS, carers:**

Licensing Service

**Title of policy, service, function, project or strategy (new or old) :**

Gambling Act 2005 - Statement of Licensing Policy - 2017 - 2020

**Type of policy, service, function, project or strategy:**

- ☐ Existing
- ☐ New / proposed
- ☒ Changed

### Q1 - What is the aim of your policy, service, function, project or strategy?

It is a statutory requirement in accordance with the Gambling Act 2005 for the Licensing Authority to prepare and publish a statement of its licensing principles every three years.

The aim of the policy is to set the general approach of the Licensing Authority in terms of making licensing decisions to promote the three licensing objectives which are:

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

### Q2 - Who is this policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?

The requirement for the policy is statutory and is intended to benefit applicants, residents and other occupiers of property and investors who may be affected by the licensing regime and sets down those factors that will normally be taken into consideration when determining applications.

### Q3 - Thinking about each group below, does, or could the policy, service, function, project or strategy have a negative impact on members of the equality groups below?

Group	Negative	Positive / no impact	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transgender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "negative" or "unclear" consider doing a full EIA

**Q4 - Does, or could the policy, service, function, project or strategy help to promote equality for members of the equality groups?**

Group	Yes	No	Unclear
Age	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Disability	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Race	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Gender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transgender	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sexual orientation	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Religion or belief	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Pregnancy or maternity	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other excluded groups	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>

**If the answer is "no" or "unclear" consider doing a full EIA**

**Q5 - Do you have any feedback data from the equality groups that influences, affects or shapes this policy, service, function, project or strategy?**

Group	Yes	No	Unclear
Age	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Disability	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Race	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Gender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Transgender	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Sexual orientation	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
Religion or belief	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>



Pregnancy and maternity

☐☒☐

Other excluded groups

☐☒☐

If the answer is "no" or "unclear" consider doing a full EIA

**Q6 - Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, service, function or strategy?**

☐

yes

☒

No

**Q7 - How have you come to this decision?**

The statement of licensing policy is a statutory requirement and those matters to be included within the policy are set down within the statutory guidance issued by the Gambling Commission in accordance with the Gambling Act 2005.

The policy to be approved by the Council will not have a detrimental effect upon any of the equality groups.

Potentially there could be situations where applicants or licence holders are not clear as to the statutory requirements when making applications where English is not the first language but arrangements are in place for forms to be translated where necessary.

If you have to complete a full EIA please contact the Equalities and diversity team if you require help  
Tel: 023 9283 4789 or email:equalities@portsmouthcc.gov.uk

**Q8 - Who was involved in the EIA?**

Nickii Humphreys Licensing Manager

**This EIA has been approved by:** Nickii Humphreys

**Contact number:**

023 9283 4604

**Date:**

10 January 2017

Please email a copy of your completed EIA to the Equality and diversity team. We will contact you with any comments or queries about your preliminary EIA.

Telephone: 023 9283 4789

Email: equalities@portsmouthcc.gov.uk



<b>Title of meeting:</b>	LICENSING COMMITTEE
<b>Date of meeting:</b>	22 February 2017
<b>Subject:</b>	The Licensing Act 2003 - Draft Statement of Licensing Policy
<b>Report by:</b>	Licensing Manager
<b>Wards affected:</b>	All
<b>Key decision:</b>	No
<b>Full Council decision:</b>	Yes

---

**1. Purpose of report**

- 1.1 The purpose of this report is for the Licensing Committee to consider the draft statement of Licensing Policy prepared in accordance with Section 5 of the Licensing Act 2003 ("the Act") and to give approval for commencement of the consultation in relation to the draft statement.

**2. Recommendations**

- 2.1 That the Licensing Committee agrees, with any necessary amendments, the draft statement of licensing policy prepared in accordance with Section 5 of the Act as set out in Appendix A; and instructs the Licensing Manager to undertake a process of consultation and to prepare a final draft of the policy for further consideration by the Committee and approval by Council by no later than end of July 2017.

**3. Background**

- 3.1 Section 5 of the Act requires the Council to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the Licensing Authority carries out any function in respect of individual applications made under the terms of the Act.
- 3.2 Before determining its policy or if revising a policy within the prescribed period, the Licensing Authority must consult with persons listed in section 5(3) of the Act. These are:
- The chief officer of police for the area;
  - The fire and rescue authority for the area;
  - Persons/bodies representative of local holders of premises licences;
  - Persons/bodies representative of local holders of club premises certificates;

- Persons/bodies representative of local holders of personal licences; and
- Persons/bodies representative of businesses and residents in its area.

3.3 Beyond the above statutory requirements, it is for each Council to decide whether to consult with any other representative bodies having regard to costs and time involved. The Government has indicated that where the Council exceeds the statutory requirements, they will have to absorb those additional costs that may not be met from the fee levels set by central Government.

3.4 A draft statement of licensing policy has been prepared in accordance with the Act for consideration by the Licensing Committee and for the consultation process to commence.

3.5 In preparing the draft statement, preliminary consultation has already taken place with the statutory authorities which are identified below and their comments have been incorporated into the draft statement:

- The chief officer of police;
- The chief fire officer;
- Head of environmental health (including trading standards);
- Head of planning services;
- Director of public health; and
- Children's social care and safeguarding service.

3.6 The majority of proposed changes to the existing statement of licensing policy reflect both amendments to the Statutory Guidance issued in accordance with section 182 of the Act together with legislative changes since this policy was last reviewed. A review has also been undertaken of the current cumulative impact area identified within the policy and new data has been provided to support its retention and identification of geographical boundaries.

A copy of the existing policy is attached as Appendix B.

### 3.7 **Timetable for consultation**

The draft timetable suggested is as follows:

22 February 2017	Licensing Committee to consider and approve the draft policy for public consultation;
Mid/end March 2017	Consultation period commences;
Mid/end May 2017	Consultation period ends and consideration of any responses takes place;
Mid/end July 2017	Report to be considered by the Licensing Committee for final approval of the statement of licensing policy and recommendation of adoption by Council;

Statement of licensing policy to be considered and approved by Council and will come into immediate effect.

### **3.8 Consultation process**

To ensure that the consultation process is as effective as possible, the following steps will be taken in addition to the statutory requirements:

- Copies of the existing and draft statement of licensing policy together with information as regards making representations will be available on the Council's website and social media sites;
- Copies of the document will be sent to all libraries and will also be available at the Licensing Service and City Helpdesk;
- A press release will be prepared for the media;
- An item on the proposed draft policy will be published in the Members Information Sheet and distributed to all members; and
- A copy of the draft policy will be made available in each of the Group Rooms together with a copy of the existing policy. A copy of the Act and the Statutory Guidance is already available in the Group Rooms.

### **4. Reasons for recommendations**

- 4.1 To fulfil the Council's statutory obligations as set out in section 5 of the Act.

### **5. Equality impact assessment (EIA)**

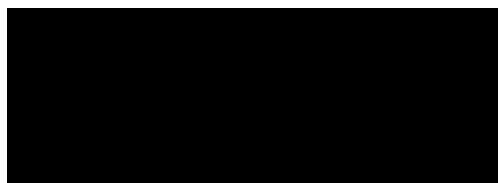
- 5.1 A preliminary EIA has been undertaken and is attached as Appendix C.

### **6. Legal Implications**

- 6.1 All legal comments are contained within the body of the report.

### **7. Finance Comments**

- 7.1 There are no financial implications in respect of this report.



Signed by: .....

### Appendices:

- Appendix A** Draft Statement of Licensing Policy for 2017 - 2022.  
**Appendix B** Existing Statement of Licensing Policy.  
**Appendix C** Preliminary Equality Impact Assessment.

### Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by ..... on .....

.....  
 Signed by:



# Licensing Act 2003

## Section 5 - Draft Statement of Licensing Policy - 2017/2022

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)



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## 1.0 Licensing objectives

- 1.1 Portsmouth City Council is the Licensing Authority for the Licensing Act 2003 ("the 2003 Act"<sup>1</sup>) for the administrative area of Portsmouth as shown on the map at **Appendix A**. Any references to "the Licensing Authority" in this document refers to Portsmouth Licensing Authority.
- 1.2 When carrying out its functions under the Act, the Licensing Authority will promote and have regard to the licensing objectives set out in the 2003 Act. These are:
- **The prevention of crime and disorder;**
  - **Public safety;**
  - **The prevention of public nuisance; and**
  - **The protection of children from harm.**
- 1.3 Each objective is of equal importance.

## 2.0 Background information about Portsmouth

- 2.1 The City of Portsmouth is situated in the ceremonial county of Hampshire and is at the heart of Britain's southern coastline with long established direct road and rail links to London, the Midlands and Wales.
- 2.2 Portsmouth is undergoing great change with a £2billion investment plan underway. Elements such as the Tipner motorway junction and park and ride are already completed while there is more to come with new homes, businesses and jobs to come from the City Deal sites and the exciting regeneration plans for The Hard.
- 2.3 Portsmouth has a population of 200,000 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country outside London.

- 2.4 As the local highway authority the council is responsible for approximately 458km of vehicular carriageway in partnership with Colas and Ensign.

Up to 90,000 inbound vehicle movements are recorded in any one 24 hour period and previous census data indicates 397 vehicles per 1000 people in Portsmouth. Traffic growth is predicted to generally rise between 19% and 55% by 2040.

- 2.5 A significant naval port for centuries, it is home to the world's oldest dry dock and to world famous ships including HMS Victory, HMS Warrior 1860 and the Mary Rose. Major investment around the harbour has transformed the "great waterfront city".

Home to Ben Ainslie Racing and hosting the preliminary 2015 America's Cup racing series, the dynamic waterfront city still has an important role as a major dockyard and home base to the Royal Navy.

- 2.6 The city offers a vibrant mix of entertainment facilities for residents and visitors alike with two established theatres, restaurants, cinemas, concert venues and a variety of pubs and clubs.

The late night economy is well served with venues in the north located at Port Solent, the city centre located near the Guildhall and in the south both at Gunwharf Quays and in Southsea.

Major music festivals are held during the summer months attracting tens of thousands of revellers.

<sup>1</sup> <http://www.legislation.gov.uk/ukpga/2003/17/contents>

### 3.0 Consultation on the Statement of Licensing Policy

3.1 Section 5 of the 2003 Act requires a Licensing Authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications and notices made under the terms of the Act.

3.2 During the five-year period, the policy must be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.

3.3 If the Licensing Authority determines and publishes its policy in this way, a new five- year period commences on the date it is published. Previously, licensing authorities were required to determine their licensing policies for each three-year period. Licensing policies published in respect of the three-year period that began on 7 January 2011 are to be treated as though they apply to a period of five years beginning at that date.

3.4 This policy will commence on XXXXX 2017 and remain in force for five years but will be kept under review subject to further consultation as referred to above.

3.5 Where revisions are made to the section 182 Statutory Guidance by the Secretary of State, it will be for the Licensing Authority to determine whether revisions to its own licensing policy statement are appropriate.

3.6 Before determining its policy, the Licensing Authority must consult the persons listed in section 5(3) of the 2003 Act. These are:

- The chief officer of police for the area;

- The fire and rescue authority for the area;
- Each local authority's Director of Public Health in England (DPH)<sup>2</sup> or Local Health Board in Wales for an area any part of which is in the Licensing Authority's area;
- Persons/bodies representative of local premises licence holders;
- Persons/bodies representative of local club premises certificate holders;
- Persons/bodies representative of local personal licence holders; and
- Persons/bodies representative of businesses and residents in its area.

3.7 The views of all these persons or bodies should be given appropriate weight when the policy is determined. It is recognised that in some areas, it may be difficult to identify persons or bodies that represent all parts of industry affected by the provisions of the 2003 Act, but licensing authorities must make reasonable efforts to do so. The Licensing Authority notes that the terms of the 2003 Act do not prevent them consulting other bodies or persons.

3.8 Subject to the statutory requirements, it is for each Licensing Authority to determine the extent of the consultation it should undertake, and whether any particular person or body is representative of the groups described in the 2003 Act. While it is clearly good practice to consult widely, this may not always be necessary or appropriate (for example, where a Licensing Authority has recently carried out a comprehensive consultation in relation to a revision to its policy made within five years of a full revision to it). As such, it may decide on a simple consultation with those persons listed.

<sup>2</sup> This change was made as a result of the commencement of measures in the Health and Social Care Act 2012 which amended the 2003 Act and further provision in the NHS Bodies and Local Authorities (Partnership Arrangements, Care Trusts, Public Health and Local Healthwatch) Regulations 2012.

- 3.9 However, licensing authorities should consider very carefully whether a full consultation is appropriate as a limited consultation may not allow all persons sufficient opportunity to comment on and influence local policy, such as a proposal to introduce a cumulative impact policy.
- 3.10 Fee levels are intended to provide full cost recovery of all licensing functions including the preparation and publication of a statement of licensing policy, but this will be based on the statutory requirements. Where licensing authorities exceed these requirements, they will have to absorb those costs themselves.
- 3.11 Further advice can be obtained from:

**The Licensing Manager  
Licensing Service  
Portsmouth City Council  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AL**

**Tel: 023 9283 4607**

**Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)**

## 4.0 Fundamental principles

- 4.1 This statement of licensing policy has been prepared in accordance with the provisions of the 2003 Act and the Statutory Guidance issued under section 182 of the 2003 Act by the Secretary of State.<sup>3</sup> This policy should be read as a whole and in conjunction with those provisions.
- 4.2 This statement is intended to assist officers and members in determining applications and to set out those factors that will normally be taken into consideration. Equally, it seeks to provide clarity for applicants, residents and other occupiers of property and

investors, in order to enable them to plan a move to, remain or invest in the city with some measure of certainty.

- 4.3 This policy sets out a general approach to making licensing decisions, it will not ignore or be inconsistent with provisions of the 2003 Act. For example, a statement of policy must not undermine the right of any person to apply under the terms of the 2003 Act for a variety of permissions and to have any such application considered on its individual merits.
- 4.4 Similarly, it will not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.
- 4.5 Licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act.
- 4.6 Conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. relevant to the premises and its vicinity.
- 4.7 Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

- 4.8 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

## 5.0 Licensable activities

- 5.1 The Licensing Authority is responsible for considering all applications for licensable activities as defined in section 1 of the 2003 Act.

- 5.2 Licensable activities are:

- The sale of alcohol by retail;
- The supply of alcohol to club members and their guests;
- The provision of regulated entertainment; and
- The provision of late night refreshment.<sup>4</sup>

- 5.3 Schedule 1 to the 2003 Act sets out what activities are regarded as the provision of regulated entertainment and when they are licensable together with those activities which are not and therefore exempt from the regulated entertainment regime. **Appendix C** of this policy sets out in more detail the types of exemptions. The descriptions of entertainment activities licensable under the 2003 Act are:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;

- A boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance; and
- Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

- 5.4 To be licensable, one or more of the following activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

- Take place in the presence of a public audience, or
- Where that activity takes place in private, be the subject of a charge made with a view to profit.

## 6.0 Duplication

- 6.1 The Licensing Authority will actively seek to avoid attaching conditions that duplicate other regulatory regimes as far as possible.

- 6.2 However, these provisions will not always adequately address specific issues that arise on the premises in connection with certain types of licensable activities. Therefore, it may be necessary for the Licensing Authority to consider the imposition of conditions, if not volunteered by the applicant in their operating schedule and following relevant representations, if they are considered appropriate for the promotion of the licensing objectives and are not already provided for in any other legislation.

## 7.0 Licence conditions

- 7.1 Conditions on a premises licence or club premises certificates are important in setting the parameters within which premises can lawfully operate.

<sup>4</sup> The supply of hot food or drink to the public or a section of the public on or from any premises whether for consumption on or off the premises between 23:00 and 05:00 hours.



The use of wording such as "must", "shall" and "will" is considered necessary to emphasise their importance.

Licence conditions:

- Must be appropriate for the promotion of the licensing objectives;
- Must be precise and enforceable;
- Must be unambiguous and clear in what they intend to achieve;
- Should not duplicate other statutory requirements or other duties or responsibilities placed on the employer by other legislation;
- Must be tailored to the individual type, location and characteristics of the premises and events concerned;
- Should not be standardised and may be unlawful when it cannot be demonstrated that they are appropriate for the promotion of the licensing objectives in an individual case;
- Should not replicate offences set out in the 2003 Act or other legislation;
- Should be proportionate, justifiable and be capable of being met;
- Cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff, but may impact on the behaviour of customers in the immediate vicinity of the premises or as they enter or leave; and
- Should be written in a prescriptive format.

7.2 Where responsible authorities and other persons do not raise any representations about the application made to the Licensing Authority, it is the statutory duty of the Authority to grant a licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the 2003 Act.

7.3 It is possible that in certain cases, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed or considered appropriate in order to promote the licensing objectives.

7.4 The Licensing Authority wishes to work in partnership with all parties to ensure that the licensing objectives are promoted collectively. To support this aim and to minimise disputes and the necessity for hearings, the Licensing Authority considers it sensible for applicants to seek the views of responsible authorities before formally submitting applications but it acknowledges that there is no legal requirement to do this.

7.5 Whilst the Licensing Authority will not use standardised conditions, it may draw from a pool of conditions where it is appropriate to do so. This pool will be made available to applicants for reference purposes.

## 8.0 Mandatory licence conditions

8.1 The 2003 Act provides for certain mandatory conditions to be applied to premises licences or club premises certificates. **Appendix D** sets out the full list of mandatory conditions that apply at the publication date of this statement of licensing policy.

8.2 The Licensing Authority expects that applicants, licence and certificate holders will familiarise themselves with the new provisions and will ensure that all relevant staff are provided with adequate training and support as regards these provisions.

## 9.0 Enforcement

- 9.1 The Licensing Authority will establish joint-enforcement protocols with the local police and the other authorities as appropriate in order to clarify the division of responsibilities for licence holders and applicants, and will assist enforcement and other authorities to deploy resources more efficiently.
- 9.2 Such protocols will provide for the targeting of agreed problem and high-risk premises which require greater attention, while providing a lighter touch for low risk premises or those that are well run.
- 9.3 The principles of risk assessment and targeted inspection (in line with the recommendations of the Hampton and Rogers review principles) will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are used efficiently and for example, are more effectively concentrated on problem premises.

The Licensing Authority will also have regard to the established principles contained within the Regulators' Compliance Code.

- 9.4 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. The personal details provided by applicants will be held on a database and where the law allows, may be shared with other departments within the Council to update details they hold. The Licensing Authority may also be required to disclose personal information to third parties (such as the Police, Department for Work and Pensions or the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 9.5 From time to time and when judged necessary to do so, authorised officers of the Licensing Authority and responsible authorities will undertake unannounced

inspections or test purchase visits to licensed premises in order to ensure compliance with the provisions of the 2003 Act and any other associated legislation.

- 9.6 The Licensing Authority will receive, from time to time, reports from its officers on any formal enforcement proceedings instigated against licence holders in relation to offences under the 2003 Act.

## 10.0 Need for licensed premises

- 10.1 The Licensing Authority recognises that there can be confusion about the difference between the "need" for premises and the "cumulative impact" of premises on the licensing objectives, for example, on crime and disorder. "Need" concerns the commercial demand for another pub or restaurant or hotel and is a matter for the planning authority and for the market. This is not a matter for a Licensing Authority in discharging its licensing functions or for its statement of licensing policy.

## 11.0 The cumulative impact of a concentration of licensed premises

### What is cumulative impact?

- 11.1 "Cumulative impact" is not mentioned specifically in the 2003 Act but in accordance with the section 182 Statutory Guidance, means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the licensing objectives is a proper matter for the Licensing Authority to consider in developing its licensing policy statement. Cumulative impact policies (CIP) are also commonly known as "stress" or "special policy areas" and may relate to premises licensed to carry on any licensable activity, including the sale of alcohol for consumption on or off the premises, and the provision of late night refreshment.

This includes late night fast food outlets which are not licensed to sell alcohol.

11.2 In some areas, where the number, type or density of premises selling alcohol or providing late night refreshment is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport. Licensing Authorities should consider whether the number of fast food outlets or off licences in an area contribute to these problems, and may choose to include them in their cumulative impact policy.

11.3 Queuing in itself may lead to conflict, disorder and anti-social behaviour. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public lavatory provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.

11.4 Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater than the impact of customers on individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises.

## **Evidence of cumulative impact**

11.5 There should be an evidential basis for the decision to include a special policy within the statement of licensing policy. Local Community Safety Partnerships and responsible authorities, such as the police and the local authority exercising environmental health functions, may hold relevant information which would inform licensing authorities when establishing the base for introducing a special policy relating to cumulative impact into their licensing policy statement. Information which licensing authorities may be able to draw on to evidence the cumulative impact of licensed premises on the promotion of the licensing objectives includes:

- Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- Statistics on local anti-social offences;
- Health related statistics such as alcohol-related emergency attendances and hospital admissions;
- Environmental health complaints, particularly in relation to litter and noise;
- Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
- Residents' questionnaires;
- Evidence from local councillors;
- Evidence obtained through local consultation.

11.6 The Licensing Authority may consider this evidence, alongside its own evidence as to the impact of licensable activities within its area, and consider in particular the times at which licensable activities are carried on. Information which may inform consideration of these issues includes:

- Trends in licence applications, particularly trends in applications by types of premises and terminal hours;
- Changes in terminal hours of premises;
- Premises' capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.

11.7 Where existing information is insufficient or not readily available, but the Licensing Authority believes there are problems in its area resulting from the cumulative impact of licensed premises, it can consider conducting or commissioning a specific study to assess the position. This may involve conducting observations of the night-time economy to assess the extent of incidents relating to the promotion of the licensing objectives, such as incidences of criminal activity and anti-social behaviour, examples of public nuisance, specific issues such as underage drinking and the key times and locations at which these problems are occurring.

11.8 In order to identify the areas in which problems are occurring, information about specific incidents can be mapped and, where possible, a time analysis undertaken to identify the key areas and times at which there are specific issues.

11.9 After considering the available evidence and consulting those individuals and organisations listed in section 5(3) of the 2003 Act and any others, a Licensing Authority may be satisfied that it is appropriate to include an approach to cumulative impact in its licensing policy statement. The special policy should also be considered alongside local planning policy and other factors which may assist in mitigating the cumulative impact of licensed premises, as set out in paragraph 13.39 of the Statutory Guidance. When the Licensing Authority decides to introduce an approach to cumulative impact, it may decide it is appropriate to indicate in its statement

that it is adopting a special policy whereby, when it receives relevant representations, there is a rebuttable presumption that, for example, applications or variation applications which seek to extend the sale or supply of alcohol or provision of late night refreshment are refused or subject to certain limitations.

### Steps to a special policy

11.10 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below:

- Identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm;
- Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm;
- If such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
- Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise);
- Consult those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.

### Effect of special policies

11.11 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for the grant or variation of premises licences or



club premises certificates which are likely to add to the existing cumulative impact will normally be refused or subject to certain limitations, following relevant representations, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives. Applicants should give consideration to potential cumulative impact issues when setting out the steps they will take to promote the licensing objectives in their application.

11.12 However, this presumption does not relieve responsible authorities (or any other persons) of the need to make a relevant representation, referring to information which had been before the Licensing Authority when it developed its statement of licensing policy, before a Licensing Authority may lawfully consider giving effect to its special policy. If there are no representations, the Licensing Authority must grant the application in terms that are consistent with the operating schedule submitted.

11.13 Once adopted, a special policy shall be reviewed regularly to assess whether they are needed any longer or if those which are contained in the statement of licensing policy should be amended.

11.14 The absence of a special policy does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

11.15 Special policies may apply to the impact of a concentration of any licensed premises, including those licensed for the sale of alcohol on or off the premises, and premises licensed to provide late night refreshment. When establishing its evidence base for introducing a special policy, licensing authorities should be considering the contribution to cumulative impact made by different premises within its area, in order to determine the appropriateness of including different

types of licensed premises within the special policy.

11.16 Contact points so that members of the public, applicants and licence holders can obtain advice about whether or not activities should be licensed are available in this statement of licensing policy (see paragraph 25).

## **12.0 Limitations on special policies relating to cumulative impact**

12.1 A special policy shall never be absolute. The circumstances of each application will be considered properly and applications that are unlikely to add to the cumulative impact on the licensing objectives will be granted.

12.2 After receiving relevant representations in relation to a new application for or a variation of a licence or certificate, the Licensing Authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that appropriate conditions would be ineffective in preventing the problems involved.

12.3 Special policies will not be used as a ground for revoking an existing licence or certificate when representations are received about problems with those premises. Where the Licensing Authority has concerns about the effect of activities at existing premises between midnight and 06:00 hours on the promotion of the

licensing objectives in a specific area, it may introduce an Early Morning Alcohol Restriction Order (EMRO) if there is sufficient evidence to do so<sup>5</sup>. The "cumulative impact" on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review must relate specifically to individual premises, and by its nature, "cumulative impact" relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary.

- 12.4 Special policies will also not be used to justify rejecting applications to vary an existing licence or certificate except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly appropriate for the promotion of the licensing objectives.
- 12.5 Every application shall be considered individually. Therefore, special policies will not restrict such consideration by imposing quotas - based on either the number of premises or the capacity of those premises. Quotas that indirectly have the effect of predetermining the outcome of any application will not be used because they have no regard to the individual characteristics of the premises concerned.
- 12.6 The Licensing Authority has considered a number of variations to established premises within the CIP area of Guildhall Walk in recent times and resolved to grant variations after consideration on merit **and** after being satisfied that there would be no negative impact on the promotion of the licensing objectives in determining those individual applications

received. This does **NOT** mean that the Licensing Committee are "shunning" the adoptive cumulative impact policy of the Licensing Authority but rather were satisfied with the content and presentation of the applications then previously received. Under no circumstances should applicants or their legal representatives assume that the policy has been "watered down" and all parties are reminded of the continued presence of the special policy area and the need to bring forward evidence to rebut any relevant representations about cumulative impact.

### 13.0 Special policy relating to cumulative impact in Portsmouth

- 13.1 Having regard to the evidence currently available, the Licensing Authority considers that there is one specific area of Portsmouth where it is appropriate to apply a special policy in order to promote the licensing objectives. The area where this special policy will have effect is the Guildhall area as set out in the map and supporting evidence attached as **Appendix B** to this statement of licensing policy.
- 13.2 This special policy has been subject to review during the latter part of 2016 as part of the overall review of the statement of licensing policy and the available evidence demonstrates that violent crime offences associated with licensed premises are still at such a level to justify retention of the current special policy area.
- 13.3 The headline trends from this report for the Guildhall Walk night time economy ("NTE") area in the last 3 years show:
- The number of violence offences (purely NTE violence) has **increased** year on year;
  - The proportion of violence (purely NTE violence) compared against the whole Portsmouth district 'total violence' is **down** year on year;

<sup>5</sup> See chapter 16 of the section 182 Statutory Guidance - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418114/182-Guidance2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf)



- The number of violence offences ‘*with injury*’ (purely NTE violence) has **increased** year on year;
- The number of violence offences ‘*without injury*’ (purely NTE violence) has **increased** year on year;
- The proportion of violence (both DTE and NTE) compared against the whole Portsmouth district is **down** year on year;
- The number of violence offences (both DTE and NTE) has **increased** year on year;
- Saturday remains the peak evening, the proportion of NTE violence that occurs on this day has increased year on year compared to other nights;
- Friday remains the second busiest evening, the proportion of NTE violence that occurs on this day has actually decreased year on year (*the decrease appears to correlate to same amounts as the increase to Saturday’s proportion of NTE The proportion of Guildhall Walk NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours violence*);
- The proportion of Guildhall Walk NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours;
- The Guildhall Walk NTE zone accounts for more NTE violence offences than the other 3 NTE zones (Albert Road, Palmerston Road and Gunwharf) combined, both in numerical terms and as a proportion of NTE violence in the NTE Zones;

13.4 The special policy in respect of the Guildhall Walk area applies to the following roads and boundaries:

- **Stanhope Road, Edinburgh Road, Stanhope Road, Willis Road and Commercial Road (from the junction south of Edinburgh Road);**
- **Surrey Street, Station Street (from the junction west of Surrey Street);**
- **Spring Street, Fountain Street;**
- **Isambard Brunel Road, Dugald Drummond Road;**
- **Guildhall Square, King Henry 1st Street, Exchange Road, Spring Gardens, White Swan Road, Guildhall Walk, Alec Rose Lane, Dorothy Dymond St, Charles Dickens Street, The Mary Rose Street;**
- **Winston Churchill Avenue (From Junction of Isambard Brunel Road and Guildhall Walk not including Police station or Courts);**
- **Hampshire Terrace (South to junction of Wiltshire Street);**
- **St Pauls Road (area south to junction of Wiltshire Street).**

13.5 The Licensing Authority will, therefore, normally refuse the grant or variation of premises licences or club premises certificates whenever it receives relevant representations about the cumulative impact on the licensing objectives which it concludes after hearing those representations should lead to refusal.

## 14.0 Other mechanisms for controlling cumulative impact

14.1 Once away from the licensed premises, a minority of customers will behave badly and unlawfully. Other mechanisms exist both within and outside the licensing regime that are available for addressing such issues. For example:

- Planning control;
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- The provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- The confiscation of alcohol from adults and children in designated areas;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- A prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- Police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on the grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance; and
- The power of the police, other responsible authorities or other persons to seek a review of a licence or certificate;
- Raising a contribution to policing the late night economy through the Late Night Levy;
- Early Morning Alcohol Restriction Orders.

14.2 The Licensing Authority may also wish to consider the use of alternative measures such as fixed closing times, staggered

closing times and zoning within its area, providing such mechanisms are justified on the basis of the licensing objectives and are only presumptive, with final decisions continuing to be made in relation to individual premises on a case by case basis in accordance with what is appropriate to promote the licensing objectives. Should the Licensing Authority intend to use such measures in order to orchestrate closing times so as to manage problems in the night-time economy based upon the promotion of the licensing objectives, then a review of this aspect of the policy will be undertaken and will justify its reasons for doing so within its statement of licensing policy. The Licensing Authority recognises that, as with the creation of a cumulative impact policy, the use of such mechanisms would create a rebuttable presumption and would apply in the event of representations being received.

## 15.0 Licensing hours

15.1 With regard to licensing hours the Licensing Authority recognises that the Government acknowledges that different approaches may be appropriate for the promotion of the licensing objectives in different areas. The 2003 Act gives the Licensing Authority power to make decisions regarding licensed opening hours as part of the implementation of its licensing policy statement and licensing authorities are best placed to make such decisions based on their local knowledge and in consultation with other responsible authorities. However the Licensing Authority will always consider each application and will not impose predetermined licensed opening hours, without giving individual consideration to the merits of each application.

15.2 The Licensing Authority recognises that licensed premises make an important contribution to our local community, and that it has a wide range of tools available to effectively manage the different pressures that licensed premises can bring. In determining any appropriate strategies around licensing opening hours, the Licensing Authority will not

seek to restrict the activities of licensed premises where it is not appropriate for the promotion of the licensing objectives to do so.

## 16.0 Children

16.1 The 2003 Act sets out a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police and other relevant agencies to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.

16.2 It is an offence under the 2003 Act to:

- Permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a TEN; and
- To permit the presence of children under 16 who are not accompanied by an adult between midnight and 5 am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or TEN.

16.3 Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the offences under the 2003 Act. The expression "exclusively or primarily" should be given its ordinary and natural meaning in the context of the particular circumstances.

16.4 Where it is not clear that the business is predominately for the sale and consumption of alcohol, operators and enforcement agencies should seek to clarify the position before enforcement action is taken. Mixed businesses may be more difficult to classify and in such cases operators and enforcement agencies should consult where appropriate about their respective interpretations of the activities taking place on the premises before any moves are taken which might lead to prosecution.

16.5 The 2003 Act does not automatically permit unaccompanied children under the age of 18 to have free access to premises where the consumption of alcohol is not the exclusive or primary activity or to the same premises even if they are accompanied, or to premises where the consumption of alcohol is not involved. Subject only to the provisions of the 2003 Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The 2003 Act includes no presumption of giving children access but equally, no presumption of preventing their access to licensed premises. Each application and the circumstances of individual premises will be considered on their own merits.

16.6 The Licensing Authority will not seek to limit the access of children to any premises unless it is appropriate for the prevention of physical, moral or psychological harm to them<sup>6</sup>. It may not be possible for the Licensing Authority to anticipate, within this policy, every issue of concern that could arise in respect of children in relation to individual premises and therefore the individual merits of each application will be considered in each case.

<sup>6</sup> See Chapter 2 of the section 182 Statutory Guidance - [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/418114/182-Guidance2015.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf)

16.7 However, areas which will give rise to particular concern in respect of children will include premises where:

- Adult entertainment is provided;
- A member or members of the current management have been convicted for serving alcohol to minors or with a reputation for allowing underage drinking (other than in the context of the exemption in the 2003 Act relating to 16 and 17 year olds consuming beer, wine and cider when accompanied by an adult during a table meal);
- It is known that unaccompanied children have been allowed access;
- There is a known association with drug taking or dealing; or
- In some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

16.8 It is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and the Licensing Authority will give careful consideration to this matter. However, in broad terms, this could include topless bar staff, striptease, lap - table - pole dancing, performances involving feigned violence or horrific incidents, feigned or actual sex acts or fetishism, or entertainment involving strong and offensive language.

16.9 The Licensing Authority will expect applicants to be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises. Consideration will also be given to the proximity of premises to schools and youth clubs so that applicants take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not

displayed at a time when children are likely to be near the premises.

16.10 The Licensing Authority may consider a range of alternatives for limiting the access of children where it is appropriate to do so for the prevention of harm to children. These can include:

- Restrictions on the hours when children may be present;
- Restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
- restrictions on the parts of premises to which children may have access;
- Age restrictions (below 18);
- Restrictions or exclusions when certain activities are taking place;
- Requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of people under 18 from the premises when any licensable activities are taking place.

16.11 Conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is appropriate, it remains a matter for the discretion of the individual licence holder, club or premises user.

16.12 Venue operators seeking premises licences and club premises certificates should consider including such prohibitions and restrictions in their operating schedules particularly where their own risk assessments have determined that the presence of children is undesirable or inappropriate.

16.13 A child is any person under the age of 18 unless otherwise stated.



- 16.13 The Licensing Authority notes the new amended statutory guidance has now placed emphasis on child sexual exploitation (CSE) matters and accordingly will look to the responsible authorities to be particularly robust and vigilant so far as any CSE matters are concerned at venues holding either a premises licence or club premises certificate.

## **17.0 Responsible authority and children**

- 17.1 The Licensing Authority has determined that Children's Social Care and Safeguarding Service is the body that is competent to act as the responsible authority in relation to the protection of children from harm.

## **18.0 Children and cinemas**

- 18.1 In the case of premises giving film exhibitions, the Licensing Authority expects licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification ("BBFC") or the Licensing Authority itself.
- 18.2 The 2003 Act provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984. The BBFC is the only body which has been so designated - or by the Licensing Authority itself.

## **19.0 Integration of strategies**

- 19.1 The Licensing Authority will secure the proper integration of its Statement of Licensing Policy with local crime prevention, planning, transport, tourism,

race equality schemes and cultural strategies together with any other plans introduced for the management of town centres and the night-time economy. Whilst many of these strategies are not directly related to the promotion of the four licensing objectives, they indirectly impact upon them. The Licensing Authority recognises the importance of co-ordination and integration of such policies, strategies and initiatives.

The Licensing Authority notes that the statement of licensing policy must have regard to an expectation of preventing crime and disorder pursuant to section 17 of the Crime and Disorder Act 1998.

- 19.2 The Licensing Authority recognises the connection between excessive alcohol consumption, poor health and cost to the Health Authority. As part of a wider package of initiatives, the Council is aiming to deal with the negative effects of alcohol consumption through its Alcohol Strategy.

## **20.0 Planning and building control**

- 20.1 Planning permission, building control approval and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 20.2 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority.
- 20.3 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications shall not be a re-run of the planning application and will not cut across decisions taken by the Planning Committee or following appeals

against decisions taken by that Committee. The Licensing Committee are not bound by decisions made by the Planning Committee, and vice versa

- 20.4 The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building will not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 20.5 In circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes and where those hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission will be liable to prosecution under planning law.
- 20.6 Officers from planning and licensing services will regularly share information and will provide evidence to the appropriate regulatory authority where it is considered that premises are operating in breach of either their planning permission or in contravention of conditions attached to authorisations.
- 20.7 Proper integration will be assured by the Licensing Committee and, where appropriate, may provide regular reports to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would be to enable the Planning Committee and/or its officers to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 20.8 In order to ensure the proper integration of strategies dealing with licensed premises, specifically those operating within the night-time economy or cumulative impact area, the Planning Authority will consult with the Licensing Authority in respect of all planning applications associated with A3, A4 and A5 use in so far as they relate to any of the licensing objectives.

- 20.9 The Planning Authority may also make representations as a responsible authority as long as they relate to the licensing objectives. The Licensing Authority recognises that nuisance and crime and disorder are matters that share common ground within the planning and licensing regimes. However concerns relating to the character and function of an area and aspects of amenity that do not constitute a public nuisance are outside the scope of the licensing regime and will be dealt with separately by the Planning Authority. The Licensing Authority therefore recognises that a combination of licensing and planning powers together with effective management of the street environment is required to overcome these problems.

## 21.0 Promotion of equality

- 21.1 The Licensing Authority recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity; and to foster good relations, between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 21.2 The Council is required to publish information at least annually to demonstrate its compliance with the Equality Duty. These details are published on the Council's website.<sup>7</sup> Further guidance is available from Government Equalities Office and the Equality and Human Rights Commission.

<sup>7</sup> <https://www.portsmouth.gov.uk/ext/the-council/equalities/equality-law-and-its-significance-for-the-council.aspx>



## 22.0 The licensing process and applications

- 22.1 The Licensing Authority expects applicants to have regard to this statement of licensing policy when completing their operating schedule.
- 22.2 In particular, applicants are expected to obtain sufficient information to enable them to demonstrate, when setting out the steps they propose to take to promote the licensing objectives, that they understand:
- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children may congregate;
  - Any risk posed to the local area by the applicants' proposed licensable activities; and
  - Any local initiatives (for example, local crime reduction initiatives or voluntary schemes including local taxi-marshalling schemes, street pastors and other schemes) which may help to mitigate potential risks.
- 22.3 Applicants are expected to include positive proposals in their application on how they will manage any potential risks. Where specific policies apply in the area (for example, a cumulative impact policy), applicants are also expected to demonstrate:
- An understanding of how the policy impacts on their application;
  - Any measures they will take to mitigate the impact; and
  - Why they consider the application should be an exception to the policy.
- 22.4 It is expected that enquiries about the locality will assist applicants when determining the steps that are appropriate for the promotion of the licensing objectives. For example, premises with close proximity to residential premises should consider

what effect this will have on their smoking, noise management and dispersal policies to ensure the promotion of the public nuisance objective. Applicants must consider all factors which may be relevant to the promotion of the licensing objectives, and where there are no known concerns, acknowledge this in their application.

- 22.5 The majority of information which applicants will require will be available within this statement of licensing policy. However, other publicly available sources which may be of use to applicants include:
- The Crime Mapping website;
  - Neighbourhood Statistics websites;
  - Websites or publications by local responsible authorities;
  - Websites or publications by local voluntary schemes and initiatives; and
  - on-line mapping tools.
- 22.6 While applicants are not required to seek the views of responsible authorities before formally submitting their application, they may find them to be a useful source of expert advice on local issues that should be taken into consideration when making an application. The Licensing Authority encourages co-operation between applicants, responsible authorities and, where relevant, local residents and businesses before applications are submitted in order to minimise the scope for disputes to arise.

Applicants and licence holders seeking major variations are advised that the Licensing Authority will not normally carry out a "neighbourhood notification" exercise but **MAY** choose to do so having regard to the nature and scope of the application under consideration (for example a large open air concert with a significant occupancy capacity) and after consideration on merit. Licensing Committee minute 04/2015 refers.

In considering any representations received - those received after the prescribed advertising notification deadline time period will be deemed "late representations" and thus will not be considered relevant by the Licensing Authority.

- 22.7 Applicants are expected to provide the Licensing Authority with sufficient information in this section to determine the extent to which their proposed steps are appropriate to promote the licensing objectives in Portsmouth. Applications must not be based on providing a set of standard conditions to promote the licensing objectives and applicants are expected to make it clear why the steps they are proposing are appropriate for the premises.
- 22.8 The Licensing Authority would wish to see all parties working together in partnership to ensure that the licensing objectives are promoted collectively. Where there are no disputes, the steps that applicants propose to take to promote the licensing objectives, as set out in the operating schedule, will very often translate directly into conditions that will be attached to licences/certificates with the minimum of fuss.
- 22.9 In some circumstances, it is possible that no measures will be appropriate to promote one or more of the licensing objectives, for example, because they are adequately covered by other existing legislation. It is however important that all operating schedules should be precise and clear about the measures that are proposed to promote each of the licensing objectives.

## **The Licensing Objectives**

### **Crime and disorder**

- 22.10 The Licensing Authority will look to the Police as the main source of advice on crime and disorder. It will also seek advice and guidance when appropriate with the Safer Portsmouth Partnership<sup>8</sup>.

- 22.11 In exercising its statutory function, the Licensing Authority will aim to co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate.
- 22.12 Conditions, if imposed, will be targeted on deterrence and preventing crime and disorder. For example, where there is a good reason to suppose that disorder may take place, the presence of CCTV cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may choose to use CCTV for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach to the overall promotion of the prevention of crime and disorder objective. The Licensing Authority would wish to ensure that the precise location of cameras are identified on plans to ensure that certain areas are properly covered and to avoid any uncertainty/dispute as to the terms of any condition imposed.
- 22.13 The inclusion of radio links, ring-round systems or use of ID scanning technology should be considered by applicants for public houses, bars and nightclubs operating in the city centre and other leisure areas with a high density of licensed premises. These systems allow managers of licensed premises to communicate instantly with the Police and each other which can facilitate a rapid response to any disorder which may be endangering the customers and staff at premises.

### **Public Safety**

- 22.14 Licence holders have a responsibility to ensure the safety of those persons using their premises, as a part of their duties under the Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from

<sup>8</sup> <http://www.saferportsmouth.org.uk/>

alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above.

There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it will not be the purpose of the condition as this would be outside the Licensing Authority's powers (be ultra vires) under the Act. Conditions will not be imposed on a premises licence or club premises certificate which relate to cleanliness or hygiene.

Applicants should give consideration to a number of matters in relation to public safety which may include:

- Fire safety;
- Ensuring appropriate access for emergency services such as ambulances;
- Good communication with local authorities and emergency services, for example communications networks with the Police and signing up for local incident alerts;
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits;
- Ensuring the safety of people when leaving the premises (for example, through the provision of information on late night transportation);
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles;
- Ensuring appropriate limits on the maximum capacity of the premises; and
- Consider the use of CCTV in and around the premises (which may also assist with promoting the crime and disorder objective.

22.15 It is recognised that measures that are appropriate to promote public safety will vary between premises and the examples

listed above may not be applicable in all cases. Applicants should give due consideration when making their application which steps are appropriate to promote the public safety objective and demonstrate how they intend to achieve that.

22.16 Applicants should make provision to ensure that premises users safely leave their premises. Measures that may assist include:

- Providing information on the premises of local taxi companies who can provide safe transportation home; and
- Ensuring adequate lighting outside the premises, particularly on paths leading to and from the premises and in car parks.

22.17 Where there is a requirement in other legislation for premises open to the public or for employers to possess certificates attesting to the safety or satisfactory nature of certain equipment or fixtures on the premises, it will be inappropriate for a condition to be applied to require possession of such a certificate. However, it would be permissible to require as a condition of a licence or certificate, if appropriate, checks on this equipment to be conducted at specified intervals and for evidence of these checks to be retained by the premises licence holder or club provided this does not duplicate or gold-plate a requirement in other legislation. Similarly, it is permissible for the Licensing Authority, if it receives relevant representations, to attach conditions which require equipment of particular standards to be maintained on the premises. Responsible Authorities (such as the health and safety authority) will make their expectations clear in this respect so as to enable applicants to prepare effective operating schedules.

22.18 "Safe capacities" will only be imposed where appropriate for the promotion of public safety or the prevention of disorder on the premises.

For example, if a capacity has been imposed through other legislation, it will be inappropriate to reproduce it in a premises licence.

Equally, it would also be wrong to lay down conditions which conflict with other legal requirements. However, if no safe capacity has been imposed through other legislation, a responsible authority may consider it appropriate for a new capacity to be attached to the premises which would apply at any material time when the licensable activities are taking place and make representations to that effect. For example, in certain circumstances, capacity limits may be appropriate in preventing disorder, as overcrowded venues can increase the risks of crowds becoming frustrated and hostile.

22.19 The permitted capacity is a limit on the number of persons who may be on the premises at any time, following a recommendation by the relevant fire and rescue authority under the Regulatory Reform (Fire Safety) Order 2005. For any application for a premises licence or club premises certificate for premises without an existing permitted capacity where the applicant wishes to take advantage of the special provisions set out in section 177 of the Act<sup>9</sup>, the applicant will be expected to conduct their own risk assessment as to the appropriate capacity of the premises. They should then send their recommendation to the fire and rescue authority which will consider it and decide what the "permitted capacity" of those premises should be.

22.20 Public safety may include the safety of performers appearing at any premises, but does not extend to the prevention of injury from participation in a boxing or wrestling entertainment.

## Public Nuisance

22.21 The Act enables the Licensing Authority and responsible authorities, through

representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific premises licences and club premises certificates. In considering the promotion of this licensing objective, the Licensing Authority and responsible authorities will focus on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern nuisance from noise, light, odour and litter.

22.22 Public nuisance is given a statutory meaning in many pieces of legislation. It is, however, not narrowly defined in the Act and retains its broad common law meaning. It may include in appropriate circumstances the reduction of the living and working amenity and environment of other persons living and working in the area of the licensed premises. Public nuisance may also arise as a result of the adverse effects of artificial light, dust, odour and insects or where its effect is prejudicial to health.

22.23 Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from premises. This might be achieved by a simple measure such as ensuring that doors and windows are kept closed after a particular time, or persons are not permitted in garden areas of the premises after a certain time. More sophisticated design measures to mitigate sound escape from the premises may be appropriate where individual circumstances dictate. However, conditions in relation to live or recorded music may not be enforceable in circumstances where the entertainment activity itself is not licensable (See **Appendix C** for further information concerning regulated entertainment exemptions). Any conditions appropriate to promote the prevention of public nuisance will be tailored to the type, nature and characteristics of the specific premises and its licensable activities.

<sup>9</sup> Section 177 of the Act now only applies to performances of dance.



The Licensing Authority will avoid inappropriate or disproportionate measures that could deter events that are valuable to the community, such as live music. Noise limiters, for example, are expensive to purchase and install and are likely to be a considerable burden for smaller venues.

22.24 As with all conditions, those relating to noise nuisance may not be appropriate in certain circumstances where provisions in other legislation adequately protect those living in the area of the premises. The Licensing Authority and responsible authorities will approach such matters with the aim of prevention and when its powers are engaged, it will be aware of the fact that other legislation may not adequately cover concerns raised in relevant representations and additional conditions may be appropriate.

22.25 Where applications have given rise to representations, any appropriate conditions shall normally focus on the most sensitive periods. For example, the most sensitive period for people being disturbed by unreasonably loud music is at night and into the early morning when residents in adjacent properties may be attempting to go to sleep or are sleeping. This is why there is still a licensing requirement for performances of live music between 11 pm and 8 am. In certain circumstances, conditions relating to noise emanating from the premises may also be appropriate to address any disturbance anticipated as customers enter and leave.

22.26 Measures to control light nuisance will also be given careful consideration. Bright lighting outside premises which is considered appropriate to prevent crime and disorder may itself give rise to light nuisance for some neighbours. Applicants, the Licensing Authority and responsible authorities will need to balance these issues.

22.27 Beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who

engages in anti-social behaviour is accountable in their own right. However, it is considered perfectly reasonable for the Licensing Authority to impose a condition, following relevant representations, that require the licence holder or club to place signs at the exits from the building encouraging patrons to be quiet until they leave the area, or that, if they wish to smoke, to do so at designated places on the premises instead of outside, and to respect the rights of people living nearby to a peaceful night.

### **Protection of children from harm**

22.28 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment). The Licensing Authority will also consider the need to protect children from sexual exploitation when undertaking licensing functions.

22.29 The Licensing Authority will give considerable weight to representations about child protection matters. In addition to the responsible authority whose functions relate directly to child protection, the Director of Public Health may also have access to relevant evidence to inform such representations. These representations may include, amongst other things, the use of health data about the harms that alcohol can cause to underage drinkers.

Where a responsible authority, or other person, presents evidence to the Licensing Authority linking specific premises with harms to children (such as ambulance data or emergency department attendances by persons under 18 years old with alcohol-related illnesses or injuries) this evidence should be considered, and the Licensing Authority will also consider what action is



appropriate to ensure this licensing objective is effectively enforced. In relation to applications for the grant of a licence in areas where evidence is presented on high levels of alcohol-related harms in persons aged under 18, the Licensing Authority will consider what conditions may be appropriate to ensure that this objective is promoted effectively.

The Licensing Authority notes the Home Office guidance to Health Authorities to enable them to carry out their role as a responsible authority and the non-statutory guidance can be found at the link below:

<https://www.gov.uk/government/publications/additional-guidance-for-health-bodies-on-exercising-functions>

22.30 The Licensing Authority will expect an applicant to be precise and clear about the measures proposed to be taken in relation to the protection of children from harm. Consideration should be given to the following matters:

- Frontline staff will receive adequate training with regard to age restricted sales, and that this has been properly documented. It is also expected that licence holders will ensure that all frontline staff receive refresher training, where there is an identified need to do so;
- Applicants and premises licence holders will be expected to take reasonable steps to prevent underage drinking and proxy sales of alcohol to children, both within the licensed premises itself and in the vicinity.

22.31 Further information concerning the protection of children from harm is set out in Chapter 16 of this policy.

## Public Health

22.32 Whilst public health is not a licensing objective, health bodies are deemed to be responsible authorities under the Act and may now make representations in respect of applications and call for the review of a premises licence or club premises certificate where they have appropriate evidence to do so and can demonstrate how an applicant's proposals at the specific premises will undermine one or more of the licensing objectives.

22.33 The Licensing Authority recognises that the health and wellbeing of communities can be adversely affected by drinking excess alcohol. National evidence<sup>10</sup> shows that whilst there is little difference in alcohol consumption between people living in more or less deprived areas, people living in the most deprived areas have an almost two-fold greater risk of an alcohol-related death than people living in the least deprived areas.

22.34 Portsmouth has diverse levels of deprivation, the greatest being around the fringes of the city centre and in the north of the city. When compared to the national average, Portsmouth as a whole is significantly worse for alcohol harm.<sup>11</sup>

22.35 The Licensing Authority recognises that alcohol related harm places increasing demands on the health service and, at a time when unprecedented efficiencies need to be made by the NHS, Police and local authorities. Therefore, preventative steps must be taken in order to protect and improve the health and wellbeing of our community.

22.36 Portsmouth Public Health works closely with the other responsible authorities and plays an active part in contributing to the

<sup>10</sup> <http://alcoholresearchuk.org/alcohol-insights/understanding-the-alcohol-harm-paradox-2/>  
<https://bmcpublichealth.biomedcentral.com/articles/10.1182/s12889-016-2766-x>

<sup>11</sup> Public Health England Health Profiles 2014.

licensing policy and assisting applicants promote the licensing objectives. Health bodies may hold information which other responsible authorities do not, but which would assist a licensing authority in exercising its functions. This information may be used by the health body to make representations in its own right or to support representations.

22.37 There is also potential for health bodies to participate in the licensing process in relation to the protection of children from harm. This objective not only concerns the physical safety of children, but also their moral and psychological well being.

22.38 Evidence relating to under-18s alcohol-related emergency department attendance, hospital admissions and underage sales of alcohol, could potentially have implications for both the protection of children from harm and the crime and disorder objectives. Health bodies can provide evidence to lead or support representations in relation to this objective. In relation to proxy purchases, data collected by health bodies could be used to inform other responsible authorities, including the police and licensing authorities, about a prevalence of proxy purchasing in a particular area. Although less obvious, health bodies may also have a role to play in the prevention of public nuisance where its effect is prejudicial to health and where they hold relevant data.

22.39 As stated in paragraph 22.32, the promotion of public health is not a licensing objective as set out in the Act. However, the Licensing Authority would seek to encourage and support where appropriate, any voluntary initiatives that premises may wish to adopt to help reduce alcohol harm within our communities.

22.40 Such initiatives may include:

- Avoiding the sale of beers, lagers and ciders over 6.5% ABV which are sold in plastic bottles or metallic cans, (Note: this does not include premium,

craft or specialist products as these are not a target for problem drinkers);

- Taking steps to consider the display of alcohol in such a manner that will not unduly encourage people to drink irresponsibly and equally limit the exposure children have to alcohol advertising;
- Refraining from placing alcohol products amongst, near or next to confectionary that would usually be consumed by children or young people (which would include till point toys or stickers).

## 23.0 The Review Process

23.1 The proceedings set out in the Act for reviewing premises licences and club premises certificates represent a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premises certificate.

23.2 At any stage, following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask the Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.

23.3 An application for review may be made electronically, provided that the Licensing Authority agrees and the applicant submits a subsequent hard copy of the application, if the Licensing Authority requires one. The Licensing Authority may also agree in advance that the application need not be given in hard copy. However these applications fall outside of the formal electronic application process and may not be submitted via GOV.UK or the Licensing Authority's electronic facility.

23.4 In addition, the Licensing Authority must review a licence if the premises to which it relates was made the subject of a closure order by the Police based on

nuisance or disorder and the Magistrates' Court has sent the Authority the relevant notice of its determination, or if the Police have made an application for summary review on the basis that premises are associated with serious crime and/or disorder.

- 23.5 Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate.

Therefore, the Licensing Authority may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that licensing authorities should normally act as responsible authorities in applying for reviews on behalf of other persons, such as local residents or community groups. These individuals or groups are entitled to apply for a review for a licence or certificate in their own right if they have grounds to do so. It is also reasonable for the Licensing Authority to expect other responsible authorities to intervene where the basis for the intervention falls within the remit of that other authority. For example, the Police should take appropriate steps where the basis for the review is concern about crime and disorder or the sexual exploitation of children. Likewise, where there are concerns about noise nuisance, it is reasonable to expect the local authority exercising environmental health functions for the area in which the premises are situated to make the application for review.

- 23.6 Where the Licensing Authority does act as a responsible authority and applies for a review, it is important that a separation of responsibilities is still achieved in this process to ensure procedural fairness and eliminate conflicts of interest. Further information on how the Licensing Authority should achieve this separation of responsibilities can be found in Chapter 9 of the Statutory Guidance.

- 23.7 In every case, any application for a review must relate to particular premises in respect of which there is a premises licence or club premises certificate and must be relevant to the promotion of one or more of the licensing objectives.

Following the grant or variation of a licence or certificate, a complaint regarding a general issue in the local area relating to the licensing objectives, such as a general (crime and disorder) situation in a town centre, should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time, could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.

- 23.8 Where the Licensing Authority receives a geographic cluster of complaints, the authority will consider whether these issues are the result of the cumulative impact of licensed premises within the area concerned. In such circumstances, the Licensing Authority will also consider whether it would be appropriate to include a special policy relating to cumulative impact within its licensing policy statement. Further guidance on cumulative impact policies can be found in Chapter 13 of the Statutory Guidance.

- 23.9 Representations must be made in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing. Representations may be made electronically, provided the Licensing Authority agrees and the applicant submits a subsequent hard copy, unless the licensing authority waives this requirement.

23.10 Where authorised persons and responsible authorities have concerns about problems identified at premises, it is good practice for them to give licence holders early warning of their concerns and the need for improvement, and where possible they should advise the licence or certificate holder of the steps they need to take to address those concerns. A failure by the holder to respond to such warnings is expected to lead to a decision to apply for a review. Co-operation at a local level in promoting the licensing objectives should be encouraged and reviews should not be used to undermine this co-operation.

23.11 If the application for a review has been made by a person other than a responsible authority (for example, a local resident, residents' association, local business or trade association), before taking action the Licensing Authority must first consider whether the complaint being made is relevant, frivolous, vexatious or repetitious. Further guidance on determining whether a representation is frivolous or vexatious can be found in Chapter 9 of the Statutory Guidance.

### 23.12 Repetitious grounds of review

A repetitious ground is one that is identical or substantially similar to:

- A ground for review specified in an earlier application for review made in relation to the same premises licence or certificate which has already been determined; or
- Representations considered by the Licensing Authority when the premises licence or certificate was granted; or
- Representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or grant.

23.13 The Licensing Authority is aware of the need to prevent attempts to review licences merely as a further means of challenging the grant of the licence following the failure of representations to persuade the Licensing Authority on an earlier occasion. It is for licensing authorities themselves to judge what should be regarded as a reasonable interval in these circumstances. However, the Statutory Guidance recommends that more than one review originating from a person other than a responsible authority in relation to a particular premises should not be permitted within a 12 month period on similar grounds save in compelling circumstances or where it arises following a closure order.

23.14 The exclusion of a complaint on the grounds that it is repetitious does not apply to responsible authorities which may make more than one application for a review of a licence or certificate within a 12 month period.

23.15 When the Licensing Authority receives an application for a review from a responsible authority or any other person, or in accordance with the closure procedures described in Part 8 of the Act (for example, closure orders), it must arrange a hearing. The arrangements for the hearing must follow the provisions set out in regulations. These regulations are published on the Government's legislation website ([www.legislation.gov.uk](http://www.legislation.gov.uk)). It is particularly important that the premises licence holder is made fully aware of any representations made in respect of the premises, any evidence supporting the representations and that the holder or the holder's legal representative has therefore been able to prepare a response.

### 23.16 Powers of the Licensing Authority on the determination of a review

The 2003 Act provides a range of powers for the Licensing Authority which it may



exercise on determining a review where it considers them appropriate for the promotion of the licensing objectives.

23.17 The Licensing Authority may decide that the review does not require it to take any further steps appropriate to promote the licensing objectives. In addition, there is nothing to prevent the Licensing Authority issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. The Licensing Authority regards such informal warnings as an important mechanism for ensuring that the licensing objectives are effectively promoted and that warnings should be issued in writing to the licence holder.

23.18 However, where responsible authorities such as the Police or environmental health officers have already issued warnings requiring improvement – either orally or in writing – that have failed as part of their own stepped approach to address concerns, The Licensing Authority will not merely repeat that approach and will take this into account when considering what further action is appropriate.

23.19 Where the Licensing Authority considers that action under its statutory powers is appropriate, it may take any of the following steps:

- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours or opening or by requiring door supervisors at particular times;
- exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);

- remove the designated premises supervisor, for example, because they consider that the problems are the result of poor management;
- suspend the licence for a period not exceeding three months;
- revoke the licence.

23.20 In deciding which of these powers to invoke, the Licensing Authority will seek to establish the cause or causes of the concerns that the representations identify. The remedial action taken will generally be directed at these causes and will always be no more than an appropriate and proportionate response to address the causes of concern that instigated the review.

23.21 For example, the Licensing Authority will be alive to the possibility that the removal and replacement of the designated premises supervisor may be sufficient to remedy a problem where the cause of the identified problem directly relates to poor management decisions made by that individual.

23.22 Equally, it may emerge that poor management is a direct reflection of poor company practice or policy and the mere removal of the designated premises supervisor may be an inadequate response to the problems presented. Indeed, where subsequent review hearings are generated by representations, it should be rare merely to remove a succession of designated premises supervisors as this would be a clear indication of deeper problems that impact upon the licensing objectives.

23.23 The Licensing Authority also notes that modifications of conditions and exclusions of licensable activities may be imposed either permanently or for a temporary period of up to three months. Temporary changes or suspension of the licence for up to three months could impact on the business holding the licence financially and would only be expected to be pursued as an appropriate



means of promoting the licensing objectives. So, for instance, a licence could be suspended for a weekend as a means of deterring the holder from allowing the problems that gave rise to the review to happen again. However, it will always be important that any detrimental financial impact that may result from a licensing authority's decision is appropriate and proportionate to the promotion of the licensing objectives. But where premises are found to be trading irresponsibly, the Licensing Authority will not hesitate, where appropriate to do so, to take tough action to tackle the problems at the premises and, where other measures are deemed insufficient, to revoke the licence.

### **23.24 Reviews arising in connection with crime**

A number of reviews may arise in connection with crime that is not directly connected with licensable activities. For example, reviews may arise because of drugs problems at the premises; money laundering by criminal gangs, the sale of contraband or stolen goods, the sale of firearms, or the sexual exploitation of children. The Licensing Authority does not have the power to judge the criminality or otherwise of any issue. This is a matter for the courts. The Licensing Authority's role when determining such a review is not therefore to establish the guilt or innocence of any individual but to ensure the promotion of the crime prevention objective.

**23.25** Reviews are part of the regulatory process introduced by the Act and they are not part of criminal law and procedure. There is, therefore, no reason why representations giving rise to a review of a premises licence need be delayed pending the outcome of any criminal proceedings. Some reviews will arise after the conviction in the criminal courts of certain individuals, but not all. In any case, it is for the Licensing Authority to determine whether the problems associated with the alleged crimes are taking place on the premises and affecting the promotion of the licensing

objectives. Where a review follows a conviction, it would also not be for the Licensing Authority to attempt to go beyond any finding by the courts, which should be treated as a matter of undisputed evidence before them.

**23.26** Where the Licensing Authority is conducting a review on the grounds that the premises have been used for criminal purposes, its role is solely to determine what steps should be taken in connection with the premises licence, for the promotion of the crime prevention objective. It is important to recognise that certain criminal activity or associated problems may be taking place or have taken place despite the best efforts of the licence holder and the staff working at the premises and despite full compliance with the conditions attached to the licence. In such circumstances, the Licensing Authority is still empowered to take any appropriate steps to remedy the problems. The Licensing Authority's duty is to take steps with a view to the promotion of the licensing objectives in the interests of the wider community and not those of the individual licence holder.

**23.27** There is certain criminal activity that may arise in connection with licensed premises which should be treated particularly seriously. These are the use of the licensed premises:

- for the sale and distribution of drugs controlled under the Misuse of Drugs Act 1971 and the laundering of the proceeds of drugs crime;
- for the sale and distribution of illegal firearms;
- for the evasion of copyright in respect of pirated or unlicensed films and music, which does considerable damage to the industries affected;
- for prostitution or the sale of unlawful pornography;
- by organised groups of paedophiles to groom children;
- as the base for the organisation of criminal activity, particularly by gangs;

- for the organisation of racist activity or the promotion of racist attacks;
- for knowingly employing a person who is unlawfully in the UK or who cannot lawfully be employed as a result of a condition on that person's leave to enter;
- for unlawful gambling; and
- for the sale or storage of smuggled tobacco and alcohol.

23.28 The Licensing Authority, the Police and other law enforcement agencies, which are responsible authorities, will use the review procedures effectively to deter such activities and crime. Where reviews arise and the Licensing Authority determines that the crime prevention objective is being undermined through the premises being used to further crimes, revocation of the licence – even in the first instance – will be seriously considered.

### 23.29 Review of a premises licence following persistent sales of alcohol to children

The Government recognises that the majority of licensed premises operate responsibly and undertake due diligence checks on those who appear to be under the age of 18 at the point of sale (or 21 and 25 where they operate a Challenge 21 or 25 scheme). Where these systems are in place, licensing authorities may wish to take a proportionate approach in cases where there have been two sales of alcohol within very quick succession of one another (e.g., where a new cashier has not followed policy and conformed with a store's age verification procedures).

However, where persistent sales of alcohol to children have occurred at premises, and it is apparent that those managing the premises do not operate a responsible policy or have not exercised appropriate due diligence, responsible authorities should consider taking steps to ensure that a review of the licence is the norm in these circumstances. This is particularly the case where there has

been a prosecution for the offence under section 147A or a closure notice has been given under section 169A of the 2003 Act. In determining the review, the licensing authority should consider revoking the licence if it considers this appropriate.

## 24.0 Late Night Levy

24.1 The Licensing Authority acknowledges that the Police Reform and Social Responsibility Act 2011 enables a licensing authority to charge a levy on persons who are licensed to sell alcohol late at night in the authority's area (between midnight and 06:00 hours), as a means of raising a contribution towards the costs of policing the late-night economy. The option of introducing such a levy will be kept under review by the Council.<sup>12</sup>

## 25.0 Early Morning Restriction Orders (EMROs)

25.1 In addition to the provisions contained within the Police Reform and Social Responsibility Act 2011 for the Late Night Levy, there is an additional power for the Licensing Authority to restrict sales of alcohol in the whole or part of their areas for any specified period between midnight and 06:00 hours if it considers it appropriate for the promotion of the licensing objectives. Again, the option of introducing an EMRO will be kept under review by the Council.

<sup>12</sup> Changes to the way the levy can be applied are currently subject to review under the Policing and Crime Bill

## 26.0 Administration, exercise and delegation of functions

- 26.1 The Act provides that the functions of the Licensing Authority (including its determinations) are to be taken or carried out by its Licensing Committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). Where licensing functions are not automatically transferred to the Licensing Committee, the functions must be carried out by the Council as a whole and not by its Executive. As many of the decisions and functions will be purely administrative in nature, and in the interests of speed, efficiency and cost effectiveness, the Licensing Authority shall undertake a process of delegation of its functions. The delegation of functions is set out in the table at 26.4.
- 26.2 The Act does not prevent the development by the Licensing Authority or other Licensing Authorities for work of a purely administrative nature, e.g. mail-outs. In addition, such administrative tasks may be contracted out to private businesses. But any matters regarding licensing decisions must be carried out by the Licensing Committee, its sub-committee or officers.

The Licensing Authority recognises that licensing hearings must be fair and impartial so as to accord with the Human

Rights Act 1998. Accordingly, any and all licensing decisions determined by the Licensing Committee (or Licensing sub-committee) will be made by councillors who have received appropriate and comprehensive training on both the Licensing Act (and statutory regulations) together with training on the general principles of good administrative law relating to the rules of natural justice, bias and conduct at meetings. The training will also acknowledge any standing orders and/or codes of conduct applicable to elected members and no councillor may sit and adjudicate on any licensing matter without first receiving such training.

- 26.3 Where, under the provisions of the Act, there are no relevant representations on an application for the grant of a premises licence or club premises certificate or police objections to an application for a personal licence or to an activity taking place under the authority of a temporary event notice, these matters will be dealt with by officers in order to speed matters through the system. The Licensing Committee shall receive regular reports on decisions made by officers so that they maintain an overview of the general situation.

## 26.4 Table: Delegation of Functions

Matters to be dealt with	Sub-Committee	Officers
Application for personal licence	If a police objection	If no objection made
Application for personal licence with unspent convictions (upon receipt of an objection notice from Police)	All cases	
Revocation of a personal licence following convictions coming to light after grant of licence (upon receipt of an objection notice from Police) <sup>13</sup>	All cases	
Application for premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application for provisional statement	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	If a police objection	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection	All other cases
Applications for interim authorities	If a police objection	All other cases
Application to review premises licence/club premises certificate	All cases	
Application by the Chief Officer of Police for the summary review of a premises licensed for the sale of alcohol by retail	All cases	
Decision on whether a representation is irrelevant, frivolous or vexatious etc.		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of an objection to a temporary event notice	All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition	If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application		All cases
Determination of minor variation application		All cases

<sup>13</sup> See para 124 of The Licensing Act 2003

## 27.0 Contact Details

Contact Details for Licensing Authority and other Responsible Authorities	
<p>Licensing Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9283 4607 or 023 9268 8367 Fax: 023 9283 4811 Email: <a href="mailto:licensing@portsmouthcc.gov.uk">licensing@portsmouthcc.gov.uk</a></p>	<p>The Chief Officer of Police Hampshire Constabulary Portsmouth Licensing and Violent Crime Reduction Licensing Office Civic Offices Guildhall Square Portsmouth PO1 2AL</p> <p>Tel: 0845 045 4545 Direct Dial: 023 9268 88754 Fax: 023 9268 8513 Email: <a href="mailto:force.licensing@hampshire.pnn.police.uk">force.licensing@hampshire.pnn.police.uk</a></p> <p><b>Please note that the Police will not accept electronic applications unless agreed in advance.</b></p>
<p>Environmental Health Service (Pollution) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8366 Email: <a href="mailto:publicprotection@portsmouthcc.gov.uk">publicprotection@portsmouthcc.gov.uk</a></p>	<p>Environmental Health (Business Support) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8362 Email: <a href="mailto:publicprotection@portsmouthcc.gov.uk">publicprotection@portsmouthcc.gov.uk</a></p>
<p>Trading Standards Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9283 4689 Email: <a href="mailto:trading.standards@portsmouthcc.gov.uk">trading.standards@portsmouthcc.gov.uk</a></p>	<p>Children's Social Care and Safeguarding Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9282 2251 Email: <a href="mailto:safeguardingnotifications@portsmouthcc.gov.uk">safeguardingnotifications@portsmouthcc.gov.uk</a></p>



<p>The Chief Fire Officer Hampshire Fire and Rescue Service HQ Leigh Road Eastleigh Hants SO50 9SJ</p> <p>Tel: 023 9285 5180 Fax: 023 9288 5175 Email: <a href="mailto:csprotection.admin@hantsfire.gov.uk">csprotection.admin@hantsfire.gov.uk</a></p>	<p>Head of Planning Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9283 4334 Fax: 023 9283 4660 Email: <a href="mailto:planning@portsmouthcc.gov.uk">planning@portsmouthcc.gov.uk</a></p>
<p>Director of Public Health c/o Regulatory Services, Community Safety &amp; Troubled Families Portsmouth City Council Civic Offices Guildhall Square Portsmouth PO1 2BY</p> <p>Tel: 023 9283 4688 Email: <a href="mailto:communitysafety@portsmouthcc.gov.uk">communitysafety@portsmouthcc.gov.uk</a></p>	<p><b>Where relevant:</b> Health and Safety Executive Priestley House Priestley Road Basingstoke Hants RG24 9NW</p> <p>Tel: 01256 404000 Fax: 01256 404100 Email: <a href="mailto:eselicensing@hse.gsi.gov.uk">eselicensing@hse.gsi.gov.uk</a></p> <p><i>Copies of applications should, in most cases, only be served on the Health and Safety Executive in respect of premises operated by crown bodies (including the military), local authorities, the police, hospitals, schools and universities.</i></p>
<p><b>In respect of vessels only:</b></p>	
<p>Navigation Authority:</p> <p>Queen's Harbour Master Semaphore Tower PP70 HMS Nelson HM Naval Base Portsmouth Hants PO1 3LT</p> <p>Tel: 023 9272 3124 <a href="http://www.qhmpportsmouth.com">www.qhmpportsmouth.com</a></p>	<p>Environment Agency Hampshire and IOW Area Office Wessex Business Park Wessex Way Colden Common Winchester Hants SO21 1WP</p> <p>Tel: National Call Centre <b>08708 506 506 (Mon – Fri 8-6)</b></p>
<p>Maritime and Coastguard Agency Spring Place 105 Commercial Road Southampton Hants SO15 1EG</p> <p>Tel: 0870 6006505 Email: <a href="mailto:www.infoline@mcga.gov.uk">www.infoline@mcga.gov.uk</a></p>	

## APPENDIX A

### Map of Portsmouth



## APPENDIX B

### Hampshire Constabulary supporting information and map for Special Policy Area - Cumulative Impact

#### 1.0 Background

Portsmouth district has a mixed use city centre surrounded by a densely populated residential areas. Operationally this imposes significant demands upon emergency services and the wider partnership

The demands of policing the Night Time Economy (NTE) within Portsmouth place a heavy demand on the police and Portsmouth City Council (PCC). This in terms of resources to minimise the effects of drink related crime and disorder and ensure public safety

There is an ongoing campaign to cut alcohol fuelled crime and disorder in Portsmouth and reduce the burden on public health, it is supported by Portsmouth Safe City Partnership covering a wide spectrum of partners, stakeholders and voluntary services.

There are a significant number of persons who live outside the city, visiting attractions such as the Guildhall, Gunwharf, theatres, restaurants and shopping complexes beyond the NTE in Portsmouth. The city also hosts headline events such as Victorious Festival, Portsmouth Summer Show, Mutiny, Octoberfest and the Admirals Cup to list a few

The successful and vibrant NTE in Portsmouth attracts tourists, local residents and students into the licensed venues. There are 4 distinct Night Time Economy (NTE) zones;

- *Guildhall Walk (cumulative impact policy zone)*
- *Gunwharf*
- *Central Southsea (Albert Road NTE zone)*
- *Portsmouth South (Palmerston Road NTE)*

A further area is also monitored for NTE related violence, this being North End. The principal area is a small section of London Road with a concentration of mixed use licensed premises, these include fast food establishments, restaurants, on and off licences. The levels of residential crime is also captured, this to monitor if this is an emerging NTE hotspot

The impact of the NTE has historically imposed a disproportionately negative impact on crime and disorder levels within the Portsmouth district and those 4 NTE zones. Post 2008 a vast investment from police and partners in resources has significantly reduced these levels, including the introduction of the Cumulative Impact Policy (CIP) zone within the PCC Statement of Licensing policy.

The introduction of the CIP areas for Guildhall Walk and surrounding vicinity has had a significant impact reducing crime and disorder, helping to promote the licensing objectives within licensed premises captured within this policy

The key signal crime types are assaults, sexual offences, robberies and alcohol related ASB, however, for the purposes of this report I have focussed on purely violence offences under the HMIC tree group 9. Those that relate to both violence *'with injury'* and *'without injury'*.

In compiling this report the Record Management System (RMS) used by Hampshire Constabulary to record all occurrences whether crime or non-crime has been used to provide relevant evidence. A further IT system known as 'business objects' provides a tool to analyse this data.

Recorded crime data has been used rather than 'calls for service' incidents reported to the Force Control Room, although demand data is valuable it will not capture all 'hidden demand'

## 2.0 Crime Data

### [1] Geographical data (Portsmouth district)

The level of crime and disorder within Portsmouth, particularly its NTE zones has largely reduced year on year since 2008, this has mirrored local and national crime trends. There are a number of contributory factors particularly; smarter partnership approach around alcohol harm reduction, regulatory enforcement (including the CIP) and the economy recession world wide.

In the period since 2008, Hampshire Constabulary has adapted to the crime recording and classification changes introduced by the Home Office, this makes comparative interpretation of police crime data throughout this period more difficult. There has also been a greater drive to ensure crime data integrity by police forces nationally, this accounts for an increase 2015-2016 which is evident in Hampshire and across all force areas nationally.

**(Refer Annexe 1 - Key guidance on crime data integrity)**

The police and Portsmouth Safe City Partnership have used data, known colloquially as LNEP. This data set was only formed of the key arterial streets and roads in the 4 NTE zones, however, failed to have the interconnecting streets (particularly the Guildhall Walk NTE zone) which fails to give a fully accurate insight into violence levels within the NTE zones.

A business objects search process has been built, the intention is to provide the most accurate crime data integrity for each NTE zone. The process involved agreeing the outer perimeter and those streets and roads within the NTE zone, the existing CIP zone for Guildhall Walk was used.

The limitations of the police reporting system known as RMS does not facilitate geo post coding, at present, so will capture some residential crime (non NTE related violence offences) on certain streets that form the outer perimeter of a zone. Conversely there may be NTE related violence that occurred outside of the NTE zones but not captured in search function.

### Comparison of violence within Portsmouth District

HMIC Crime Tree (9 group) - Violence	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	Portsmouth District 'Total Violence' % of force violence
2014-15	4	2294	2557	4855	<b>17.27%</b> (4855 / 28108)
2015-16	3	3210	4118	7331	<b>17.03%</b> (7331 / 43047)
2016-17 (jan)	3	2910	4271	7184	<b>17.36%</b> (7184 / 41388)

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017*

The Portsmouth district has steadily accounted for around 17% of the whole Hampshire Constabulary 'Total Violence' for each of the last 3 performance year periods.

The Portsmouth district has been transformed administratively from 4 into 3 sectors, in the last 18 months. The 4 NTE zones are predominantly in two of those sectors, an analysis of the distinct NTE zones is the focus for this report rather than those neighbourhood sectors.

#### Comparison of violence within Portsmouth District sectors

HMIC Crime Tree (9 group) - Violence NTE related violence <b>both DTE &amp; NTE</b>	Homicide	NTE Violence (with injury)	NTE Violence (w/out injury)	NTE Total Violence	NTE violence as % of Portsmouth District 'Total Violence'
Portsmouth District	0	711	833	1544	<b>21.50%</b> (1544 / 7184)
Portsmouth Central Sector	0	428	496	924	<b>12.86%</b> (924 / 7184)
Portsmouth North Sector	0	23	26	49	<b>0.68%</b> (49 / 7184)
Portsmouth South Sector	0	260	311	571	<b>7.94%</b> (571 / 7184)

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017*

The NTE accounts for 21.49% of the 'Total Violence' absorbed within the whole Portsmouth district total in the last performance year, this has reduced year on year from 26.38% in 2014/15. This figure covers both DTE and NTE violence data, this proportion actually mirrors the proportion of NTE violence within Southampton District.

The proportion of violence (both DTE and NTE) compared against the whole Portsmouth district is **down** year on year, whereas the number of violence offences (both DTE and NTE) has **increased** year on year.

#### Comparison of violence within Portsmouth District NTE zones (both DTE and NTE)

NTE Zones (Portsmouth) both DTE & NTE violence	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	659	622	1281	<b>26.38%</b> (1281 / 4855)
2015-2016	0	821	777	1598	<b>21.80%</b> (1598 / 7331)
2016-2017 (Jan)	0	711	833	1544	<b>21.49%</b> (1544 / 7184)

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017*

In the current performance year 2016/17 (jan) the proportion of violence offences within the NTE zones (both DTE and NTE) represents 3.73% (1544 / 41388) of the whole Hampshire Constabulary 'Total Violence'.



### Comparison of violence within Portsmouth District NTE zones (NTE violence only)

NTE Zones (Portsmouth) <b>NTE violence only</b>	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	507	412	919	<b>18.93%</b> (919 / 4855)
2015-2016	0	655	478	1133	<b>15.45%</b> (1133 / 7331)
2016-2017 (Jan)	0	564	485	1047	<b>14.57%</b> (1047 / 7184)

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017*

A further analysis purely on NTE violence (1900 and 0700 hours) shows the actual number of crimes has increased, however, there is a downward trajectory in terms of the NTE having a less disproportionate impact on the 'Total Violence' for the Portsmouth district.,

The general trend following national changes to drive up crime data integrity and recording standards was an increase in all crime types, including violence offences.

A further trend evident just in the figures above show the proportion of NTE violence offences 'with injury' are increasing, as are those 'without injury' are increasing.

### [2] NTE Zones (Portsmouth district)

#### Comparison of violence within Guildhall NTE

##### **Guildhall Square**

NTE Zones Location Grouping (violence only)	Count Occ_Ref	Count NTE	NTE %	Count DTE	DTE %	% of district Violence (NTE only)
2014-2015	544	420	77.21%	122	22.43%	<b>8.65%</b> (420 / 4855)
2015-2016	647	499	77.13%	148	22.87%	<b>6.80%</b> (499 / 7331)
2016-17 (Jan)	660	471	71.36%	187	28.33%	<b>6.56%</b> (471 / 7184)

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017*

The NTE for the Guildhall Walk covers the surrounding vicinity, including commercial road and streets where prominent nightclubs and licensed premises are located. This is the principal NTE zone and has the highest footfall, it has a 'Cumulative Impact Policy' in place.

The general trend for the last 3 years shows the proportion of NTE violence offences occurring in this zone from 1900 to 0700 hours has reduced, likewise it represents a reducing proportion (currently at 6.56%) of the 'Total Violence' for the Portsmouth district.

The actual occurrence count reference spiked in 2015-16, as previously mentioned this was in line with more rigorous national crime recording standards

#### Comparison of NTE violence only within Guildhall NTE

Guildhall Square (incl Commercial Rd) <b>NTE violence only</b>	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	232	188	420	<b>8.65%</b> (420 / 4855)
2015-2016	0	295	204	499	<b>6.80%</b> (499 / 7331)
2016-2017 (Jan)	0	269	204	471	<b>6.56%</b> (471 / 7184)

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017*

An emerging trend evident is the number of violence offences 'with injury' are increasing in this zone, as are those 'without injury'. This suggests that although the proportion of violence offences are reducing, the severity of the **violence is increasing**.

#### Comparison of other NTE zones within Portsmouth District

Central Southsea (Albert Road NTE) <b>NTE violence only</b>	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	68	79	147	<b>3.01%</b> (147 / 4855)
2015-2016	0	75	73	148	<b>2.01%</b> (148 / 7331)
2016-2017 (Jan)	0	84	83	167	<b>2.32%</b> (167 / 7184)
Gunwharf <b>NTE violence only</b>	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	75	37	112	<b>2.30%</b> (112 / 4855)
2015-2016	0	141	70	211	<b>2.88%</b> (211 / 7331)
2016-2017 (Jan)	0	68	55	123	<b>1.71%</b> (123 / 7184)
North End / London Road <b>NTE &amp; residential violence</b>	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	73	56	129	<b>2.66%</b> (129 / 4855)
2015-2016	0	72	79	151	<b>2.06%</b> (151 / 7331)
2016-2017 (Jan)	0	89	83	172	<b>2.39%</b> (172 / 7184)

Portsmouth South (Palmerston Road NTE) <b>NTE violence only</b>	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	58	51	109	<b>2.25%</b> (109 / 4855)
2015-2016	0	71	49	120	<b>1.64%</b> (120 / 7331)
2016-2017 (Jan)	0	54	60	114	<b>1.59%</b> (114 / 7184)

Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017

The data for the last 3 years shows all the NTE zones have shown a slight increase in number of violence offences, this increase is mirrored for all relating to violence 'without injury' offences. Conversely, despite this numerical increase, there is a universal downward trend in the proportion as measured against 'Total Violence' for the Portsmouth district.

The number of more serious violence 'with injury' offences has increased in Albert Road and North End, the latter is not an NTE zone and its figures cover NTE and other residential location violence offences.

The NTE zones of Gunwharf and Palmerston Road (and surrounding areas) have shown a slight decrease in this classification of offences.

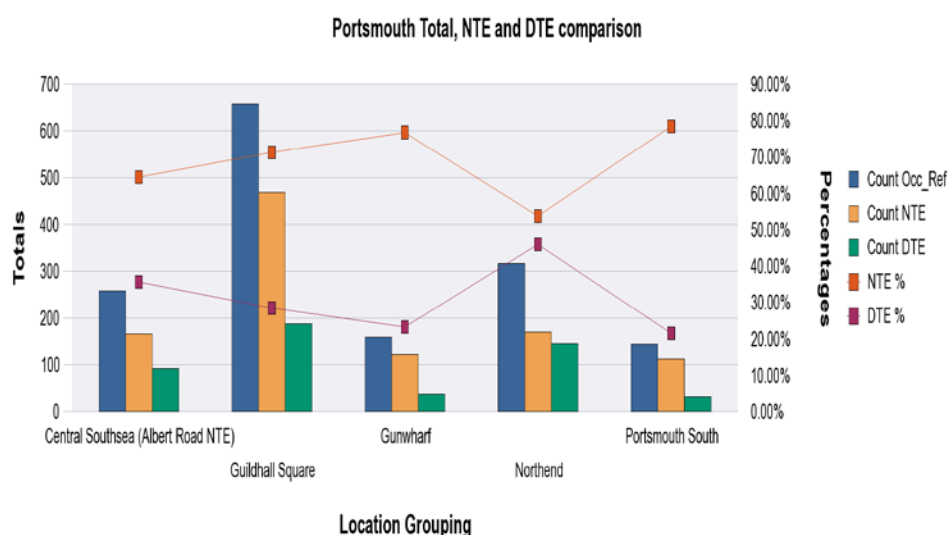
The Guildhall Walk NTE zone accounts for more NTE violence offences than the other 3 NTE zones (Albert Road, Palmerston Road and Gunwharf) combined, both in numerical terms and as a proportion of NTE violence in the NTE Zones.

The actual occurrence count reference spiked in 2015-16, as previously mentioned this was in line with more rigorous national crime recording standards.

This proportion and number of DTE crime compared to the NTE have both increased (refer below). The data set measured the times the offence occurred, rather than when it was recorded.

This would tend to support the hypothesis that generally NTE crime levels are falling, rather than DTE crime levels escalating or due to recording anomalies. This is an area to monitor and analyse in greater depth if the trends remain.

#### Comparison of NTE & DTE violence in the Portsmouth District NTE zones 2016/17 (Jan)



### **[3] Temporal trends within the NTE Zones (Portsmouth district)**

Temporal comparison of NTE violence only within Portsmouth District (weekends)

#### **2014-15**

NTE	19	20	21	22	23	0	1	2	3	4	5	6	Total
Mon/Tue	5	3	4	4	11	10	9	16	3				65
Tues/Wed	5	2	7	8	3	14	9	8		1	1	1	59
Wed/Thur	7	4	5	8	13	14	18	8	1	2	2		82
Thur/Fri	5	5	5	13	12	17	12	17	6	2	5	1	100
Fri/Sat	4	11	13	18	31	55	55	49	24	19	4		283
Sat/Sun	8	7	11	19	26	55	49	49	23	5	2		254
Sun/Mon	3	4	3	14	8	16	11	6	3	1		2	71
Blank						1							1
<b>Total</b>	<b>37</b>	<b>36</b>	<b>48</b>	<b>84</b>	<b>104</b>	<b>182</b>	<b>163</b>	<b>153</b>	<b>60</b>	<b>30</b>	<b>14</b>	<b>4</b>	<b>915</b>

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2015*

#### **2015-16**

NTE	19	20	21	22	23	0	1	2	3	4	5	6	Total
Mon/Tue	3	3	5	11	8	15	11	13	5	2		1	77
Tues/Wed	4	6	11	4	8	7	9	13	4		3	1	70
Wed/Thur	9	3	13	3	12	18	16	6		3		4	87
Thur/Fri	7	9	6	17	11	18	22	34	6	6	3		139
Fri/Sat	8	7	9	14	29	52	48	60	52	17	3	3	302
Sat/Sun	10	14	19	29	61	87	53	43	33	9	2		360
Sun/Mon	8	9	7	4	17	24	11	5	1	1	2	2	91
<b>Total</b>	<b>49</b>	<b>51</b>	<b>70</b>	<b>82</b>	<b>146</b>	<b>221</b>	<b>170</b>	<b>174</b>	<b>101</b>	<b>38</b>	<b>13</b>	<b>11</b>	<b>1126</b>

*Figures from Hampshire Constabulary RMS business objects 01/04/2015-31/01/2016*

#### **2016-17 (Jan)**

NTE	19	20	21	22	23	0	1	2	3	4	5	6	Total
Mon/Tue	12	8	13	9	2	12	7	10	5	3	2	4	87
Tues/Wed	6	12	1	8	8	18	8	8	2		2	1	74
Wed/Thur	7	5	4	10	6	11	10	6	9	3	1		72
Thur/Fri	5	11	4	10	10	20	14	20	17	8		2	121
Fri/Sat	4	10	17	13	37	39	47	34	19	7	3	2	232
Sat/Sun	8	12	13	36	36	64	65	41	46	19	2	4	346
Sun/Mon	8	11	12	10	16	19	12	10	2	1	3		104
Blank						2							2
<b>Total</b>	<b>50</b>	<b>69</b>	<b>64</b>	<b>96</b>	<b>115</b>	<b>185</b>	<b>163</b>	<b>129</b>	<b>100</b>	<b>41</b>	<b>13</b>	<b>13</b>	<b>1038</b>

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017*

**2014/15**

- 58.69% of NTE Violence data relates to purely Fridays and Saturdays (537/915);
  - Friday data (283) represents 30.93% of total occurring between 1900 to 0700 hrs, peak times being 2000 to 0500 hours;
  - Saturday data (254) represents 27.76% of total occurring between 1900 to 0700 hrs, peak times being 2100 to 0400 hours;
  - Thursday data (100) represents 10.93% of total occurring between 1900 to 0700 hrs, peak times being 2200 to 0300 hours;
  - Wednesday data (82) represents 8.96% of total occurring between 1900 to 0700 hrs, peak times being 2200 to 0300 hours (student society day);
  - Small peaks on Sunday (2200 to 0200 hours) and Monday (2300 to 0300 hours) were apparent, without further research these are likely to align to student led promotion nights or events.

**2015/16**

- 58.79% of NTE Violence data relates to purely Fridays and Saturdays (662 / 1126);
- Friday data (302) represents 26.82% of total occurring between 1900 to 0700 hrs, peak times being 2200 to 0500 hours;
- Saturday data (360) represents 31.97% of total occurring between 1900 to 0700 hrs, peak times being 1900 to 0500 hours
- Thursday data (139) represents 12.34% of total occurring between 1900 to 0700 hrs, peak times being 2200 to 0300 hours;
- Small peaks on Sunday (2300 to 0200 hours) and Monday (2200 to 0300 hours) were apparent, without further research these are likely to align to student led promotion nights or events.

**2016/17 (Jan)**

- 55.69% of NTE Violence data relates to purely Fridays and Saturdays (578 / 1038);
- Friday data (232) represents 22.35% of total occurring between 1900 to 0700 hrs, peak times being 2000 to 0500 hours;
- Saturday data (346) represents 33.33% of total occurring between 1900 to 0700 hrs, peak times being 2000 to 0500 hours;
- Thursday data (121) represents 11.61% of total occurring between 1900 to 0700 hrs, peak times being 2000 to 0400 hours;
- Small peaks on Sunday (2000 to 0300 hours) and Monday (1900 to 0300 hours) were apparent, without further research these are likely to align to student led promotion nights or events.



### Trends

- The NTE violence spiked in 2015-16, as previously mentioned this was in line with more rigorous national crime recording standards, this represented a 23% increase from 2014/15 (915 to 1126);
- The NTE violence has slightly reduced in 2016-17, at present it is 7.83% reduction than the previous year (1126 down to 1038). However there are still 2 months of the reporting year that **will** change this aspect;
- Comparing the years 2014/15 and just this current incomplete year 2016/17 (Jan) shows a 13.44% increase in NTE violence (915 up to 1038), the greater crime data integrity will have a factor in this increase but the true extent is not easy to determine;
- The proportion of NTE violence from Friday and Saturday evenings has reduced slightly in the last reporting year by 3.10%, when measured against whole NTE violence when the previous 2 years it was a constant proportion at 58-59%;
- The trends have remained; Thursday (11.61%) and Sunday (10.02%) are the next busiest nights for NTE violence. There is a vibrant student population in the NTE, this does account for peaks on Sundays, including spikes on Monday nights;
- The peak night is Saturday night, the proportion of NTE violence occurring on this night has risen year on year from 27% to 33%, a concerning trend is that the peak times have widened from 2100 to 0400 hours. This is now 2000 to 0500 hours;
- The second busiest night is Friday, however, proportion of NTE violence occurring on this night has reduced year on year from 30% to 22% , its peak times being 2000 to 0500 hours have remained constant throughout.

### Comparison of the proportion of NTE violence on weekends

NTE	2014/15 (% of NTE violence that year)	2015/16 (% of NTE violence that year)	2016/17 (Jan) (% of NTE violence that year)
Thu	10.93%	12.34%	11.61%
Fri	30.93%	26.82%	22.35%
Sat	27.76%	31.97%	33.33%
Yr Total	915	1128	1038
	Variance	(+) 23%	(-) 7.83%

*Figures from Hampshire Constabulary RMS business objects 01/04/2014-31/01/2017*

### [4] Zones, venues & locations (Portsmouth district)

There are a number of premises that recorded more than 10 violence offences linked to their venue incidents in the calendar year, the majority of incidents that occurred between nights of Thursday and Sunday.

The scope of this report is not to drill into those key venues, ongoing licensing engagement with those venues is 'business as usual' as part of a partnership approach. Where any venue experiences higher levels of violence or disorder linked to that venue, there is proportionate, graduated escalation with enforcement the ultimate action.

### 3.0 Conclusion

The presence of 4 NTE zones, in Portsmouth, places a disproportionate burden on police and partnership resources. This despite there being a downward trend in NTE related violence within Portsmouth since 2008, a trend replicated across Hampshire and Nationally.

The main body of this report demonstrates that the analytical data shows the peak impact times for demand on the Night Time Economy of Portsmouth, the statistics clearly show that there are definite peaks in crime at these times linked to the licensed venues operating in the city centre beyond midnight and also linked to NTE zones.

The actual violent crime occurrence count spiked in 2015-16, as previously mentioned this was in line with more rigorous national crime recording standards. This was evident in Hampshire and across all forces nationally. This current year has witnessed a recalibration, the enhanced crime reporting standards are becoming embedded. Accordingly any comparison of the last 3 years violence performance data must account for these factors.

The final key point is that the geography of Portsmouth is densely populated within a 2 square mile area. The ease of mobility (whether on foot or vehicle) occasionally makes it difficult to discern whether alcohol related violence or disorder, on any given road or street, is directly attributable to a NTE zone let alone individual venues. Notwithstanding improving standards of crime recording, the existing crime data methods and technology need to be assessed against these constraints.

#### [A] Existing CIP area Guildhall Walk NTE (and surrounding vicinity)

The NTE continues to draw Police resources into the city centre (Guildhall Walk NTE and surrounding vicinity) to deal with violence and alcohol related disorder, this is evidenced within the geographical, temporal and location trends.

These show that Portsmouth Guildhall Walk NTE (and surrounding vicinity) has the highest 'total violence' levels. The Portsmouth Central sector contains this NTE and Gunwharf NTE zone, consequently it suffers 'total violence' levels in excess of other sectors within the Portsmouth district.

The Portsmouth South sector contains the NTE zones of Albert Road and Palmerston Road so also experiences relative increased levels of 'total violence', **in direct contrast** to the Portsmouth North sector which has no discernible NTE zones so benefits from lower levels of 'total violence'.

While the NTE continues to exist, there will remain a need for police to resource the crime and disorder that results, the introduction of a cumulative impact policy has clearly helped to sustain the existing partnership resources that underpin the NTE infrastructure.

The venues within the Guildhall Walk NTE have clearly worked in unison with this partnership approach. They have raised their compliance with the licensing objectives, the influence and benefits of the CIP zone is a significant, contributory factor to this success

The retention of the existing CIP will sustain improved standards of compliance and encourage best practice, in the last 12 months there have been occasions where the police have objected to applications for later hours.

The merits of each application have to be judged, however, the determination to grant later hours did not support the Portsmouth City Council own CIP policy. The extent of these determinations on NTE related violence and disorder levels will need to be monitored accordingly

The headline trends from this report for Guildhall Walk NTE in the last 3 years show;

- The number of violence offences (purely NTE violence) has **increased** year on year
- The proportion of violence (purely NTE violence) compared against the whole Portsmouth district 'total violence' is **down** year on year
- The number of violence offences '*with injury*' (purely NTE violence) has **increased** year on year
- The number of violence offences '*without injury*' (purely NTE violence) has **increased** year on year
- The proportion of violence (both DTE and NTE) compared against the whole Portsmouth district is **down** year on year
- The number of violence offences (both DTE and NTE) has **increased** year on year
- Saturday remains the peak evening, the proportion of NTE violence that occurs on this day has increased year on year compared to other nights
- Friday remains the second busiest evening, the proportion of NTE violence that occurs on this day has actually decreased year on year (*the decrease appears to correlate to same amounts as the increase to Saturday's proportion of NTE violence*)
- The proportion of Guildhall Walk NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours
- The Guildhall Walk NTE zone accounts for more NTE violence offences than the other 3 NTE zones (Albert Road, Palmerston Road and Gunwharf) combined, both in numerical terms and as a proportion of NTE violence in the NTE Zones

**Recommend:** This is persuasive argument to justify the existing CIP area being maintained

#### [B] Other NTE Zones

The body of this report demonstrates that the impact of the other NTE zones within the Portsmouth district in terms of NTE violence is not as disproportionate as Guildhall NTE, this strengthens the persuasive argument to maintain the existing CIP in that zone.

There are natural levels of displacement based around the diversity of venues and NTE zones across the whole Portsmouth district. The benefits of a vibrant, Multiple, smaller and widespread NTE zones should be encouraged

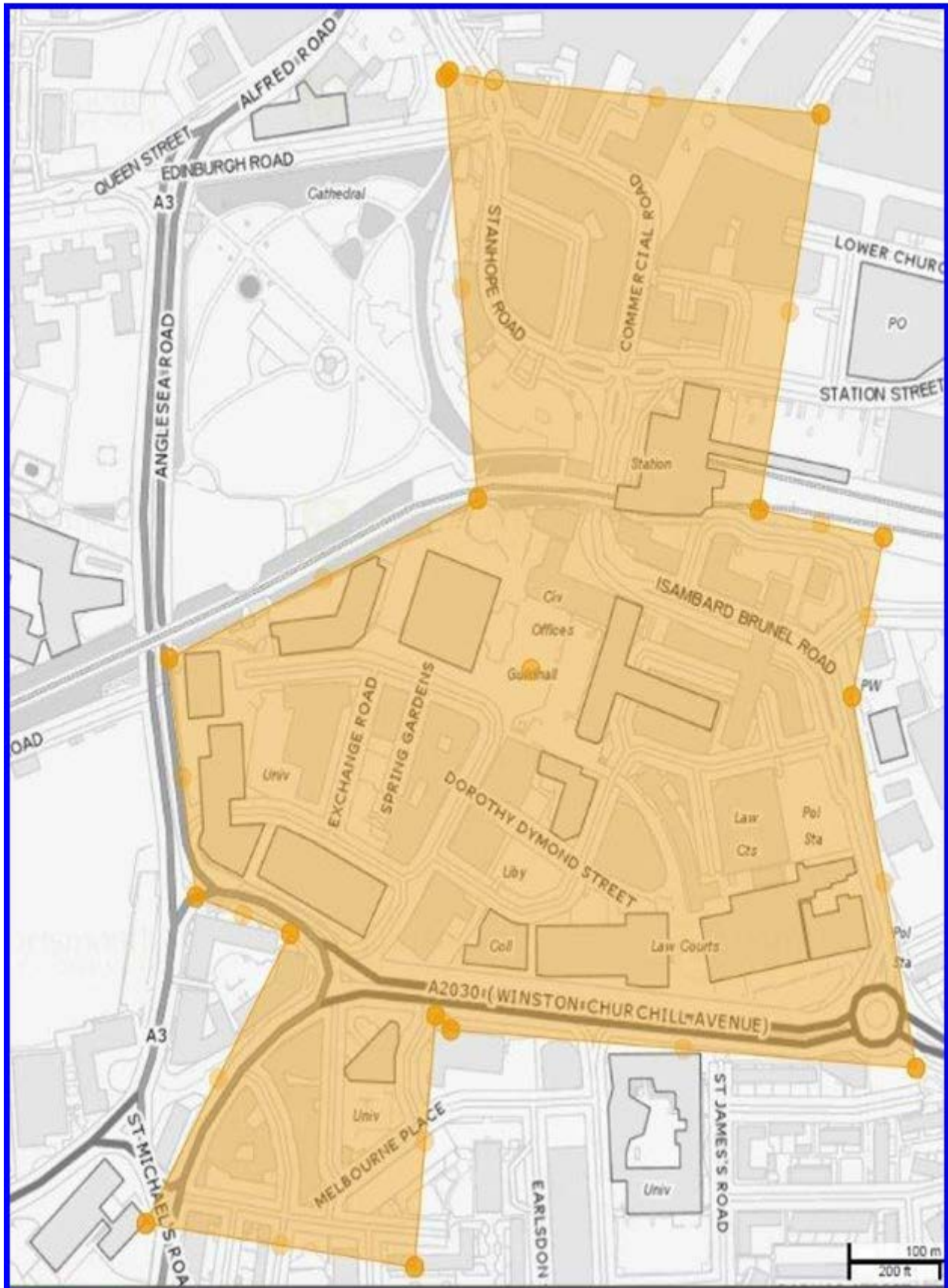
The proportion of NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours

**Recommend:** This is persuasive argument to justify retaining the existing CIP

This will support wider strategic objectives to encourage a safe, vibrant, diverse and financially successful DTE and NTE across the whole Portsmouth district.

This will benefit those living, working and visiting the city.

## Map for Special Policy Area - Cumulative Impact





## APPENDIX C

### Regulated Entertainment Exemptions

#### 1.0 Types of Regulated Entertainment

Schedule 1 of the Act sets out what activities are to be regarded as the provision of regulated entertainment and when they are licensable and those which are not and are therefore exempt from the regulated entertainment regime.

##### 1.1 The descriptions of entertainment activities licensable under the Act are:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment;
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to a performance of live music, any playing of recorded music or a performance of dance.

##### 1.2 To be licensable, one or more of these activities needs to be provided for the purpose (at least partly) of entertaining an audience; has to be held on premises made available for the purpose of enabling that activity; and must also either:

- Take place in the presence of a public audience, or
- Where that activity takes place in private, be the subject of a charge made with a view to profit.

#### 2.0 Overview of circumstances where entertainment activities are not licensable

There are a number of exemptions that mean that a licence (or other authorisation) under the Act is not required. Whilst it is not possible to give examples of every eventuality or possible entertainment activity that is not licensable, the following

activities are examples of entertainment which is not licensable:

- Activities which involve participation as acts of worship in a religious context;
- Activities in places of public religious worship;
- Education - teaching students to perform music or to dance;
- The demonstration of a product - for example, a guitar - in a music shop;
- The rehearsal of a play or performance of music for a private audience where no charge is made with a view to making a profit;
- Morris dancing (or similar);
- Incidental music - the performance of live music or the playing of recorded music if it is incidental to some other activity;
- Incidental film - an exhibition of moving pictures if it is incidental to some other activity;
- A spontaneous performance of music, singing or dancing;
- Garden fetes - or similar if not being promoted or held for purposes of private gain;
- Films for advertisement, information, education or in museums or art galleries;
- Television or radio broadcasts - as long as the programme is live and simultaneous;
- Vehicles in motion - at a time when the vehicle is not permanently or temporarily parked;
- Games played in pubs, youth clubs etc (e.g. pool, darts and table tennis);
- Stand-up comedy; and
- Provision of entertainment facilities (e.g. dance floors).



### 3.0 Amendments to the Licensing Act 2003

There have been a number of deregulatory changes to the Act in relation to regulated entertainment, these are listed, for information, below:

- ✓ The Live Music Act 2012; Licensing Act 2003 (Descriptions of Entertainment)(Amendment) Order 2013;
- ✓ The Legislative Reform (Entertainment Licensing) Order 2014; and
- ✓ The Deregulation Act 2015.

### 4.0 Activities where no licence is needed

#### 4.1 Plays:

No licence is required for performances between 08:00 and 23:00 hours on any day, provided that the audience does not exceed 500.

#### 4.2 Dance:

No licence is required for performances between 08:00 and 23:00 hours on any day, provided that the audience does not exceed 500.

#### 4.3 Films:

No licence is required for "not for profit" film exhibitions held in community premises between 08:00 and 23:00 hours on any day provided that the audience does not exceed 500 and the organiser (a) gets consent to the screening from a person who is responsible for the premises; and (b) ensures that such screening abides by age classification ratings.

#### 4.4 Indoor Sporting Events:

No licence is required for an event between 08:00 and 23:00 hours on any day provided that those present do not exceed 1000.

#### 4.5 Boxing or wrestling entertainment:

No licence is required for a contest, exhibition or display of Greco-Roman wrestling, or freestyle wrestling between 08:00 and 23:00 on any day, provided that the audience does not exceed 1000.

### 4.6 Live Music - no licence permission is required for:

- A performance of **unamplified** live music between 08:00 and 23:00 on any day, on any premises;
- A performance of **amplified** live music between 08:00 and 23:00 on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500;
- A performance of **amplified** live music between 08:00 and 23:00 on any day, in a workplace<sup>14</sup> that is not licensed to sell alcohol on those premises, provided that the audience does not exceed 500;
- A performance of **amplified** live music between 08:00 and 23:00 hours on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises;
- A performance of **amplified** live music between 08:00 and 23:00 hours on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500 and (b) the organiser gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school or (iii) the health care provider for the hospital.

### 4.7 Recorded Music - no licence permission is required for:

- Any playing of recorded music between 08:00 and 23:00 hours on any day on premises authorised to sell alcohol for consumption on those premises, provided that the audience does not exceed 500;

<sup>14</sup> The Live Music Act 2012 provides that if premises are licensed under the 2003 Act, they cannot also be treated as a workplace for the purposes of the 2012 Act.

- Any playing of recorded music between 08:00 and 23:00 hours on any day, in a church hall, village hall, community hall, or other similar community premises, that is not licensed by a premises licence to sell alcohol, provided that (a) the audience does not exceed 500, and (b) the organiser gets consent for the performance from a person who is responsible for the premises.
- Any playing of recorded music between 08:00 and 23:00 hours on any day, at the non-residential premises of (i) a local authority, or (ii) a school, or (iii) a hospital, provided that (a) the audience does not exceed 500, and (b) the organisers gets consent for the performance on the relevant premises from: (i) the local authority concerned, or (ii) the school proprietor or (iii) the health care provider for the hospital.

**4.8 Cross activity exemptions - no licence is required between 08:00 and 23:00 on any day, with no limit on audience size for:**

- Any entertainment taking place on the premises of the local authority where the entertainment is provided by or on behalf of the local authority;
- Any entertainment taking place on the hospital premises of the health care provider where the entertainment is provided by on behalf of the health care provider;
- Any entertainment taking place on the premises of the school where the entertainment is provided by or on behalf of the school proprietor; and
- Any entertainment (excluding films and a boxing or wrestling entertainment) taking place at a travelling circus, provided that (a) it takes place within a moveable structure that accommodates the audience, and (b) that the travelling circus has not been located on the same site for more than 28 consecutive days.

**4.9 Local authorities, hospital healthcare providers and school proprietors: cross-entertainment activity exemption**

No licence is required for any entertainment provided by or on behalf of a local authority, health care provider, or school proprietor to the extent that it takes place on defined premises, between 08:00 and 23:00 hours on any day provided that:

- For entertainment provided, or on behalf of, a local authority it takes place on premises in which that authority has a relevant property interest, or is in lawful occupation;
- For entertainment provided by, or on behalf of, a health care provider it takes place on any premises forming part of a hospital in which the provider has a relevant property interest, or is lawful occupation; and
- For entertainment provided by, or on behalf of, a school proprietor it takes place on the premises of the school.

**4.10 Local authority, hospital and school premises: third party music entertainment**

No licence is required for a performance of live music or the playing of recorded music on local authority, hospital or school premises, that are not domestic premises, between 08:00 and 23:00 hours on any day provided that:

- It is performed in front of an audience of no more than 500 people; and
- A person concerned in the organisation or management of the music entertainment has obtained the prior written consent<sup>15</sup> of the local authority, health care provider or school proprietor (as appropriate) for that entertainment to take place. It is for these "trusted providers" to determine whether, or not, they wish to make their premises available for music entertainment by a

<sup>15</sup> This requirement is designed to ensure that those responsible for the premises hosting the entertainment have considered and approved the effect of the event on other users of their premises and the wider community.

3<sup>rd</sup> party and on what terms they deem it appropriate.

#### 4.11 Community premises: music entertainment

No licence is required for a performance of live music or the playing of recorded music on community premises between 08:00 and 23:00 hours on any day provided that:

- The community premises are **not** authorised, by a premises licence or club premises certificate, to be used for the supply of alcohol for consumption on the premises.
- The music entertainment is in the presence of an audience of no more than 500 people; and
- A person concerned in the organisation or management of the music entertainment has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

#### 4.12 Community premises: exhibition of film

No licence is required for an exhibition of a film on community premises between 08:00 and 23:00 hours on any day provided that:

- The film entertainment is not provided with a view to profit; and
- The film entertainment is in the presence of an audience of no more than 500 people.

#### 4.13 Travelling circuses

Where types of entertainment are present in a performance by a travelling circus<sup>16</sup> they will not be licensable provided that certain qualifying conditions are met. The qualifying conditions are that:

- The entertainment is not an exhibition of a film or a boxing or wrestling entertainment;
- The entertainment takes place between 08:00 and 23:00 hours on the same day;
- The entertainment takes place wholly within a moveable structure and the audience present is accommodated wholly inside that moveable structure; and
- The travelling circus has not been located on the same site for more than 28 consecutive days.

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<sup>16</sup> "Travelling circus" is defined in the 2014 Order as meaning a circus which travels from site to site for the purpose of giving performances. Musical entertainment at a travelling fairground is likely to be incidental to the main attractions and rides that are not themselves regulated entertainment.

## APPENDIX D

### LIST OF MANDATORY CONDITIONS

#### SUPPLY OF ALCOHOL - DPS REQUIREMENT

No supply of alcohol may be made under the premises licence:

- (a) at a time when there is no designated premises supervisor in respect of the premises licence, or
- (b) at a time when the designated premises supervisor does not hold a personal licence or his/her personal licence is suspended.

#### SUPPLY OF ALCOHOL - AUTHORISATION BY PERSONAL LICENCE HOLDER

Every supply of alcohol under the premises licence must be made or authorised by a person who holds a personal licence.

#### IRRESPONSIBLE DRINKS PROMOTIONS

- (1) The responsible person must ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.
- (2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises:
  - (a) games or other activities which require or encourage, or are designed to require or encourage, individuals to:
    - (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
    - (ii) drink as much alcohol as possible (whether within a time limit or otherwise);
  - (b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic in a manner which carries a significant risk of undermining a licensing objective;
  - (c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less in a manner which carries a significant risk of undermining a licensing objective;
  - (d) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner;
  - (e) dispensing alcohol directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of disability).

### **FREE POTABLE WATER**

The responsible person must ensure that free potable water is provided on request to customers where it is reasonably available.

### **AGE VERIFICATION POLICY - ON AND OFF SALES**

- (1) The premises licence holder or club premises certificate holder must ensure that an age verification policy is adopted in respect of the premises in relation to the sale or supply of alcohol.
- (2) The designated premises supervisor in relation to the premises licence must ensure that the supply of alcohol at the premises is carried on in accordance with the age verification policy.
- (3) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and either:
  - (a) a holographic mark, or
  - (b) an ultraviolet feature.

### **AVAILABILITY OF SMALLER MEASURES**

The responsible person must ensure that:

- (a) Where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures:
  - (i) beer or cider: 1/2 pint;
  - (ii) gin, rum, vodka or whisky: 25ml or 35 ml; and
  - (iii) still wine in a glass: 125 ml;
- (b) these measures are displayed in a menu, price list or other printed material which is available to customers on the premises; and
- (c) where a customer does not in relation to a sale of alcohol specify the quantity of alcohol to be sold, the customer is made aware that these measures are available.



## ALCOHOL MINIMUM PERMITTED PRICE

(1) A relevant person shall ensure that no alcohol is sold or supplied for consumption on or off the premises for a price which is less than the permitted price.

(2) For the purposes of the condition set out in paragraph 1

(a) "duty" is to be construed in accordance with the Alcoholic Liquor Duties Act 1979;

(b) "permitted price" is the price found by applying the formula -

$$P = D + (D \times V)$$

where -

(i) P is the permitted price,

(ii) D is the rate of duty chargeable in relation to the alcohol as if the duty were charged on the date of the sale or supply of the alcohol, and

(iii) V is the rate of value added tax chargeable in relation to the alcohol as if the value added tax were charged on the date of the sale or supply of the alcohol;

(c) "relevant person" means, in relation to premises in respect of which there is in force a premises licence -

(i) the holder of the premises licence,

(ii) the designated premises supervisor (if any) in respect of such a licence, or

(iii) the personal licence holder who makes or authorises a supply of alcohol under such a licence;

(d) "relevant person" means, in relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables the member or officer to prevent the supply in question; and

(e) "value added tax" means value added tax charged in accordance with the Value Added Tax Act 1994.

(3) Where the permitted price given by Paragraph (b) of paragraph 2 would (apart from this paragraph) not be a whole number of pennies, the price given by that sub-paragraph shall be taken to be the price actually given by that sub-paragraph rounded up to the nearest penny.

(4) (1) Sub-paragraph (2) applies where the permitted price given by Paragraph (b) of paragraph 2 on a day ("the first day") would be different from the permitted price on the next day ("the second day") as a result of a change to the rate of duty or value added tax.

(2) The permitted price which would apply on the first day applies to sales or supplies of alcohol which take place before the expiry of the period of 14 days beginning on the second day.

### **CLUB ALCOHOL SUPPLY - OFF SALES**

Where the club premises certificate authorises the supply of alcohol for consumption off the premises, the supply must be made at a time when the premises are open for the purposes of supplying alcohol, in accordance with the club premises certificate, to members of the club for consumption on the premises.

Any alcohol supplied for consumption off the premises must be in a sealed container.

Any supply of alcohol for consumption off the premises must be made to a member of the club in person.

### **SIA LICENSING REQUIREMENT**

Where any condition of this licence requires that, at specified times, one or more individuals must be at the premises to carry out a security activity, each such individual must:

- (a) be authorised to carry out that activity by a licence granted under the Private Security Industry Act 2001; or
- (b) be entitled to carry out that activity by virtue of section 4 of that Act.

For the purposes of this condition "security activity" means an activity to which paragraph 2(1)(a) of that Schedule applies and which is licensable conduct for the purposes of that Act (see section 3(2) of that Act).

This condition is subject to any exemptions in accordance with the provisions of the Private Security Industry Act 2001.

### **FILM EXHIBITION - CHILD ADMITTANCE**

In accordance with section 20 of the Licensing Act 2003, no child shall be admitted to any film exhibition unless that exhibition has been granted a certificate by the British Board of Film Classification or the licensing authority itself.

### **FILM EXHIBITION - AGE RESTRICTIONS**

Where a programme includes a film in the 12A, 15 or 18 category, no person appearing to be under the age of 12 (and unaccompanied by a person over the age of 18 years in that case), 15 or 18 as appropriate shall be admitted to any part of the programme; and the licence holder shall display in a conspicuous position a notice in the following terms:

**PERSONS UNDER THE AGE OF [INSERT APPROPRIATE AGE] CANNOT BE ADMITTED TO ANY PART OF THE PROGRAMME.**

Where films of different categories form part of the same programme, the notice shall refer to the oldest age restriction.

This condition does not apply to members of staff under the relevant age while on duty provided that the prior written consent of the person's parents or legal guardian has first been obtained.

#### **FILM EXHIBITION - DISPLAY OF CERTIFICATE**

Immediately before each exhibition at the premises of a film passed by the British Board of Film Classification there shall be exhibited on screen for at least five seconds in such a manner as to be easily read by all persons in the auditorium, a reproduction of the certificate of the Board indicating the category of the film. For a film passed by the Licensing Authority, notices shall be displayed both inside and outside the premises so that persons entering can readily read them and be aware of the category attached to any film or trailer.

#### **FILM EXHIBITION - LICENSING AUTHORITY CERTIFICATION**

If the Licensing Authority does not agree with the category in which any film passed by the British Board of Film Classification is placed, they shall be at liberty to alter such category, and, on notice of such alteration being given by the Licensing Authority to the licence holder, the film thereafter shall be treated as having been placed in the altered category and the conditions applicable to the exhibition of films in such altered category shall be complied with.

If the Licensing Authority requests the licence holder to exhibit to them any film, he shall do so at such reasonable time as the licensing authority may, in writing, direct.

Licensing Service  
Civic Offices  
Guildhall Square, Portsmouth  
PO1 2AL

Telephone: 023 9283 4607  
Email: [licensing@portsmouthcc.gov.uk](mailto:licensing@portsmouthcc.gov.uk)

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

You can get this  
Portsmouth City  
Council information  
in large print, Braille,  
audio or in another  
language by calling  
83 4607.



Corporate member of  
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Committed to clearer communication.

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# Licensing Act 2003

## Section 5: Statement of Licensing Policy

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)



This statement of licensing policy will remain in force from  
7 January 2011 until 06 January 2014

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## 1.0 Licensing objectives

- 1.1 Portsmouth City Council is the Licensing Authority for the Licensing Act 2003 ("the Act") for the administrative area of Portsmouth as shown on the map at Appendix A. Any references to "the Licensing Authority" in this document refers to Portsmouth Licensing Authority.
- 1.2 When carrying out its functions under the Act, the Licensing Authority will promote and have regard to the licensing objectives set out in the Act. These are:
  - The prevention of crime and disorder;
  - Public safety;
  - The prevention of public nuisance; and
  - The protection of children from harm.
- 1.3 Each objective is of equal importance.

## 2.0 Background information about Portsmouth

- 2.1 The City of Portsmouth is situated in the ceremonial County of Hampshire which contains 11 District Councils in total. It is at the heart of Britain's southern coastline, with long established direct rail and road links to London, the Midlands and Wales and close to three international airports.

Portsmouth is undergoing rapid change, growing in confidence and developing a renewed sense of itself. As the UK's only island city, this waterfront city combines centuries of maritime history with an attractive contemporary lifestyle.

A significant naval port for centuries, it is home to the world's oldest dry dock, which is still in use today, and to world-famous historic ships, including Admiral Lord Nelson's flagship, HMS Victory, HMS Warrior 1860 and King Henry VIII's Mary Rose. Now new investment around the harbour has transformed the waterfront and attracts generations of new visitors to the city.

In recent years the city has hosted major international events including the International Fleet Review and in 2005 the events to mark 200 years after the Battle of Trafalgar.

Portsmouth is also fast becoming the home of ocean racing, hosting the Global Challenge yacht race in 2004/5 and in 2006 the city is the only UK port chosen to host the Volvo Ocean Race.

The Spinnaker Tower at Gunwharf Quays opened in 2005 and is a new icon for the city and the south coast. At 170 metres high, it has already changed the skyline forever and provides an unparalleled view of Portsmouth and the surrounding area from its three observation decks.

This dynamic waterfront city still has an important role as a major dockyard and home base for the Royal Navy. BAE Systems has brought shipbuilding back to the city and in 2006 HMS Clyde was the first ship launched here for 40 years. The council-owned commercial port also continues to thrive and serves more destinations on the continent with freight and passenger traffic than any other UK port.

Portsmouth has a population of 200,000 in an area of only 4,196 hectares, which makes it one of the most densely occupied cities in the country outside London.

Portsmouth offers a vibrant mix of entertainment facilities for residents and visitors alike. This ranges from theatres, restaurants, cinemas and concert venues to club premises, bars, nightclubs and pubs in various locations around the city. The provision of such facilities contributes much to the growth of the local economy for Portsmouth and offers an important role for employment within the city.

### 3.0 Consultation on the Statement of Licensing Policy

- 3.1 Section 5 of the Act requires a Licensing Authority to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act.
- 3.2 During the three year period, the policy must be kept under review and the Licensing Authority may make any revisions to it as it considers appropriate, for instance in the light of feedback from the local community on whether the statutory objectives are being met.
- 3.3 The first statutory three year period began on 7 January 2005. Subsequent three year periods, e.g. beginning 7 January 2008 etc, are fixed and would not be altered by any other revisions that the Licensing Authority may choose to make within a period, or by any determination of a new policy.
- 3.4 This policy will commence on 7 January 2011 and remain in force for three years but will be kept under review subject to further consultation as referred to above.
- 3.5 Where revisions are made to the Statutory Guidance by the Secretary of State, it will be for the Licensing Authority to determine whether revisions to its licensing policy statement are appropriate.
- 3.6 Where the Licensing Authority determines a new policy that will apply from the beginning of the next three year period it may also decide that any changes should also apply immediately as a revision to the current policy. However, to do so, the Licensing Authority would have to be very clear at the time of consultation that the proposed changes were intended to constitute both the new policy for the next three year period and apply in the interim as a revision to the existing policy.
- 3.7 The longer the time between the consultation and the start of the next three year period, the less likely it is that the Licensing Authority could rely on it for that purpose without consulting again.
- 3.8 Before determining its policy for any three year period or if revising a policy within a period, the Licensing Authority must consult the persons listed in section 5(3) of the Act. These are:
- The chief officer of police for Hampshire Constabulary;
  - The chief officer of Hampshire Fire and Rescue Service;
  - Persons/bodies representative of local holders of premises licences;
  - Persons/bodies representative of local holders of club premises certificates;
  - Persons/bodies representative of local holders of personal licences; and
  - Persons/bodies representative of businesses and residents in its area.
- 3.9 The views of all these persons/bodies listed shall be given appropriate weight when the policy is determined. It is recognised that in some areas it may be difficult to identify persons or bodies that represent all parts of the industry affected by the provisions of the Act but the Licensing Authority will make all reasonable efforts to do so.
- 3.10 The Licensing Authority is aware that the terms of the Act do not prevent them consulting other bodies or persons before determining its policy.
- 3.11 In circumstances where the Licensing Authority has recently revised its policy within a three year period following a consultation exercise it may not consider that further changes are necessary when determining the policy for the next three year period. As such, it may decide on a simple consultation with those persons listed in section 5(3) of the Act.
- 3.12 When carrying out its functions the Licensing Authority shall have regard to its Statement of Licensing Policy and the Statutory Guidance issued by the Secretary of State. However, this policy and the Guidance cannot anticipate every set of circumstances which may arise. Accordingly, the Licensing Authority may depart from them if they have reason to do so. In that event, the Licensing Authority will give full reasons for having done so.



### 3.13 Further advice can be obtained from:

The Licensing Manager  
Legal, Licensing & Registrars  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AL

Tel: 023 9283 4607 Fax: 023 9283 4811

Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)

## 4.0 Fundamental principles

4.1 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the Statutory Guidance issued under section 182 of the Act by the Secretary of State. This policy should be read as a whole and in conjunction with the Act and the Statutory Guidance which is obtainable from 2-4 Cockspur Street, London, SW1Y 5DH or online at [www.culture.gov.uk](http://www.culture.gov.uk).

4.2 This statement is intended to assist officers and members in determining applications and to set down those factors that will normally be taken into consideration. Equally, this document seeks to provide clarity for applicants, residents and other occupiers of property and investors, in order to enable them to plan a move to, remain or invest in the city with some measure of certainty.

4.3 This policy sets out a general approach to making licensing decisions and it will not ignore or be inconsistent with provisions in the Act. It will not undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.

4.4 Similarly, it will not override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.

4.5 The conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations, i.e. the premises and its vicinity.

4.6 Whether or not incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend on the particular circumstances of the case. In cases of dispute, the question will ultimately be decided by the courts. In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

4.7 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of the overall approach to the management of the evening and night-time economy in town and city centres.



## 5.0 Licensable activities

5.1 The Licensing Authority is responsible for considering all applications for licensable activities as defined in section 1 of the act.

5.2 The purpose of licensing is to regulate the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events.

Licensable activities are:

- The sale by retail of alcohol;
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

5.3 Subject to certain conditions, definitions and exemptions contained in sections 173-175 of the act, the provision of regulated entertainment for the public, or club members or with a view to profit, is defined as:

- A performance of a play;
- An exhibition of a film;
- An indoor sporting event;
- A boxing or wrestling entertainment (indoor and outdoor);
- A performance of live music;
- Any playing of recorded music;
- A performance of dance;
- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music or the performance of dance; or
- Provision of facilities for making music or the provision of facilities for dancing or entertainment of a similar kind.

5.4 Late night refreshment, which is subject to certain exemptions, is defined in schedule 2 of the Act and relates to the supply of hot food or drink to members of the public on or from any premises for consumption on or off the premises between the hours of 11pm and 5am.

5.5 The incidental performance of live music and incidental playing of recorded music may not be regarded as the provision of regulated entertainment activities under the Act in certain circumstances. In cases of doubt, operators should seek the advice of the Licensing Authority.



## 6.0 Duplication

- 6.1 The Licensing Authority will seek to avoid attaching conditions that duplicate other regulatory regimes as far as possible.
- 6.2 However, these provisions will not always adequately address specific issues that arise on the premises in connection with certain types of licensable activities. Therefore it may be necessary for the Licensing Authority to consider the imposition of conditions, if not volunteered by the applicant in their operating schedule and following relevant representations, if they are considered necessary for the promotion of the licensing objectives and are not already provided for in any other legislation.

## 7.0 Standardised conditions

- 7.1 Where responsible authorities and interested parties do not raise any representations about the application made to the Licensing Authority, it is the duty of the Authority to grant the licence or certificate subject only to conditions that are consistent with the operating schedule and any mandatory conditions prescribed in the Act itself.
- 7.2 A key concept underscoring the Act is for conditions to be tailored to the specific premises concerned. This effectively rules out standardised conditions which ignore these individual aspects. The Licensing Authority recognises that conditions must be proportionate and properly recognise significant differences between venues.
- 7.3 The Licensing Authority will not impose any conditions unless its discretion has been engaged following the receipt of relevant representations and it has been satisfied at a hearing of the necessity to impose conditions. It will then only impose conditions that are necessary to promote one or more of the four licensing objectives. Such conditions will need to be expressed in unequivocal and unambiguous terms to avoid legal dispute.

- 7.4 It is possible that in certain cases, because the test is one of necessity, where there are other legislative provisions which are relevant and must be observed by the applicant, no additional conditions at all are needed to promote the licensing objectives.
- 7.5 The Licensing Authority wishes to work in partnership with all parties to ensure that the licensing objectives are promoted collectively. To support this aim and to minimise disputes and the necessity for hearings, the Licensing Authority believes it would be sensible for applicants to seek the views of the key responsible authorities before formally submitting applications but wish to point out that there is no legal requirement to do so.
- 7.6 Whilst the Licensing Authority will not use standardised conditions, it may draw from a pool of conditions where it is appropriate to do so and which will be based on the model pool of conditions contained within the Statutory Guidance. Applicants and others may also wish to refer to these conditions as appropriate.



## 8.0 Mandatory conditions

- 8.1 By virtue of new provisions within the Policing & Crime Act 2009, the Licensing Act 2003 has been amended by statutory order to provide for the imposition of further mandatory conditions for those premises authorising the sale or supply of alcohol on the premises. Five new conditions have now been prescribed under the 2010 Order.

From 6 April 2010 the following additional conditions apply to current authorisations:

### Irresponsible drink promotions

- 8.2 Responsible persons' shall take all reasonable steps to ensure that staff do NOT carry out, arrange or participate in any irresponsible promotion encouraging the sale or supply of alcohol for consumption on the premises, which carries a significant risk of leading or contributing to:

- Crime and disorder
- Prejudicing public safety
- Causing a public nuisance
- Causing harm to children

(The above are the statutory licensing objectives).

- 8.3 The types of activities that might lead to a breach of the licensing objectives are:

- Games encouraging individuals to drink alcohol either within a time limit or to drink as much as possible;
- The provision of unlimited quantities of alcohol either free or at fixed/discounted prices to the public or to a group (with an exemption for alcohol consumed at a table meal);
- provision of free/discounted alcohol as a prize to "reward" the purchase of alcohol over a period of 24 hours or less;
- provision of free/discounted alcohol in relation to the viewing of a sporting event where the provision is dependent on the outcome of a race, competition etc;
- alcohol sales associated with promotional posters/flyers, which condone antisocial behaviour or drunkenness.

- 8.4 **Dispensing of alcohol direct by one person into the mouth of another**

(Note: There is an exemption for persons being unable to drink without assistance by reason of disability).

- 8.5 **Provision of free tap water on request**

(Note: Where reasonably available).

In section 153(4) of the Licensing Act 2003, "responsible person" means:

- (a) In relation to licensed premises:
- (i) the holder of a premises licence in respect of the premises;
  - (ii) the designated premises supervisor (if any) under such a licence; or
  - (iii) any individual aged 18 or over who is authorised for the purposes of this section by such a holder or supervisor.
- (b) In relation to premises in respect of which there is in force a club premises certificate, any member or officer of the club present on the premises in a capacity which enables him to prevent the supply in question.

Note: (c) refers to permitted temporary activities and is not relevant for these purposes.



- 8.6 From 1 October 2010 the following further mandatory conditions apply:
- 8.7 **Age verification policy**  
Any person who appears to be under 18 must produce, on request (and before being served alcohol) identification bearing their photo, date of birth and a holographic mark.  
(Note: This condition applies also to those premises which permit the sale or supply of alcohol for consumption off the premises.)
- 8.8 **Alcoholic drinks in certain measures**  
Responsible persons must ensure that customers are made aware of the availability of alcoholic drinks in other prescribed measures as shown:
- beer or cider; half pint
  - gin, rum, vodka or whisky; 25ml or 35ml
  - still wine in a glass; 125ml
- 8.9 The above information provided in relation to the new mandatory conditions is only intended to be a summary of the main provisions and therefore applicants and licence holders should refer to the Act and the current statutory guidance issued by the Secretary of State. In addition, the Home Office has published non-statutory guidance which is available at [www.homeoffice.gov.uk/drugs/alcohol/alcohol-licensing-conditions/](http://www.homeoffice.gov.uk/drugs/alcohol/alcohol-licensing-conditions/)
- 8.10 The Licensing Authority expects that applicants, licence and certificate holders will familiarise themselves with the new provisions and will ensure that all relevant staff are provided with adequate training and support as regards the new arrangements.
- 9.3 The principle of risk assessment and targeting will prevail and inspections will not be undertaken routinely but when and if they are judged necessary.
- 9.4 The Licensing Authority will maintain close links with the police, trading standards officers and other relevant organisations concerning the extent of unlawful sales and consumption of alcohol by minors and will seek to be involved in the development of any strategies to control or prevent unlawful activities.
- 9.5 The Licensing Authority will process personal information in accordance with the Data Protection Act 1998. The personal details provided by applicants will be held on a database and where the law allows, may be shared with other departments within the council to update details they hold. The Licensing Authority may also be required to disclose personal information to third parties (such as Police, Department for Work and Pensions or Audit Commission for the National Fraud Initiative) for the purposes of preventing or detecting crime or apprehending or prosecuting offenders.
- 9.6 From time to time and when judged necessary to do so, authorised officers of the Licensing Authority and responsible authorities will undertake unannounced inspections or test purchase visits to licensed premises in order to ensure compliance with the provisions of the Licensing Act 2003 and any other associated legislation.
- 9.7 The Licensing Authority will receive, from time to time, reports from its officers on any formal enforcement proceedings instigated against licence holders in relation to offences under the Act.

## 9.0 Enforcement

- 9.1 The Licensing Authority will establish protocols with the local police and the other enforcing authorities as appropriate on enforcement issues.
- 9.2 These protocols will provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch for low risk premises which are well run.



## 10.0 Need for licensed premises

- 10.1 The Licensing Authority is aware that there can be confusion about the difference between “need” and the “cumulative impact” of premises on the licensing objectives, for example, on crime and disorder. “Need” concerns the commercial demand for another pub or restaurant or hotel. This is not a matter for a Licensing Authority in discharging its licensing functions or for its licensing policy. “Need” is a matter for the Planning Authority and for the market.

## 11.0 The cumulative impact of a concentration of licensed premises

- 11.1 “Cumulative impact” is not mentioned specifically in the Act but, in accordance with the Statutory Guidance, means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Authority to consider in developing its licensing policy statement.
- 11.2 In some areas, where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from licensed premises. For example, concentrations of young drinkers can result in queues at fast food outlets and for public transport. Queuing in turn may be leading to conflict, disorder and anti-social behaviour. While more flexible licensing hours may reduce this impact by allowing a more gradual dispersal of customers from premises, it is possible that the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater in these cases than the impact of customers of individual premises. These conditions are more likely to occur in town and city centres, but may also arise in other urban centres and the suburbs.
- 11.3 The Licensing Authority recognises that there should be an evidential basis for the decision to include a special policy within the statement of licensing policy. For example, Crime and Disorder Reduction Partnerships will often have collated information which demonstrates cumulative impact as part of their general role on anti-social behaviour; and crime prevention strategies may have already identified cumulative impact as a local problem. Similarly, environmental health officers may be able to demonstrate concentrations of valid complaints relating to noise disturbance.



11.4 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy are summarised below:

- Identify concern about crime and disorder or public nuisance;
- Consider whether there is good evidence that crime and disorder or nuisance are happening and are caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;
- Identify the boundaries of the area where problems are occurring;
- Consult with those specified in section 5(3) of the Act, and subject to the outcome of the consultation;
- Include and publish details of special policy in licensing policy statement.

11.5 After considering the available evidence and consulting those individuals and organisations mentioned above and any others, the Licensing Authority may be satisfied that it is appropriate and necessary to include an approach to cumulative impact in the licensing policy statement.

11.6 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

11.7 This presumption does not relieve responsible authorities or interested parties of the need to make a relevant representation, referring to information which had been before the Licensing Authority when it developed its statement of licensing policy, before a Licensing Authority may lawfully consider giving effect to its special policy. If there are no representations, the Licensing Authority must grant the application in terms that are consistent with the operating schedule submitted.

11.8 Once adopted, special policies shall be reviewed regularly to assess whether they are needed any longer or need expanding.

11.9 The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant, or variation, of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

## 12.0 Limitations on special policies relating to cumulative impact

12.1 It is not normally justifiable to adopt a special policy on the basis of a concentration of shops, stores or supermarkets selling alcohol for consumption off the premises. Special policies will usually address the impact of a concentration of licensed premises selling alcohol for consumption on the premises. However, if consideration is to be given by the Licensing Authority to including such premises within a special policy, then that policy will highlight those specific problems relating to the impact of off licence premises which may include such matters as underage sales, proxy purchasing, street drinking and "pre-loading".

12.2 A special policy shall never be absolute. The circumstances of each application shall be considered properly and applications for licences and certificates that are unlikely to add to the cumulative impact on the licensing objectives will be granted.

12.3 After receiving representations in relation to a new application for or a variation of a licence or certificate, the Licensing Authority will consider whether it would be justified in departing from its special policy in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not. If the Licensing Authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.

#### 12.4 The Licensing Authority will not use special policies:

- As a ground for revoking an existing licence or certificate when representations are received about problems with those premises -

The “cumulative impact” on the promotion of the licensing objectives of a concentration of multiple licensed premises should only give rise to a relevant representation when an application for the grant or variation of a licence or certificate is being considered. A review of a licence or certificate must relate specifically to individual premises, and by its nature, “cumulative impact” relates to the effect of a concentration of many premises. Identifying individual premises in the context of a review would inevitably be arbitrary;

- To justify rejection of applications to vary an existing licence or certificate -

Except where those modifications are directly relevant to the policy (as would be the case with an application to vary a licence with a view to increasing the capacity limits of the premises) and are strictly necessary for the promotion of the licensing objectives;

- To justify or include provisions for a terminal hour in a particular area –

For example, it would be wrong not to apply the special policy to applications that include provision to open no later than, for example, midnight, but to apply the policy to any other premises that propose opening later. The effect would be to impose a fixed closing time akin to that under the “permitted hours” provisions of the Licensing Act 1964. Terminal hours dictated by the Licensing Act 1964 were abolished to avoid the serious problems that arise when customers exit licensed premises simultaneously. Attempting to fix a terminal hour in any area would therefore directly undermine a key purpose of the 2003 Act.

- To impose quotas – based on either the number or capacity of those premises – that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas –

Quotas that indirectly have the effect of pre-determining the outcome of any application should not be used because they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard should be given to those differences and the differing impact they will have on the promotion of the licensing objectives.

### 13.0 Special policy relating to cumulative impact in Portsmouth

- 13.1 Having regard to the evidence currently available, the Licensing Authority considers that there is one specific area of Portsmouth where it is both appropriate and necessary to introduce a special policy in order to promote the licensing objectives. The area where this special policy will have effect is the Guildhall area as set out in the map and supporting information attached as Appendix B to this policy.
- 13.2 This special policy has specifically been re-evaluated in the Summer of 2010 as part of the overall review of the statement of licensing policy and the evidence provided by the Chief Officer of Police shows that violent crime offences associated with licensed premises are still at such a level to justify retention of the current special policy area.
- 13.3 The area to the North of Guildhall Walk has, since the Licensing Authority originally adopted a special policy relating to cumulative impact, seen an increase in licensed premises. This has brought about a resultant increase in violent crime within those areas.

13.4 The area to the south of Guildhall Walk, including St Michael's Road, Cambridge Road and Hampshire Terrace, contains several licensed premises and is located on the perimeter of the previous special policy area. Within this area are "feeder bars" for the main Guildhall Walk late night venues. The statistical data submitted by the Chief Officer of Police show that violent crime occurs within those areas and should form part of the special policy area.

13.5 The special policy applies to the following 12 roads:

- Alec Rose Lane;
- Cambridge Road;
- Commercial Road;
- Guildhall Walk;
- Hampshire Terrace;
- King Henry 1st Street;
- Stanhope Road;
- St Michael's Road;
- White Swan Road;
- Willis Road; and
- Wiltshire Street

13.6 The Licensing Authority, therefore, will normally refuse the grant of new premises licences or club premises certificates or variations whenever it receives relevant representations about the cumulative impact on the licensing objectives which it concludes after hearing those representations should lead to refusal.

## 14.0 Other mechanisms for controlling cumulative impact

14.1 Once away from the licensed premises, a minority of customers will behave badly and unlawfully. Other mechanisms exist both within and outside the licensing regime that are available for addressing such issues that include:

- Planning controls;
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- Powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- The confiscation of alcohol from adults and children in designated areas;
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance;
- The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question;
- Other local initiatives that similarly address these problems.



## 15.0 Licensing hours

- 15.1 With regard to licensing hours, the Licensing Authority will consider the individual merits of each application.
- 15.2 In some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided. This can help to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport which lead to disorder and disturbance.
- 15.3 The Licensing Authority is aware that the Government wants to ensure that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for investment and employment locally and attractive to domestic and international tourists.
- 15.4 Providing consumers with greater choice and flexibility is an important consideration, but should always be balanced carefully against the duty to promote the four licensing objectives and the rights of local residents to peace and quiet.
- 15.5 However, in addition to the above statement, when considering applications, the Licensing Authority will take the following factors into account:
- Any cumulative impact policy;
  - Residential amenity and character or function of a particular area; and
  - Nature of proposed activities to be provided at the premises.
- Consideration will be given to imposing stricter conditions in respect of noise control, if not volunteered by the applicant in their operating schedule and following relevant representations, where premises are situated in mainly residential areas. However, this will not limit opening hours without regard to the individual merit of any application.

- 15.6 In general, shops, stores and supermarkets will be able to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are good reasons, based on the licensing objectives, for restricting those hours. For example, a limitation may be appropriate following police representations in the case of some shops known to be a focus of disorder and disturbance because youths gather there.

## 16.0 Children

- 16.1 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police and other relevant agencies to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 16.2 The Act made it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on the premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a temporary event notice.
- 16.3 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5 am at other premises supplying alcohol for consumption on the premises under the authority of any premises licence, club premises certificate or temporary event notice.
- 16.4 Outside of these hours, the offence does not prevent the admission of unaccompanied children under 16 to the wide variety of premises where the consumption of alcohol is not the exclusive or primary activity. Between 5am and midnight, the offence would not necessarily apply to many restaurants, hotels, cinemas and even many pubs where the main business activity is the consumption of both food and drink. This does not mean that children should automatically be admitted to such premises and the following paragraphs are therefore of great importance notwithstanding the new offences created by the Act.



- 16.5 It is not intended that the definition “exclusively or primarily” in relation to the consumption of alcohol should be applied in a particular way by reference to turnover, floor space or any similar measure. The expression should be given its ordinary and natural meaning in the context of the particular circumstances. It will normally be quite clear that the business being operated at the premises is predominantly the sale and consumption of alcohol. Mixed businesses may be harder to pigeonhole and it would be sensible for both operators and enforcement agencies to consult where necessary about their respective interpretations of the activities taking place on the premises before any moves are taken which might lead to prosecution.
- 16.6 The fact that the new offence may effectively bar children under 16 accompanied by an adult from premises where the consumption of alcohol is the exclusive or primary activity does not mean that the Act automatically permits unaccompanied children under the age of 18 to have free access to other premises or to the same premises even if they are accompanied or to premises where the consumption of alcohol is not involved. Subject only to the provision of the Act and any licence or certificate conditions, admission will always be at the discretion of those managing the premises. The Act includes on the one hand, no presumption of giving children access or on the other hand, no presumption of preventing their access to licensed premises. Each application and the circumstances obtaining at each premises must be considered on its own merits.
- 16.7 The Licensing Authority therefore, will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. This Statement of Licensing Policy cannot anticipate every issue of concern that could arise in respect of children in relation to individual premises and as such general rules cannot be set. Consideration of the individual merits of each application will remain the best mechanism for judging such matters.
- 16.8 However, areas which will give rise to particular concern in respect of children will include premises:
- Where entertainment or services of an adult or sexual nature are commonly provided;
  - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
  - With a known association with drug taking or dealing <sup>2</sup>;
  - When there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 16.9 In the context of the above paragraph, it is not possible to give an exhaustive list of what amounts to entertainment or services of an adult or sexual nature. Applicants, responsible authorities and licensing authorities will need to apply common sense to this matter. However, such entertainment or services, for example, would generally include topless bar staff, striptease, lap-, table or pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sex acts or fetishism, or entertainment involving strong and offensive language.

<sup>2</sup> Following its commencement on 20th January 2004, a new power is available under the Anti-Social Behaviour Act 2003 to close premises where there is the production, supply or use of Class A drugs and serious nuisance or disorder. This power provides an extra tool to the police to enable rapid action against a premises where there is a Class A drug problem, enabling its closure in as little as 48 hours should this be necessary

16.10 The Licensing Authority may consider a range of alternatives available for limiting the access of children where that is necessary for the prevention of harm to children. These, which can be adopted in combination, include:

- Limitations on the hours when children may be present;
- Limitations excluding the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including, for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 from the premises when any licensable activities are taking place.

16.11 Conditions requiring the admission of children to any premises cannot be attached to licences or certificates. Where no licensing restriction is necessary, this should remain a matter for the discretion of the individual licensee or club or person who has given a temporary event notice. Venue operators seeking premises licences and club premises certificates may also volunteer such prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. Where no relevant representations are made to the Licensing Authority, these volunteered prohibitions and restrictions will become conditions attached to the licence or certificate and will be enforceable as such. No other conditions concerning the presence of children on premises may be imposed by the Licensing Authority in these circumstances.

16.12 A child is any person under the age of 18 years unless otherwise stated.

## 17.0 Responsible authority and children

17.1 The Licensing Authority has determined that the Directorate of Children, Families and Learning is the body that is competent to Act as the responsible authority in relation to the protection of children from harm.

## 18.0 Children and cinemas

18.1 In the case of premises giving film exhibitions, the Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification ("BBFC") or the Licensing Authority itself using the BBFC film classification categories.

18.2 The Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to the exhibition of any film to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 – the BBFC is the only body which has been so designated – or by the Licensing Authority itself.

## 19.0 Integration of strategies

- 19.1 The Licensing Authority will secure the proper integration of its Statement of Licensing Policy with local crime prevention, planning, transport, tourism, race equality schemes and cultural strategies together with any other plans introduced for the management of town centres and the night-time economy. Whilst many of these strategies are not directly related to the promotion of the four licensing objectives, they indirectly impact upon them. The Licensing Authority recognises the importance of co-ordination and integration of such policies, strategies and initiatives.
- 19.2 The Licensing Authority recognises the connection between excessive alcohol consumption, poor health and cost to the Health Authority. As part of a wider package of initiatives the council is aiming to deal with the negative effects of alcohol consumption through its Alcohol Strategy.

## 20.0 Crime prevention

- 20.1 Conditions that are attached to premises licences and club premises certificates will, so far as possible, reflect local crime prevention strategies. For example, the provision of CCTV cameras in certain premises. Where appropriate, and in order to maximise the effectiveness of reducing crime, misuse of drugs and the fear of crime, the Licensing Authority shall work together with the Safer Portsmouth Partnership (SPP) to achieve these outcomes.

## 21.0 Cultural strategies

- 21.1 The Licensing Authority will have regard to the cultural strategy of Portsmouth City Council and will monitor the impact of licensing on the provision of regulated entertainment, in particular, live music and dancing. Part of the implementation of the council's cultural strategy is to take account of the need to encourage and promote a broad range of entertainment.

- 21.2 The Licensing Authority will ensure that only necessary, proportionate and reasonable licensing conditions will be imposed that restrict these events. Where there is any indication that events are being deterred by licensing requirements, the Licensing Authority may re-visit its policy with a view to investigating how the situation might be reversed.

## 22.0 Transport

- 22.1 In order to disperse people from the city centre swiftly and safely to avoid concentrations which produce disorder and disturbance, the Licensing Authority will liaise with the police and other statutory agencies responsible for transportation and associated matters and will provide reports to the Traffic and Transportation Executive to assist in the formulation and development of their policies. The Licensing Authority may also liaise with suppliers of public transport such as bus companies, taxi proprietors, private hire operators and their appropriate trade organisations.

## 23.0 Tourism and employment

- 23.1 The Licensing Committee shall receive, when appropriate, reports on the needs of the local tourist economy to ensure that these are taken into account in their considerations.
- 23.2 The Licensing Committee shall be kept appraised of the local employment situation and, where appropriate, the need for new investment and employment.

## 24.0 Planning and building control

- 24.1 Planning, building control and licensing regimes will be properly separated to avoid duplication and inefficiency.
- 24.2 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Planning Authority.

- 24.3 The planning and licensing regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. As such licensing applications shall not be a re-run of the planning application and will not cut across decisions taken by the Planning Committee or following appeals against decisions taken by that committee. The Licensing Committee are not bound by decisions made by the Planning Committee, and vice versa.
- 24.4 The granting by the Licensing Committee of any variation of a licence which involves a material alteration to a building will not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 24.5 In circumstances when, as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes and where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning permission will be liable to prosecution under planning law.
- 24.6 Officers from planning and licensing services will regularly share intelligence information and will provide evidence to the appropriate regulatory authority where it is considered that premises are operating in breach of either their planning permission or in contravention of conditions attached to authorisations.
- 24.7 Proper integration will be assured by the Licensing Committee and where appropriate may provide regular reports to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This would be to enable the Planning Committee and/or its officers to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 24.8 In order to ensure the proper integration of strategies dealing with licensed premises, specifically those operating within the night-time economy or cumulative impact area, the Planning Authority will consult with the Licensing Authority in respect of all planning applications associated with A3, A4 and A5 uses in so far as they relate to any of the licensing objectives.
- 24.9 The Planning Authority may also make representations as a responsible authority as long as they relate to the licensing objectives. The Licensing Authority recognises that nuisance and crime and disorder are matters that share common ground within the planning and licensing regimes. However concerns relating to the character and function of an area and aspects of amenity that do not constitute a public nuisance are outside the scope of the licensing regime and will be dealt with separately by the Planning Authority. The Licensing Authority therefore recognises that a combination of licensing and planning powers together with effective management of the street environment is required to overcome these problems.

## 25.0 Promotion of racial equality

- 25.1 The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000, places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.





## 26.0 Live music, dancing and theatre

- 26.1 As part of implementing local authority cultural strategies, proper account will be taken of the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre, including the performance of a wide range of traditional and historic plays, for the wider cultural benefit of communities. A natural concern to prevent disturbance in neighbourhoods will always be carefully balanced with these wider cultural benefits, particularly those for children.
- 26.2 In determining what conditions should be attached to licences and certificates as a matter of necessity for the promotion of the licensing objectives, the Licensing Authority is aware of the need to avoid measures which deter live music, dancing and theatre by imposing indirect costs of a disproportionate nature.
- 26.3 To ensure that cultural diversity thrives, Portsmouth City Council has obtained premises licences for numerous public spaces within the Portsmouth area so that performers and entertainers have no need to obtain a premises licence or give a temporary event notice for types of regulated entertainment. However, permission will still be required from the local authority for entertainment that is proposed to be provided in these areas.
- 26.4 DCMS has established a Register of Local Authority Licensed Public Spaces in England and Wales. This is to help event organisers and touring entertainment providers determine whether their event could take place in a particular local authority area without the need for a separate authorisation. It also directs them to the appropriate person to find out more information and to obtain permission to use the space. The register and further details are available on the DCMS website [www.culture.gov.uk](http://www.culture.gov.uk).
- 26.5 The Violent Crime Reduction Act 2006 amends the Criminal Justice and Police Act 2001 to clarify when and where a Designated Public Places Order (DPPO) would apply. The effect of the amendment is that where a local authority occupies or manages premises, or where premises are managed on its behalf, and it licences that place for alcohol sales, the DPPO will not apply when the licence is being used for alcohol sales (or 30 minutes after), but the place will be subject to the DPPO at all other times. This allows local authorities to promote community events whilst still using DPPOs to tackle the problems of anti-social drinking.
- 26.6 When one part of a local authority seeks a premises licence of this kind from the Licensing Authority, the Licensing Committee and its officers will consider the matter from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the Police, they will be considered fairly by the Committee. Anyone making a representation who is genuinely aggrieved by a positive decision in favour of a local authority application by the licensing authority would be entitled to appeal to the Magistrates' Court and thereby receive an independent review of any decision.

## 27.0 The licensing process and applications

- 27.1 The Licensing Authority will expect applicants for licences to show in their operating schedule what steps they will take to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and needs of the local community.
- 27.2 Applicants are strongly advised to make themselves aware of any relevant planning and transportation policies, local crime prevention strategies, tourism and cultural strategies and take these factors into consideration, where appropriate, when formulating their operating schedule.



### Temporary event notices

- 27.3 Organisers of large events (in particular major festivals and carnivals) or temporary events are strongly advised to contact the Licensing Authority and responsible authorities at the earliest opportunity to discuss licensing matters and to provide as much advance notice as is reasonably practical. Whilst the Act dictates that any Temporary Event Notice (TEN) must be given to the Licensing Authority no later than 10 working days before the day on which the event period begins, in some cases this time period would not allow enough time for the premises user to liaise with the relevant authorities (ie, Police, Fire, Public Protection) to ensure that the event passes off safely and with minimum disturbance to local residents. In such cases it is recommended that premises users should give at least 20 working days notice of such events.
- 27.4 Whilst the Licensing Authority recognises that it cannot attach any terms, limitations or restrictions on the carrying on of licensable activities at such events provided under the authority of a TEN and that only the police can serve a counter notice in those circumstances where they are satisfied that the crime prevention objective would be undermined, it will notify the Head of Public Protection of every TEN received, and also other responsible authorities where merited, for information purposes only. This is because the Public Protection Service may have concerns regarding the event which they may seek to address through other mechanisms.
- The responsible authorities may also wish to offer, where appropriate, advice regarding matters which will include proper regard for the concerns of local residents, other legislative requirements regarding health and safety, noise pollution, erection of temporary structures, other permissions such as road closures or use of pyrotechnics in public places, having regard to local byelaws and the need to prevent anti-social behaviour by those attending such events.

### Prevention of crime and disorder

- 27.5 Licensed premises, especially those offering late night/early morning entertainment, alcohol and refreshment for large numbers of people, can be a source of crime and disorder problems. The Licensing Authority recognises the concerns of the police in respect of extended hours and licence holders need to consider the increased responsibility and accountability that is required in order to promote the licensing objectives. The Licensing Authority will expect operating schedules to satisfactorily address these issues when considering the design of the premises and throughout the daily operation of the business.
- 27.6 The Licensing Authority may, after receiving relevant representations, give consideration to attaching conditions to licences to prevent crime and disorder from occurring both inside and immediately outside the premises, and these may include conditions drawn from the model pool of conditions relating to crime and disorder contained within the DCMS Guidance together with the consideration of other options such as a period of calming music, supply of food and non-alcoholic drinks.
- 27.7 Whenever any persons are employed at licensed premises to carry out any security activity, they must be licensed by the Security Industry Authority (SIA). The Licensing Authority may consider that certain premises require strict supervision for the purpose of promoting one or more of the licensing objectives. In such cases, if not volunteered by the applicant in their operating schedule and following relevant representations, the Licensing Authority may impose a condition that SIA licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 27.8 The Licensing Authority recognises that there is no obligation under the Act requiring the holder of a premises licence or club premises certificate to remain open for the entire period permitted by his licence or certificate. However, when considering the times during which it is proposed that the relevant licensable activities are to take place, it would be helpful in terms of assisting in the management of the evening and late night economy if applicants limited such

applications to the actual hours within which they have a reasonable expectation of operating.

- 27.9 Large capacity “vertical drinking” premises sometimes referred to as High Volume Vertical Drinking establishments (HVVDs) are premises with exceptionally high occupant capacities, used primarily or exclusively for the sale and consumption of alcohol, and have little or no provision of seating for patrons. Where it is considered necessary and appropriate to do so and following representations concerning the promotion of prevention of crime and disorder at such premises (if not volunteered by the venue operator), the Licensing Authority may attach conditions to premises licences which require compliance with:
- A prescribed capacity;
  - An appropriate ration of tables and chairs to customers based upon the capacity; and
  - The presence of SIA licensed security teams to control entry for the purpose of compliance with the capacity limit and to refuse entry to those individuals who appear drunk or disorderly or both.

### Public safety

- 27.10 The Act encompasses a wide range of premises that require licensing, which includes public houses, nightclubs, cinemas, concert halls, theatres, cafes/restaurants and fast food outlets/takeaways. Each of these types of premises presents a range of risks, with many common to most premises and others unique to specific operations. It is therefore essential that premises are constructed or adapted and operated so as to recognise and safeguard occupants against such risks.
- 27.11 It is essential that operating schedules satisfactorily address these issues and the Licensing Authority will expect the operating schedule to identify how the premises will be properly managed and maintained to ensure public safety at all times.

### Prevention of public nuisance General

- 27.12 The Act requires the Licensing Authority (following receipt of relevant representations)

and responsible authorities, through representations, to make judgements about what constitutes public nuisance and what is necessary to prevent it in terms of conditions attached to specific premises licences and club premises certificates. It is therefore important that in considering the promotion of this licensing objective, the Licensing Authority and responsible authorities focus on impacts of the licensable activities at the specific premises on persons living and working (including doing business) in the vicinity that are disproportionate and unreasonable. The Licensing Authority regards the control of noise, light, odour and litter as an essential aspect of good neighbourliness, contributing to the sustainability of residential and commercial communities.

- 27.14 Public nuisance can arise from a number of sources which includes, but is not limited to:
- Noise from music, singing and speech originating from inside a building.
  - Noise from music, singing and speech originating from outside a building.
  - Activity within gardens and play areas
  - Rowdy behaviour
  - Use of car parks and access roads
  - Delivery/collection/storage activities
  - Staff activity
  - Cleaning/wash-up activities
  - Plant and machinery
  - Licensed premises, especially those operating late at night and in the early hours of the morning, can give rise to a range of nuisances impacting on people living, working or sleeping in the vicinity of the premises.
- 27.15 Historically, the primary cause of public nuisance from licensed venues has been regulated entertainment and the impact of loud music upon nearby residents. Whilst there is still the same level of nuisance occurring, improved liaison and cohesion between responsible authorities and strong enforcement of nuisance legislation, has to some extent, helped to address issues at an earlier stage. However other sources of nuisance have now replaced music as the principal source of complaint.

### Smoking ban – associated noise issues

27.16 As mentioned in paragraph 4.6 of this document, licensing law is not the primary mechanism for the general control of individuals once they are away from a licensed premises and therefore beyond the direct control of individual licensees or certificate holders. This Statement of Licensing Policy builds on the previous statement to reflect the experience of the council in the three years since the ban on smoking in premises was introduced.

27.17 Since its introduction there has been an increase in the number of premises which have amended their operating practices to secure a facility for patrons to be able to smoke (other than inside the premises). Our experience suggests that whilst there is little non-compliance regarding smoke free premises there has been a displacement effect which has led to an increase in complaints regarding nuisance from outside areas. Officers are seeking to support licensees, residents and patrons equally whilst not adversely affecting the licensees' trading position or residents' enjoyment of their properties. In some cases this has prompted licensees to seek to vary licences, or apply for planning consent, to accommodate approved smoking shelters in beer gardens and other outside areas. It is preferable to contain the activities of patrons within the curtilage of the licensed premises by attaching conditions to the licence, where necessary.

There are however premises which do not have outside areas and patrons have to smoke outside on the highway which may give rise to public nuisance. Applicants should consider what steps they can take in order to promote the licensing objectives. Licensees are responsible for behaviour of patrons in the vicinity of their premises and failure to promote the licensing objectives could lead to a review of the licence or certificate.

27.18 Eating and drinking outdoors is increasingly popular, and together with the smoking ban, has increased the number of people outside premises. The noise of people socialising outdoors can cause public nuisance, even if they are not badly behaved. In addition, the blocking of footways, and more occasionally roadways,

by people either standing about drinking and smoking or using tables and chairs has the potential to give rise to public nuisance.

### Regulated entertainment

27.19 The Licensing Authority is concerned that licensed premises where musical or other amplified entertainment is provided may give rise to significant levels of noise nuisance particularly when they are structurally attached to noise sensitive premises such as residential premises. The control of structure borne noise transmission can be hard to predict and difficult to control.

27.20 Where an application is made in relation to premises where residential or other noise sensitive premises are structurally attached, the Licensing Authority will expect the applicant to demonstrate that all reasonable steps have been taken to ensure that adequate protection against noise nuisance can be achieved. Financial prudence indicates that the potential of noise or other nuisance should be considered at an early stage so that applicants reduce to a minimum the likelihood of failed applications or costly remedial measures in the event of justifiable complaint. Applicants are therefore advised to consult the Good Practice Guide on the Control of Noise from Pubs and Clubs (March 2003) published by the Institute of Acoustics and available at [www.ioa.org.uk](http://www.ioa.org.uk) which contains useful advice for applicants and local authorities. The British Beer and Pub Association (BBPA) have also produced guidance which is available from their website at [www.beerandpub.com](http://www.beerandpub.com).

### Odour nuisance

27.21 Public odour nuisance can be caused by a variety of activities associated with licensed premises. This includes:

- Inadequate storage of food waste
- Cooking activities
- Cooking extract systems

### Prevention of nuisance – operating schedule

27.22 The applicant's operating plan should identify and assess the potential risks of public nuisance arising from each part of the intended activity and set out the measures that they intend to take to minimize the risk to an acceptable level. These measures may include:

- Restricting the type of musical entertainment provided
- Layout of the premises or site (e.g. exit locations)
- Design of the building or site (e.g. sound insulation measures)
- Design of plant or equipment
- Provision of devices limiting noise levels
- Provisions to monitor noise
- Operational measures
- Management measures
- Measures to prevent the transmission of sound (e.g. acoustic barriers)
- Staff training
- Operational times / Scheduling of activities

27.23 The complexity and detail of this part of the operating schedule will depend upon the significance of any risk of public nuisance being caused. Where there is a high risk of public nuisance and to prevent the possibility of representations being submitted by responsible authorities or interested parties, it is recommended that applicants should give careful consideration to the provision of a technical acoustic report as part of the operating schedule. In particular, where applications are submitted to operate licensed premises between hours that include any part of the hours between 11pm and 8am applicants will be expected to demonstrate that operating during these hours will not have an adverse effect on the licensing objectives and set out the steps which they propose to take to secure these objectives.

27.24 The Licensing Authority will, if not volunteered by the applicant in their operating schedule and following relevant representations, consider attaching conditions to licences and permissions to prevent public nuisance, which include:

- Keeping doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises;
- Displaying prominent, clear and legible notices to be displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly;
- Placing restrictions on the use of beer gardens and other external areas particularly at night;
- Taking steps to reduce the impact of smokers and non smokers congregating outside the premises; this may include preventing alcohol from being consumed on the highway, reducing the level of amenities and the use of curfews for external areas, and providing additional staff to control such activities;
- Providing guidance on the use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas;
- Ensuring that the placing of refuse – such as glass bottles – into receptacles outside the premises takes place at times that will minimise disturbance to nearby properties;
- Venting premises to ensure that noxious smells from licensed premises are not permitted to cause a nuisance to nearby properties;
- Ensuring that flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Consideration of the imposition of such a condition will be appropriately balanced against the benefits of the prevention of crime and disorder.

### Prevention of nuisance – open spaces

- 27.25 The use of our open spaces, notably Southsea Common, Castle Field and the Bandstand for regulated entertainment has the potential to adversely affect local residents. In striking a balance between the promotion of cultural and commercial activity in public open spaces and the impact that such events have on residents over a wide area the council will take into account the effect over a period of time of events which have already taken place or are planned upon these areas. The role of the council as Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of those providing entertainment on these areas with the needs of residents and other users of the city. When considering applications for events in these areas and following representations being made, the council will satisfy itself that adequate measures to prevent public nuisance are in place and will be maintained.

### Protection of children from harm

- 27.26 Having regard to the Statutory Guidance issued in accordance with section 182 of the act, there is an expectation that applicants will have regard to this policy when making applications and equally that they should be aware of the expectations of the Licensing Authority and the responsible authorities about the steps that are necessary for the promotion of the licensing objectives.
- 27.27 The Trading Standards Service consider that an applicant's operating plan should be precise and clear about the measures proposed to be taken in relation to the protection of children from harm, particularly the prevention of under-age and proxy sales. Consideration should be given to the following matters:
- Provision of sufficient training for frontline staff;
  - Adequate supervision of the premises, particularly late at night or in the early hours of the morning;
  - Layout of the premises or site;
  - An appropriate age identification policy.

- 27.28 The Licensing Authority will expect applicants for licences to demonstrate that they have ensured that all their frontline staff have received or will receive adequate training on the law with regard to age restricted sales and that this has been properly documented and training records kept. It is also expected that licence holders will ensure that all frontline staff receive refresher training on an ongoing basis and, in addition, where there is an identified need to do so.
- 27.29 The Licensing Authority will expect applicants and premises licence holders to take reasonable steps as may be necessary to prevent underage drinking and proxy sales of alcohol to children both within the licensed premises itself and in the vicinity, where and to the extent that these matters are within their control.
- 27.30 Further advice and guidance on preparing operating plans, examples of best practice, including age verification policies and availability of accredited training for licence holders and front line staff is available on the council's website at [www.portsmouth.gov.uk](http://www.portsmouth.gov.uk) (trading standards).

## 28.0 Licence review process

- 28.1 The proceedings set out in the Act for reviewing premises licences represent a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a premises licence.
- 28.2 At any stage, following the grant of a premises licence, a responsible authority or an interested party may ask the Licensing Authority to review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 28.3 In addition, a review of the licence will normally follow any action by the Chief Officer of Police to close down the premises for up to 24 hours on the grounds of disorder or noise nuisance as a result of a notice of the Magistrates' Court's determination sent to the Licensing Authority.



- 28.4 Licensing officers may not initiate their own reviews of premises licences, but elected members of the Licensing Authority may request reviews if they are concerned about licensed activities at a premises or such matters are brought to their attention. Officers of the local authority who are specified as responsible authorities under the act, such as environmental health officers, may also request reviews on any matter which relates to the promotion of one or more of the licensing objectives.
- 28.5 Representations made by a department of the local authority which is a responsible authority will be treated by the Licensing Authority in precisely the same way that they would treat representations made by any other body or individual.
- 28.6 In every case, the representation must relate to particular premises for which a premises licence is in existence and must be relevant to the promotion of the licensing objectives. After a licence or certificate has been granted or varied, a complaint relating to a general (crime and disorder) situation in a town centre should generally not be regarded as a relevant representation unless it can be positively tied or linked by a causal connection to particular premises, which would allow for a proper review of the licence or certificate. For instance, a geographic cluster of complaints, including along transport routes related to an individual public house and its closing time could give grounds for a review of an existing licence as well as direct incidents of crime and disorder around a particular public house.
- 28.7 Representations must be in writing and may be amplified at the subsequent hearing or may stand in their own right. Additional representations which do not amount to an amplification of the original representation may not be made at the hearing.
- 28.8 It is important to recognise that the promotion of the licensing objectives relies heavily on a partnership between licence holders, authorised persons, interested parties and responsible authorities in pursuit of common aims. It is therefore equally important that reviews are not used to drive a wedge between these groups in a way that would undermine the benefits of co-operation. The Licensing Authority recognises that it is good practice for authorised persons and responsible authorities to give licence holders early warning of their concerns about problems identified at the premises concerned and of the need for improvement. A failure to respond to such warnings is expected to lead to a decision to request a review.
- 28.9 Where the request originates with an interested party (e.g. a local resident, residents' association, local business or trade association) the Licensing Authority must first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.
- 28.10 When a Licensing Authority receives a request for a review from a responsible authority or an interested party or in accordance with the closure procedures, it must arrange a hearing. The arrangements for hearings must follow the provisions set out within statutory regulations. It is very important that the premises licence holder is fully aware of the representations made in respect of the premises, any evidence supporting the representations and that they or their legal advisor have therefore been able to prepare a response.
- 28.11 The Act provides a range of powers for the Licensing Authority on determining a review that it may exercise where it considers them necessary for the promotion of the licensing objectives.
- 28.12 There may be occasions where the Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives. Equally, there is nothing to prevent a Licensing Authority from issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time.

28.13 Where the Licensing Authority considers that action under its statutory powers is necessary, it may take any of the following steps:

- To modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition), for example, by reducing the hours of opening or by requiring door supervisors at particular times;
- To exclude a licensable activity from the scope of the licence, for example, to exclude the performance of live music or playing of recorded music (where it is not within the incidental live and recorded music exemption);
- To remove the designated premises supervisor, for example, because it considers that the problems are the result of poor management;
- To suspend the licence for a period not exceeding three months;
- To revoke the licence.

28.14 In deciding which of these powers to invoke, the Licensing Authority will so far as possible seek to establish the cause or causes of the concerns which the representations identify. The remedial action taken will generally be directed at these causes and will always be no more than a necessary and proportionate response.

## 29.0 Administration, exercise and delegation of functions

29.1 The Act provides that the functions of the Licensing Authority (including its decisions) are to be undertaken by its Licensing Committee (except those relating to the making of a statement of licensing policy or where another of its committees has the matter referred to it). The Licensing Committee may delegate these functions to sub-committees or in appropriate cases, to officers. As many of the decisions and functions will be purely administrative in nature and in the interests of speed, efficiency and cost effectiveness, the Licensing Authority shall undertake a process of delegation of its functions. The delegation of functions is set in the table at 29.3 opposite.

29.2 The Licensing Committee shall receive regular reports on decisions made by officers in order that they maintain an overview of the general situation.



## 29.3 Delegation of Functions

Matter to be dealt with	Full Committee	Sub-Committee	Officers
Application for a personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions (upon receipt of an objection notice from Police)		All cases	
Application for premises licence or club premises certificate		If a relevant representation made	If no relevant representation made
Application for a provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence or club premises certificate		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authority		If a police objection	All other cases
Application to review premises licence or club premises certificate		All cases	
Consideration of interim steps and application for summary review of a premises licence		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application.		All cases	
Determination of a police objection to a temporary event notice		All cases	
Application for a minor variation of a premises licence or club premises certificate			All cases
Removal of the requirement for a Designated Premises Supervisor (DPS) and Personal Licence at Community Premises		If a police objection	All other cases

## 30.0 Contact details/advice and guidance

- 30.1 Applicants can obtain further details about the licensing and application process, including application forms, fees and details regarding each type of application from:

The Licensing Service  
Portsmouth City Council  
Legal, Licensing & Registrars  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AL

Tel: 023 9283 4607 Fax: 023 9283 4811

Email: [licensing@portsmouthcc.gov.uk](mailto:licensing@portsmouthcc.gov.uk)  
Web: [www.portsmouth.gov.uk/living](http://www.portsmouth.gov.uk/living)

- 30.2 Applicants may also submit electronic applications and payments online via Businesslink at [www.businesslink.gov.uk](http://www.businesslink.gov.uk) or via the council's website at [www.portsmouth.gov.uk/living](http://www.portsmouth.gov.uk/living)

- 30.3 Contact details for all the responsible authorities are provided below:

### Head of Planning Services

Portsmouth City Council  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AU  
  
Tel: 023 9283 4334  
Fax: 023 9283 4660  
Email: [planning@portsmouthcc.gov.uk](mailto:planning@portsmouthcc.gov.uk)

### Public Protection Service Environmental Protection Division

Portsmouth City Council  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AZ  
  
Tel: 023 9268 8366  
Email: [publicprotection@portsmouthcc.gov.uk](mailto:publicprotection@portsmouthcc.gov.uk)

### Public Protection Service Commercial Division

Portsmouth City Council  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AZ  
  
Tel: 023 9268 8362  
Email: [publicprotection@portsmouthcc.gov.uk](mailto:publicprotection@portsmouthcc.gov.uk)

### Public Protection Service Trading Standards Division

Portsmouth City Council  
Civic Offices  
Guildhall Square  
Portsmouth PO1 2AZ  
  
Tel: 023 9283 4689  
Email: [trading.standards@portsmouthcc.gov.uk](mailto:trading.standards@portsmouthcc.gov.uk)

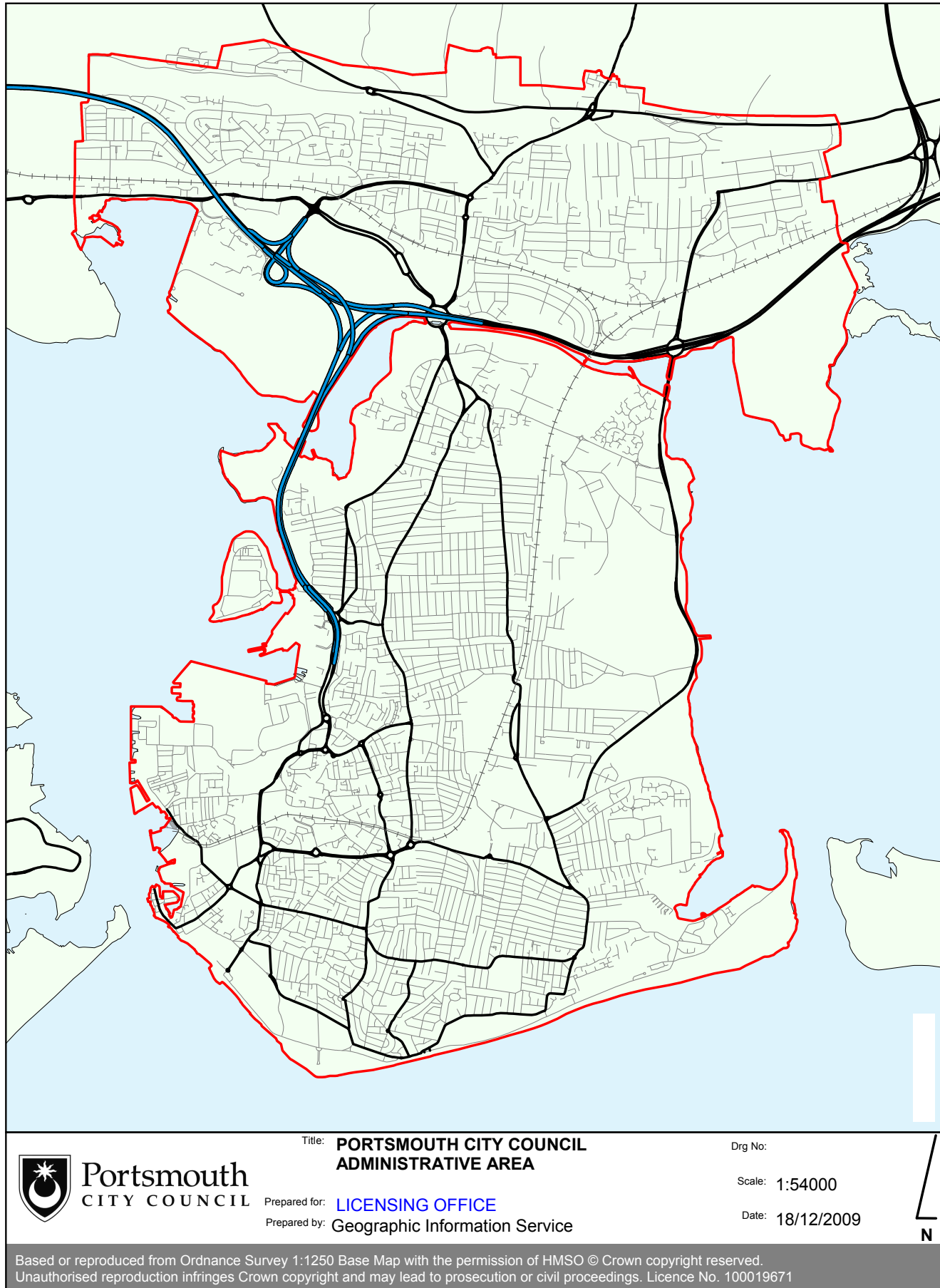
<p><b>The Chief Officer of Police</b>  Hampshire Constabulary  Licensing Unit  Southsea Police Station  259 Highland Road  Eastney  Portsmouth PO4 9EX    Tel: 0845 045 4545  Direct Dial: 023 9289 9080  Fax: 023 9289 3285  Email: portsmouth.licensing@hampshire.pnn.police.uk</p>	<p><b>The Chief Fire Officer</b>  Hampshire Fire and Rescue Service  Service Delivery (Community Safety Delivery),  Protection Department  Southsea Fire Station  Somers Road  Southsea PO5 4LU    Tel: 023 9285 5180  Fax: 023 9288 5175  Email: csprotection.admin@hantsfire.gov.uk</p>
<p><b>Director of Children, Families &amp; Learning</b>  Portsmouth City Council  Civic Offices  Guildhall Square  Portsmouth PO1 2EP    Tel: 023 9282 2251</p>	<p><b>Where relevant:</b> (Copies of applications should, in most cases, only be served on the Health and Safety Executive in respect of premises operated by crown bodies (including the military), local authorities, the police, hospitals, schools and universities.)</p> <p><b>Health and Safety Executive</b>  Priestley House  Priestley Road  Basingstoke  Hants RG24 9NW    Tel: 01256 404000  Fax: 01256 404100  Email: eselicensing@hse.gsi.gov.uk</p>

In respect of vessels only:

<p><b>Navigation Authority:</b>  Queen's Harbour Master  Semaphore Tower PP70  HMS Nelson  HM Naval Base  Portsmouth PO1 3LT    Tel: 023 9272 3124  www.qhmpoportsmouth.com</p>	<p><b>Environment Agency</b>  Hampshire and IOW Area Office  Wessex Business Park  Wessex Way  Colden Common  Winchester  Hants SO21 1WP    Tel: National Call Centre  08708 506 506 (Mon – Fri 8am-6pm)</p>	<p><b>Maritime and Coastguard Agency</b>  Spring Place  105 Commercial Road  Southampton  Hants SO15 1EG    Tel: 0870 6006505  Email: www.infoline@mcga.gov.uk</p>
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# Appendix A – Map of Portsmouth area



# Appendix B – Supporting information and map of Special Policy Area relating to cumulative impact in Portsmouth

## Special Policy Area – Portsmouth City Centre Area

### Introduction

The aim of this report is to provide an updated report<sup>3</sup> regarding the extent and nature of Violent Crime offences recorded within the Night Time Economy (NTE) centred on the Guildhall Walk area. The purpose is to identify evidence in support of a Special Policy Area.

A Special Policy Area (SPA), by identifying the levels and locations of crime and disorder caused by customers of licensed premises, can provide grounds for rebuttal for applications for new licenses or variations to existing licenses, unless the applicant can demonstrate that there will be no negative impact on one or more licensing objectives.

### Methodology

Violent Crime data has been extracted from the Record Management System (RMS) using Business Objects (BO) for a six month period between 1 January and 30 June 2010.

### Geographical Spread

The main Night Time Economy (NTE) area for Portsmouth is centred on the Guildhall Walk area of the city centre. This area (as shown in the following map) incorporates 12 roads, these being:

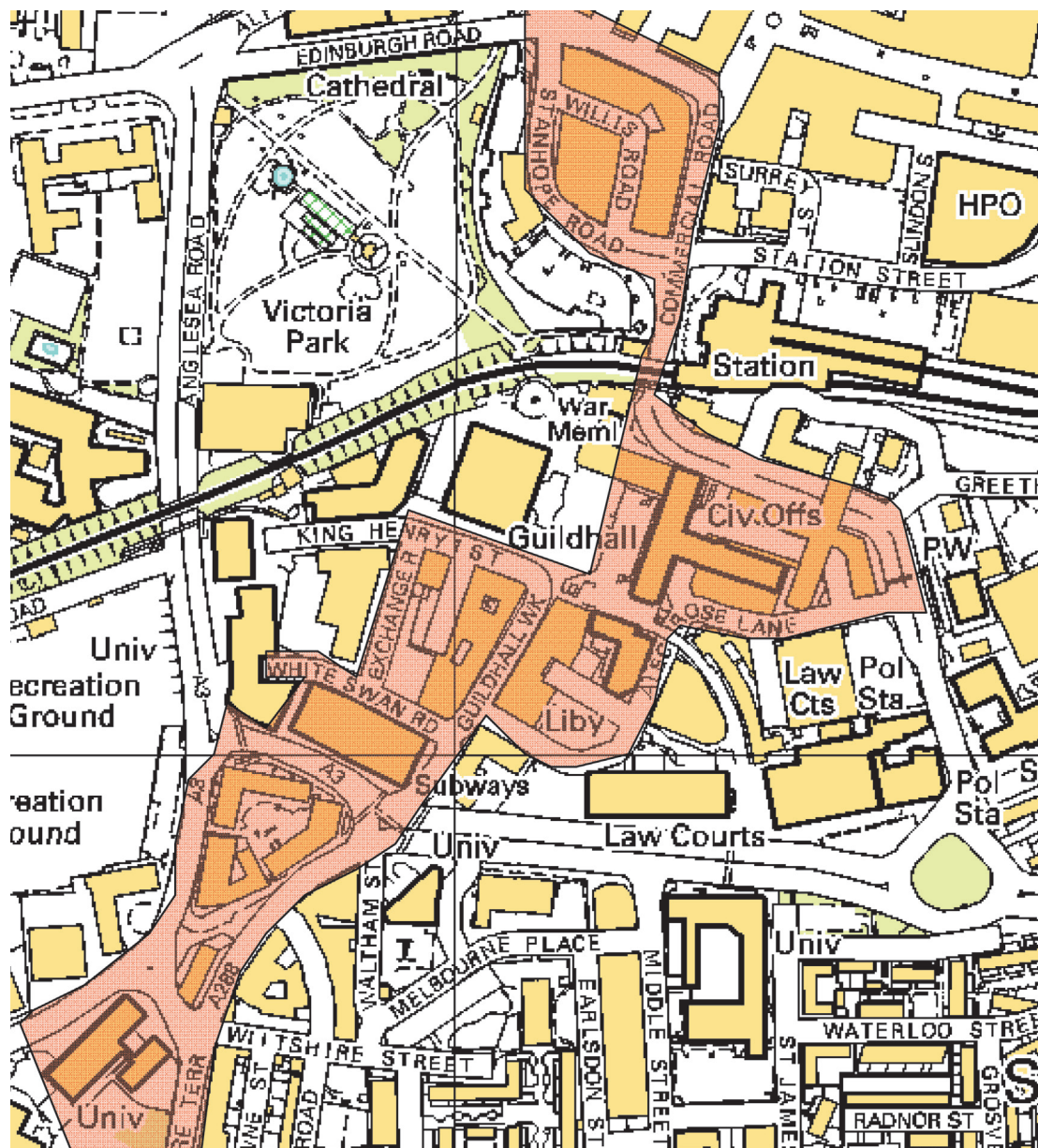
- 1) Alec Rose Lane
- 2) Cambridge Rd
- 3) Commercial Rd
- 4) Guildhall Square
- 5) Guildhall Walk
- 6) Hampshire Terrace
- 7) King Henry 1st St
- 8) Stanhope Rd
- 9) St Michaels Rd
- 10) White Swan Rd
- 11) Willis Rd
- 12) Wiltshire St

<sup>3</sup> This report has been requested by the Licensing Department to update a previously commissioned report produced by Senior Analyst 10203 Paul Moorman in 2007.

A total of 20 licensed premises<sup>4</sup> are located within these roads, with several others being situated on the

periphery. Licensed premises within the SPA can accommodate in excess of 10,000 patrons.

**Figure 1.0 – Map of Special Policy Area**



Following beat boundary changes, the SPA now sits within PC04 (city centre)<sup>5</sup>. This is a strictly commercial area incorporating businesses operating within the separate Day Time and Night Time economies.

The NTE attracts a number of local residents including university students and naval personnel, as well as a number of visitors from outside of Portsmouth.

<sup>4</sup> These licensed premises include: Club 8, Terrace Bar, Fleet/Babylon, Fuzzy Duck/Heaven Sent, Isambard Kingdom Brunel, Portsmouth Guildhall, Kraken Wakes, Roast Bar, Route 66, V Bar, Walkabout, White Swan, Yates Wine Lodge, Drift in the City, Liquid & Envy, Martha's, Hampshire Boulevard, Student Union, The Trafalgar, Scandals

<sup>5</sup> At the time of writing this report in 2007, this beat boundary had not been created and so the SPA transcended across beat boundaries of PC01 (Charles Dickens East) and PC03 (St Thomas)

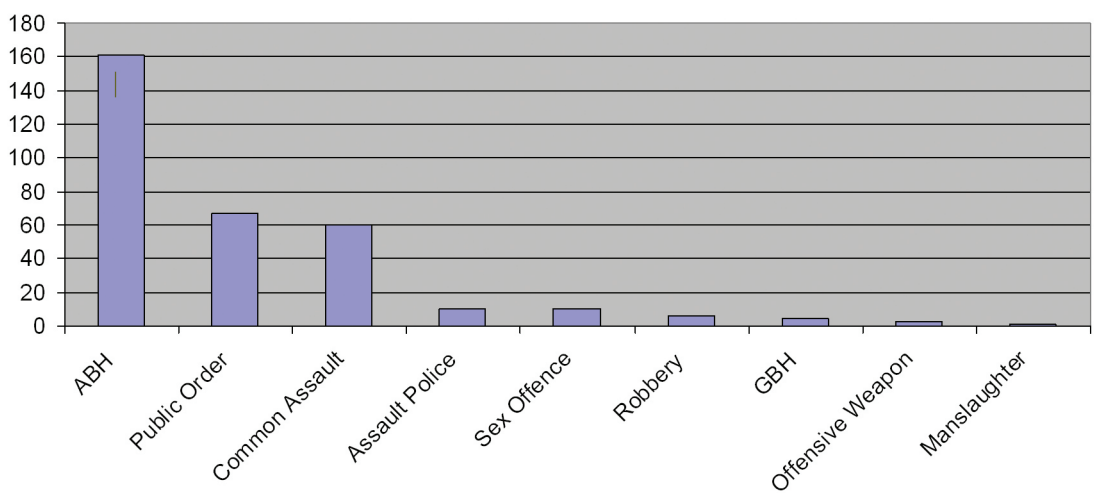
## Offence summary

Violent Crime consists of 3 sub-categories; violence against the person (VAP) offences, sexual offences and robbery offences. Each of the sub-categories is comprised of a number of separate Home Office classifications.

A total of 322 violent crime offences have been recorded in this area during the specified period. This accounts for 70.8% of the total number of offences to have occurred within PC04 during this period.

The number of offences contributing to each category is shown in the following chart:

Figure 1.1 – Violent crime in SPA by type



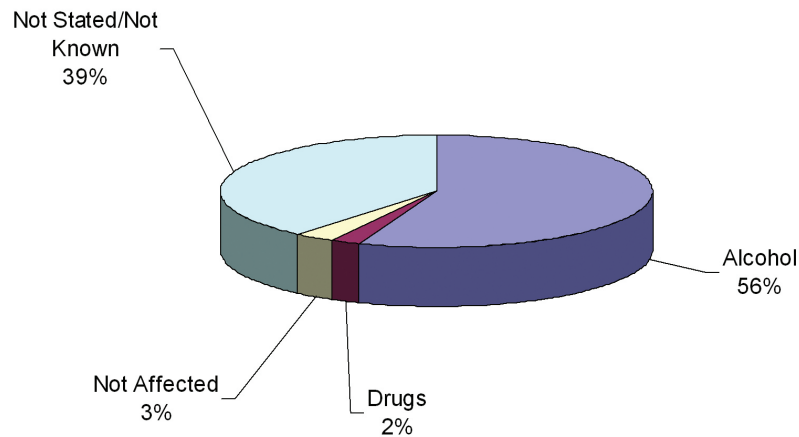
The above chart identifies that by far, ABH is the highest violent crime type to be recorded in the SPA, accounting for 50% (n.161) of the total recorded for this area. This is followed by reports of public order offence and incidents of common assault accounting for 20.8% (n.67) and 18.6% (n.60) respectively.

Whilst there are far fewer incidents of serious violence (GBH section 20 and above), sex offences and reports

of robbery recorded in the SPA, these are obviously regarded as being at the more serious end of the offence spectrum, combining a greater impact on the victim, coupled with more resource intensive police investigations.

The number of offences recorded where the offender has been affected by alcohol has been researched to help identify a connection to the NTE.

**Figure 1.2 – Alcohol affected offenders**



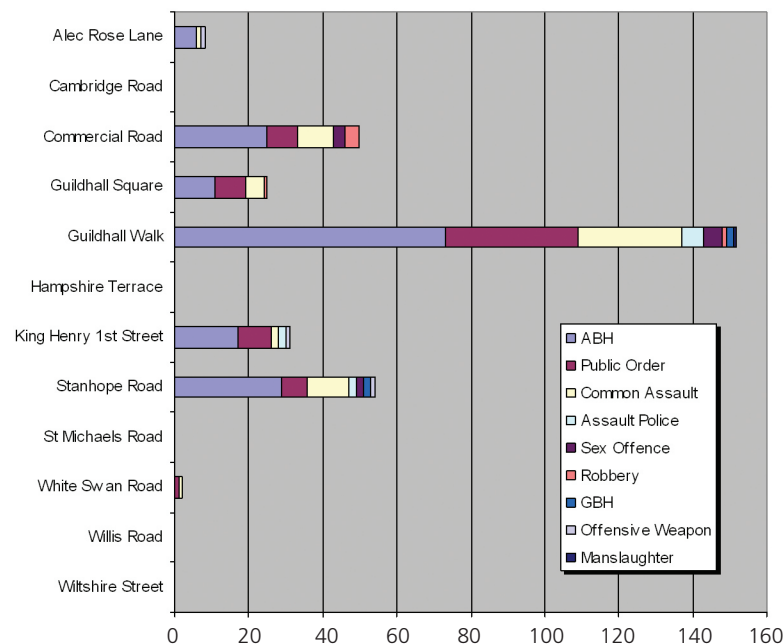
The above chart identifies that over half of offenders where known to have been affected by alcohol.

The number of offenders recorded as not being affected by alcohol is extremely low.

## Offence distribution

The below table identifies the type of offences recorded for each road:

**Figure 1.3 – Offence types by location**



The above chart identifies the top 5 violent crime locations for the SPA are:

- Guildhall Walk (47.2%, n.152)
- Stanhope Road (16.8%, n.54)
- Commercial Road (15.5%, n.50)
- King Henry 1st Street (9.6%, n.31)
- Guildhall Square (7.8%, n.25)

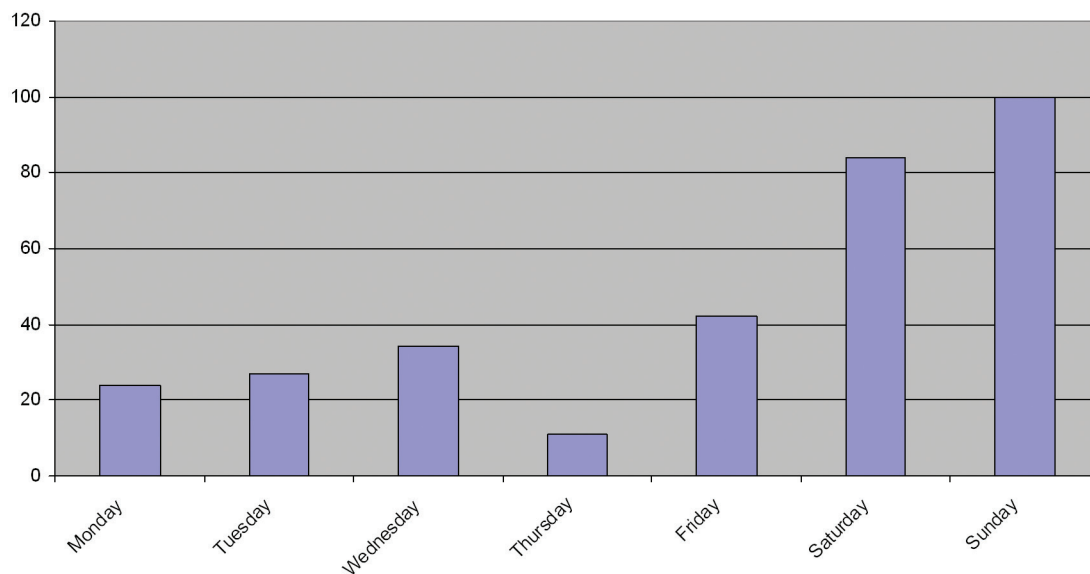
These 5 roads account for 96.9% (n.312) of offences in the SPA area. Guildhall Walk accounts for almost half of all violent crime recorded in the SPA. This may correlate to the high concentration of licensed premises along this particular road, resulting in a higher concentration of recorded offences.



## Temporal analysis

Temporal analysis was undertaken to identify the peak times and days for offences to occur in the SPA, to identify any relation between peak offence times and core licensing hours.

**Figure 1.4 – Peak day analysis**

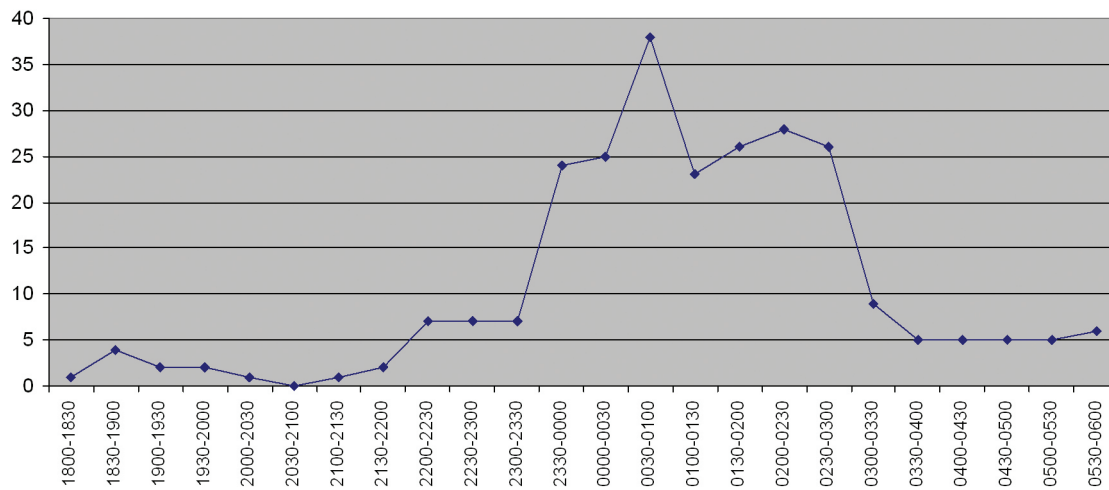


The above chart identifies that offences peak significantly over the weekend with Saturday and Sunday accounting for 26.1% (n.84) and 31.1% (n.100). It is thought such peaks in offending on Sunday relates to offences occurring into the early hours following a night out on the Saturday evening.

An slight increase in offences is noticeable on a Friday in comparison to other weekdays. Peak time analysis identifies that offences will be carried over from Friday night to the early hours of Saturday morning, augmenting that days total.

Ordinarily, the days associated with the bulk of activity in a NTE would be Friday and Saturday, as this is the end of the working week and at a time when many people receive their wages. Other peaks may become apparent on themed nights, such as student night, where free entry to clubs or discounted drinks prices, are used as an incentive to draw customers

**Figure 1.5 – Peak time analysis**



Peak time analysis was conducted for a 12 hour period from early evening through to the morning. This incorporated 259 offences, (just over 80%). The above chart identifies that offences peak significantly between 2330-0300hrs within the SPA, with 59%

(n.190) of all reported incidents occurring within this 3 and a half hour window. These times may correlate with a peak in movement within the SPA as people begin to make their way home and the NTE draws to a close.

## Conclusion

The SPA incorporates the main NTE area in Portsmouth, situated in the busy city centre. The large number of licensed premises within the SPA can accommodate in the region of 10,000 persons a night. This is augmented by a number of licensed premises being situated on the periphery of the area. There will undoubtedly be a high level of movement throughout this area of persons affected by alcohol.

During the last strategic period, PC04, which incorporates the SPA, recorded the highest level of violent crime offences in Portsmouth<sup>6</sup>. This is believed to be as a direct result of the presence of the NTE. The analysis within this document further supports these findings.



<sup>6</sup> Portsmouth Operational Command Unit Strategic Assessment June 2010



Legal, Licensing & Registrars  
Portsmouth City Council  
Civic Offices  
Guildhall Square  
Portsmouth  
PO1 2AL

Tel: 023 9283 4604 Fax: 023 9283 4811  
Email: [Licensing@portsmouthcc.gov.uk](mailto:Licensing@portsmouthcc.gov.uk)

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

You can get this  
Portsmouth City  
Council information  
in large print, Braille,  
audio or in another  
language by calling  
9283 4604.



Corporate member of  
Plain English Campaign  
Committed to clearer communication.

**264**



# Equality Impact Assessment

Preliminary assessment form v5 / 2013

[www.portsmouth.gov.uk](http://www.portsmouth.gov.uk)

The preliminary impact assessment is a quick and easy screening process. It should:

- identify those policies, projects, services, functions or strategies which require a full EIA by looking at:
  - negative, positive or no impact on any of the equality groups
  - opportunity to promote equality for the equality groups
  - data / feedback
- prioritise if and when a full EIA should be completed
- justify reasons for why a full EIA is not going to be completed

**Directorate:**

Director of City development & culture

**Function e.g. HR,  
IS, carers:**

Licensing Service

**Title of policy, service, function, project or strategy (new or old) :**

Licensing Act 2003 - Statement of Licensing Policy - 2017 until 2022

**Type of policy, service, function, project or strategy:**

☐

Existing

☐

New / proposed

☒

Changed



### Q1 - What is the aim of your policy, service, function, project or strategy?

It is a statutory requirement in accordance with Section 5 of the Licensing Act 2003 for the Licensing Authority to prepare and publish a statement of its licensing policy every three years.

The aim of the policy is to set the general approach of the Licensing Authority in terms of making licensing decisions to promote the four licensing objectives which are:

Prevention of crime and disorder  
Public safety  
Prevention of public nuisance  
Protection of children from harm

### Q2 - Who is this policy, service, function, project or strategy going to benefit or have a detrimental effect on and how?

The requirement for the policy is statutory and is intended to benefit applicants, residents and other occupiers of property and investors who may be affected by the licensing regime and sets down those factors that will normally be taken into consideration when determining applications.

### Q3 - Thinking about each group below, does, or could the policy, service, function, project or strategy have a negative impact on members of the equality groups below?

Group	Negative	Positive / no impact	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transgender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "negative" or "unclear" consider doing a full EIA

**Q4 - Does, or could the policy, service, function, project or strategy help to promote equality for members of the equality groups?**

Group	Yes	No	Unclear
Age	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Disability	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Race	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gender	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Transgender	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Religion or belief	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Pregnancy or maternity	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

If the answer is "no" or "unclear" consider doing a full EIA

**Q5 - Do you have any feedback data from the equality groups that influences, affects or shapes this policy, service, function, project or strategy?**

Group	Yes	No	Unclear
Age	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Disability	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Race	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Gender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Transgender	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Sexual orientation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

Religion or belief	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Pregnancy and maternity	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Other excluded groups	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

If the answer is "no" or "unclear" consider doing a full EIA

**Q6 - Using the assessments in questions 3, 4 and 5 should a full assessment be carried out on this policy, service, function or strategy?**

☐ yes ☒ No

**Q7 - How have you come to this decision?**

The statement of licensing policy is a statutory requirement and those matters to be included within the policy are set down within the statutory guidance issued by the Secretary of State in accordance with Section 182 of the Licensing Act 2003.

The policy to be approved by the Council will not have a detrimental effect upon any of the equality groups.

Potentially there could be situations where applicants or licence holders are not clear as to the statutory requirements when making applications where English is not the first language but arrangements are in place for forms to be translated where necessary.

Equally in terms of adult entertainment and gender issues, the Licensing Act 2003 specifies what matters the Licensing Authority may take into account (i.e the four licensing objectives) and the statutory guidance specifically states that attaching conditions relating to the content of adult entertainment which have no relevance to crime and disorder, public safety, public nuisance or the protection of children from harm could not be justified (para 2.17).

In any case, changes to legislation concerning sexual entertainment venues means that controls for this type of establishment are provided for by way of the Local Government (Miscellaneous Provisions) Act 1982, as amended by section 27 of the Policing and Crime Act 2009.

If you have to complete a full EIA please contact the Equalities and diversity team if you require help  
Tel: 023 9283 4789 or email: [equalities@portsmouthcc.gov.uk](mailto:equalities@portsmouthcc.gov.uk)

**Q8 - Who was involved in the EIA?**

Nickii Humphreys, Licensing Manager.

In addition, as part of the review of the policy, the Licensing Authority will embark on a consultation process with an extensive list of interested parties as well as statutory consultees.

**This EIA has been approved by:** Nickii Humphreys, Licensing Manager

**Contact number:**

023 9283 4604

**Date:**

10 January 2017

Please email a copy of your completed EIA to the Equality and diversity team. We will contact you with any comments or queries about your preliminary EIA.

Telephone: 023 9283 4789

Email: [equalities@portsmouthcc.gov.uk](mailto:equalities@portsmouthcc.gov.uk)

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