



NOTICE OF MEETING

LICENSING COMMITTEE

FRIDAY, 23 JUNE 2017 AT 9.30 AM

COUNCIL CHAMBER, SECOND FLOOR, THE GUILDHALL

Telephone enquiries to 02392 834 060

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

Licensing Committee Members:

Councillors Lee Mason (Chair), Hannah Hockaday (Vice-Chair), Dave Ashmore, David Fuller, Colin Galloway, Paul Godier, Scott Harris, Steve Hastings, Ian Lyon, Leo Madden, Stephen Morgan, Gemma New, Steve Pitt, David Tompkins and Gerald Vernon-Jackson CBE

Standing Deputies

Councillors Ryan Brent, Alicia Denny, Hugh Mason, Darren Sanders and Rob Wood

(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

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 (e.g. for or against the recommendations). Email requests are accepted. Contact: Jane Di Dino as listed above.

AGENDA

1 Apologies for Absence

2 Declarations of Members' Interests

3 Minutes of the Previous Meeting (Pages 5 - 6)

RECOMMENDED that the minutes of the previous meeting of the Licensing Policy Committee held on 10 March 2017 be agreed as a correct record and signed by the chair.

4 Adoption of Statement of Licensing Policy - Gambling Act 2005. (Pages 7 - 142)

Purpose.

The purpose of this report is to inform the committee of the representations received in response to the consultation process which was undertaken on the draft statement of licensing policy in respect of the Gambling Act 2005. The consultation was undertaken between 31 March 2017 and 5 May 2017.

The report also seeks the approval of the Licensing Committee of the proposed final statement of licensing policy and to commend it for formal adoption by Council.

RECOMMENDATIONS

That the Licensing Committee:

- (a) Considers the responses received and approves the amendments to the proposed final statement of licensing policy;**
- (b) Refers this report to Council for information and guidance in respect of the requirements of the Gambling Act 2005; and**
- (c) Recommend that Council adopts the statement of licensing policy in accordance with Section 349 of the Gambling Act 2005**

5 Adoption of Statement of Licensing Policy - Licensing Act 2003. (Pages 143 - 240)

Purpose.

The purpose of this report is to inform the committee of the representations received in response to the consultation process which was undertaken on the draft statement of licensing policy in respect of the Licensing Act 2003. The consultation was undertaken between 31 March 2017 and 5 May 2017.

The report also seeks the approval of the Licensing Committee of the proposed final statement of licensing policy and to commend it for formal adoption by council.

RECOMMENDATIONS

That the Licensing Committee:

- (a) Considers the responses received and approves the amendments to the proposed final statement of licensing policy;**
- (b) Refers this report to Council for information and guidance in respect of the requirements of the Licensing Act 2003; and**
- (c) Recommend that Council adopts the statement of licensing policy in accordance with Section 5 of the Licensing Act 2003 with effect from 12 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.

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Agenda Item 3

LICENSING COMMITTEE

MINUTES OF A MEETING of the Licensing Committee held on Friday, 10 March 2017 at 9:45am at the Guildhall, Portsmouth

Present

Councillors Julie Bird (Chair)
Hannah Hockaday (Vice-Chair)
Dave Ashmore
Jennie Brent
Paul Godier
Steve Hastings
Suzy Horton
Lee Mason
Stephen Morgan
Steve Pitt
David Tompkins

6. Apologies for Absence (AI 1)

Apologies for absence were received from Councillors Scott Harris, Ken Ellcome and Gerald Vernon-Jackson. Apologies were also received from standing deputy Ryan Brent who was unable to attend.

7. Declarations of Members' Interests (AI 2)

There were no declarations.

8. Minutes of the previous meeting held on 22 February 2017 (AI 3)

RESOLVED that the minutes of the Licensing Policy Committee meeting held on 22 February 2017 be agreed as a correct record and signed by the chair.

9. Annual Review of Licensing Fees (AI 4)

The Licensing Manager introduced the report and explained that it has always been the aim of the committee to work towards full cost recovery. The trade representatives had been consulted with and in general, were in agreement with the proposals.

A deputation was heard from Chris Dixon, representing the Hackney Carriage Trade who included the following points in his representations:

- Grateful for the consultation on the proposed fees.
- On the whole supportive of fees proposed.
- Local conditions have massively changed.
- It is really hard for the trade.
- Would like to have more trade consultative group meetings as very useful.

RESOLVED:

- a) That the Licensing Committee noted the report and determined the level of fee to be adopted.
- b) That the approved fees be implemented with effect from 1 April 2017 unless otherwise stated within the report; and

- c) That the Director of Culture and City Development be given authority to advertise, (where appropriate) such fees and charges that are subject to any formal public statutory consultation.**

The meeting concluded at 10:20 am.

.....
Signed by the chair, Councillor Julie Bird.



Title of meeting:	LICENSING COMMITTEE
Date of meeting:	23 June 2017
Subject:	The Gambling Act 2005 - Adoption of Statement of Licensing Policy
Report by:	Licensing Manager
Wards affected:	All
Key decision:	No
Full Council decision:	Yes

1. Purpose of report

- 1.1 The purpose of this report is to inform the Committee of the representations received in response to the consultation process which was undertaken on the draft statement of licensing policy in respect of the Gambling Act 2005. The consultation was undertaken between 31 March 2017 and 5 May 2017.
- 1.2 The report also seeks the approval of the Licensing Committee of the proposed final statement of licensing policy and to commend it for formal adoption by Council.

2. Recommendations

2.1 *That the Licensing Committee:*

- (a) Considers the responses received and approves the amendments to the proposed final statement of licensing policy;*
- (b) Refers this report to Council for information and guidance in respect of the requirements of the Gambling Act 2005; and*
- (c) Recommend that Council adopts the statement of licensing policy in accordance with Section 349 of the Gambling Act 2005*

3. Background

- 3.1 The Gambling Act 2005 ("The Act") first came into effect on 1 September 2007 and created a new system of licensing and regulation for commercial gambling in the UK (excluding the National Lottery and spread betting).

The Act created a new regulator for gambling, the Gambling Commission, and introduced a new licensing regime for commercial gambling. This regime is conducted either by the Gambling Commission or by the local Licensing Authority depending upon the matter to be licensed.

3.2 The Council, as Licensing Authority, 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 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 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;
- Provision of information to the Gambling Commission regarding details of licences issued; and
- Maintaining registers of the permits and licences that are issued under these functions.

3.3 **Regulation of gambling**

In accordance with section 153 of the Act, in making its decisions about premises licences and temporary use notices, licensing authorities 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 licensing authority's statement of licensing policy.

3.4 **The licensing objectives**

The Act sets out three licensing objectives that underpin the functions that the Gambling Commission and the licensing authority perform. They are:

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

3.5 **Statement of licensing policy**

Licensing authorities are required to publish a licensing policy statement every three years which sets out the principles it proposes to apply when exercising its functions. The policy sets out how the Authority will meet the licensing objectives of the Act. Authorities must consult on their draft statements so that communities and businesses will have a chance to comment on the authority's proposed approach.

3.6 In determining its policy, 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 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.

The statutory guidance issued by the Gambling Commission in accordance with 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 licensing policy statement.

3.7 **Consultation process**

The draft statement of licensing policy was made available for consultation between 31 March 2017 and 5 May 2017 in accordance with the statutory requirements. A list of those organisations/persons notified of the draft policy

and consultation is set out in the proposed final policy document (page 44) which is attached as **Appendix C** to this report.

The draft policy was published on the Council's website, facebook and twitter pages, copies were distributed to all public libraries, City Help Desk and to each of the Member's Group Rooms. A public notice was also published in a local newspaper.

3.8 **Response to the consultation process**

At the conclusion of the consultation period, 3 responses had been received from:

- Gosschalks Solicitors - Acting for the Association of British Bookmakers (ABB);
- The Chief Officer of Police; and
- Leslie MacLeod-Miller - licensing lawyer.

A summary table of their comments are attached as **Appendix A** together with your reporting officer's recommendations in respect of the responses. Copies of the full responses are attached at **Appendix B**.

3.9 **Other statutory requirements**

Section 349 of the Act requires each licensing authority to prepare and publish a statement of licensing policy that they propose to apply in exercising their functions under the Act. Before a statement or revision comes into effect, the statutory regulations prescribe that the licensing authority must publish and advertise the publication of the statement or revision according to certain requirements.

3.10 **Publishing**

The statement or revision must be published by being made available for a period of at least 4 weeks before the date on which it will come into effect as follows:

- On the authority's internet website; and
- For inspection by the public at reasonable times in one or both of the following places:
 - One or more public libraries situated in the local authority area;
 - Other premises situated in the area.

3.11 Advertising

A notice must be published no later than the first day on which the statement or revision is published as follows:

- On the authority's internet website; and
- In or on one or more of the following places:
 - A local newspaper circulating in the area covered by the statement;
 - A local newsletter, circular or similar document circulating in the area covered by the statement;
 - A public notice board in or near the principal office of the authority;
 - A public notice board on the premises of public libraries in the area covered by the statement.

3.12 Further guidance

Attached at **Appendix D** is further information for members published by the LGA on the Gambling Act 2005.

4. Reasons for recommendations

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

5. Equality impact assessment (EIA)

A preliminary EIA was undertaken on the proposed policy prior to undertaking the consultation process and formed part of that report on 22 February 2017. A copy of that EIA is attached as **Appendix E**.

6. Legal Implications

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

7. Finance Comments

There are no financial implications in respect of this report.

Signed by:

Appendices:

- Appendix A** Summary of responses to consultation and officer recommendations
- Appendix B** Full responses to consultation
- Appendix C** Proposed final statement of licensing policy
- Appendix D** LGA guidance for members on the Gambling Act 2005
- Appendix E** Preliminary EIA

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:

Summary of responses to consultation

Relevant Section of Policy	Response Received	Officer Recommendation
<p>Respondent: Gosschalks Solicitors</p>		
<p>Paragraph 11.27 states:</p> <p>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.</p>	<p>The respondent submits that at paragraph 11.27 the statement that:</p> <p><i>"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"</i></p> <p>should be redrafted as this may well be the case if the premises are open and trading but, as the policy acknowledges, it is possible to make an application for premises which are not yet ready to open. In the context of a betting office licence, a premises licence that had been granted would only be breached if the operator provided facilities for betting where the layout of the premises did not accord with the plan attaching to the premises licence. They respectfully submit that this paragraph should be redrafted to reflect this.</p>	<p>The paragraph as prepared in the policy document is a duplication of paragraph 7.61 of the Statutory Guidance issued by the Gambling Commission (5th Edition - September 2015) in accordance with section 25 of the Gambling Act 2005. In carrying out its functions under the Act, the Licensing Authority must have regard to this Guidance when exercising their functions.</p> <p>Recommendation: Having regard to the comments of the respondent it is proposed that the wording of this paragraph within the policy can be amended as follows:</p> <p><i>"if the plans submitted at the time of the application for a premises licence are changed in any material respect during fitting out of the premises after the grant of the licence then the applicant will be in breach of the licence if he provides facilities for gambling."</i></p>

Relevant Section of Policy	Response Received	Officer Recommendation
<p>Paragraph 13 - Premises Licences conditions</p> <p>(Additional references to paragraph 12 and paragraph 1.8)</p>	<p>The respondent considers that this paragraph should be expanded to indicate that the mandatory and default conditions will usually be sufficient to ensure that premises operate in a manner that is reasonably consistent with the licensing objectives.</p> <p>There is also further reference to paragraphs 12 and 13 where it is proposed that these sections should be clear that additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented.</p> <p>The respondent also refers to paragraph 1.8 and that it should include a reference to evidence and request that it is redrafted to indicate that the licensing authority can impose conditions on a premises licence, reject, review or revoke a premises licence where there is evidence of a 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.</p>	<p>Section 169 of the Act gives licensing authorities:</p> <ul style="list-style-type: none"> • The ability to exclude from premises licences any default conditions that have been imposed under section 168; and/or • The power to impose conditions on premises licences that they issue. <p>The Statutory Guidance makes it clear in paragraph 9.28 that licensing authorities should make decisions on conditions on a case-by-case basis, and in the context of the principles of section 153 of the Act. They must aim to permit the use of premises for gambling and so should 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 the Statutory Guidance, or their own statement of policy. Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through use of conditions.</p> <p>Additionally, paragraph 9.31 of the Guidance states that conditions imposed by the licensing authority must be proportionate to the circumstances which they are seeking to address. In particular, licensing authorities should ensure that the premises licence conditions are:</p> <ul style="list-style-type: none"> • Relevant to the need to make the proposed building suitable as a gambling facility; • Directly related to the premises (including the locality and any

Relevant Section of Policy	Response Received	Officer Recommendation
		<p>identified local risks) and the type of licence applied for;</p> <ul style="list-style-type: none"> • Fairly and reasonably related to the scale and type of premises; and • Reasonable in all other respects. <p>The above paragraphs from the Statutory Guidance have been incorporated directly within the statement of licensing policy which the respondent seeks to amend.</p> <p>Recommendation: The provisions within the Act and associated Statutory Guidance offer both the Licensing Authority sufficient discretion and any applicant/licence holder suitable protection and it is not considered necessary nor appropriate to deviate from the Statutory Guidance issued by the Gambling Commission.</p>
<p>Respondent: The Chief Officer of Police</p>		
<p>Policy in General</p>	<p>The response makes general comments about the draft policy and the role of the Police and matters relating to crime.</p> <p>Paragraph 10.7 - Hampshire Constabulary note that the Licensing Authority does not propose to develop a Local Area Profile at this time. The Police note that the lack of crime data linked to gambling venues tends to confirm that this is not necessary or proportionate at present. If crime and disorder levels (linked to venues with gambling licences) increase, the Police have the ability to devise and provide crime data sets to contribute to this process.</p>	<p>Recommendation: Comments noted and no amendments needed to policy.</p>

Relevant Section of Policy	Response Received	Officer Recommendation
	<p>Hampshire Constabulary also welcome paragraph 10.5 of the policy which states:</p> <p><i>"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".</i></p>	
<p>Respondent: Leslie Macleod-Miller (representing a number of operators and stakeholders concerned with social welfare in the gaming sector).</p>		
<p>The respondent makes a number of observations and recommendations with respect to the negative impact and regulation of £100 a spin gaming machines (more commonly referred to as Fixed Odds Betting Terminals (FOBTs)). He wishes to recommend that the Licensing Authority consider a number of general points that he believes should be included in the policy.</p>	<ol style="list-style-type: none"> 1. That the statement of Licensing Policy should include a statement that the Authority is concerned at the potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs) by customers who may be at least able to afford to lose cash, coupled with the speed and ease with which they can gamble compared with other forms of gambling. He also recommends that the Authority supports any campaign to materially reduce the stake on FOBTs. There should be a consistent policy regarding the stake and prizes which can be available in adult gaming premises on the High Street. 2. That the policy should specify that interested parties referred to under section 158 of the Act, in the opinion of the Licensing Authority, includes those individuals and organisations concerned with or involved with social 	<p>Firstly it should be pointed out that Mr Macleod-Miller submitted these generic comments in January 2016 prior to the draft policy being prepared and published. The respondent has not submitted any further comments or amendments following publication of the draft policy and its specific contents.</p> <p>Recommendations:</p> <p><u>Point 1.</u></p> <p>It is a matter for the Licensing Authority to determine whether or not they feel it appropriate to voice concerns within its statement of licensing policy in relation to the potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs).</p> <p>However, any such statement must be qualified by recognising that in carrying out its functions under section 153 of the Act it will aim to permit the use of the premises for gambling in so far as it thinks it:</p>

Relevant Section of Policy	Response Received	Officer Recommendation
	<p>welfare, addiction, poverty, public health, poverty and protection of the vulnerable which individuals and organisations will be deemed to represent those who live sufficiently close to the premises to be likely to be affected by the authorised activities.</p> <p>3. The licensing policy specifies that, while each application or review will be decided on its merits, it is likely to take into account, when considering applications for premises licences, permits and other permissions, and when determining whether to review a licence, the licensing authority's local area profile. In particular, with respect to the local area profile that those with permanent or temporary financial deprivation within the local area and may be least able to afford to lose cash are vulnerable and likely to be harmed by the potential effects of excessive use of FOBTs because of the maximum £100 stake coupled with the speed and ease with which they can gamble compared with other forms of gambling.</p> <p>4. That the licensing policy acknowledges that while section 172(10) of the Act provides that conditions may not relate to gaming machine categories, numbers or method of operation, conditions should be imposed upon the player rather than the machine so that those playing category B2 machines should not be permitted to wager more than £2 per spin (or such other level to which the FOBT stake level is reduced</p>	<ul style="list-style-type: none"> • 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. <p>Members may wish to consider the addition of the following additional paragraphs in Chapter 18 - Betting Premises:</p> <p>18.9 The Licensing Authority is concerned at the potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs) by customers who may be at least able to afford to lose cash, coupled with the speed and ease with which they can gamble compared with other forms of gambling.</p> <p>18.10 Where an applicant for a betting premises licence intends to offer higher stake category B gaming machines (categories B2-B4) including any Fixed Odds Betting Terminals (FOBTs), then applicants should consider the following proposed measures to protect and support vulnerable persons;</p> <ul style="list-style-type: none"> • Leaflets offering assistance to problem gamblers should be available on gambling premises in a location that it

Relevant Section of Policy	Response Received	Officer Recommendation
	<p>as referred to in paragraph 1 above) irrespective of the machines ability to accept a higher stake.</p> <p>5. That the licensing authority should consider making reference in its policy to the local area profile, so that the local area profile can be reviewed and updated without the need for full consultation and therefore be updated to reflect the latest research concerning matters which relate to the licensing objectives and in particular protection of the vulnerable and the manner in which they can be protected.</p> <p>6. That the licensing authority should require operators to report vandalism to FOBTs so the Authority can obtain a true measure of the level of crime associated with FOBTs (addressing the issue that when machines are smashed by customers who have lost control, it is not being reported).</p>	<p>both prominent and discreet, such as toilets;</p> <ul style="list-style-type: none"> • Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who are vulnerable; • Trained personnel for the purposes of identifying and providing support to vulnerable persons; • Self-exclusion schemes; • Operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people; • Posters with GamCare Helpline and website in prominent locations; • Windows, entrances and advertisements to be positioned or designed not to entice passers-by. <p>18.11 It is acknowledged that some of the proposed measures above form part of the mandatory conditions placed on premises licences.</p> <p>18.12 The Licensing Authority may consider any of the above or similar measures as licence conditions should these not be adequately</p>

Relevant Section of Policy	Response Received	Officer Recommendation
		<p>addressed by mandatory conditions, default conditions or proposed by the applicant.</p> <p><u>Point 2.</u></p> <p>The policy statement sets out in some detail from paragraph 6.8 onwards information concerning interested parties. The policy clearly states that each case will be considered on its merits and gives examples of what factors can be taken into consideration. It is the view of your reporting officer that no further additions are necessary to the current policy as it is worded sufficiently broadly for individuals and organisations mentioned in the respondent's submission to make representations if the Licensing Authority receives written confirmation that a person/body "represents" someone who either lives sufficiently close to the premises and/or has business interest that might be affected by the authorised activities (as set out in paragraph 6.11)</p> <p><u>Point 3.</u></p> <p>This comment is not applicable in the case of the Licensing Authority's statement of licensing policy as at this point in time there is no intention to include a local area profile - see paragraph 10.7 of the policy. However it does state that if the Licensing Authority decides in the future to develop a Local Area Profile, it will be separate to this policy which accords with the request of the respondent.</p> <p><u>Point 4.</u></p> <p>The Act is very clear as regards certain</p>

Relevant Section of Policy	Response Received	Officer Recommendation
		<p>matters where the Licensing Authority may NOT attach conditions. These include:</p> <p>Section 172(10) provides that conditions may not relate to gaming machine categories, numbers of method of operation.</p> <p>Section 171 of the Act prevents a licensing authority imposing conditions in relation to stakes, fees, winnings or prizes.</p> <p>Therefore the respondent's proposal to impose conditions relating to stakes would be in contravention of the provisions of the Act and therefore should be disregarded.</p> <p><u>Point 5.</u></p> <p>See comments above for Point 3.</p> <p><u>Point 6.</u></p> <p>Whilst the respondent refers to the need for operators to report vandalism to FOBTs to address the issue of machines being smashed by customers who have lost control there is no supporting evidence along with this statement to suggest that this is currently a problem within betting premises. It is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under section 10, for licence holders to assess the local risk to the licensing objectives posed by the provision of gambling facilities at their premises and have policies, procedures and control measures in place to mitigate those risks.</p> <p>Recommendation: To note the comments made but no amendments to the policy necessary having regard to the protections contained within the LCCP</p>

Relevant Section of Policy	Response Received	Officer Recommendation
		requirements.

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Portsmouth City Council
Licensing Office
Civic Offices
Guildhall Square
Portsmouth
PO1 2AL

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / LHF / 097505.00004
#GS1312023
Your ref:
Date: 31 March 2017

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

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

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

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

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

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

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

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

believes it is important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

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

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2016 were 8,709 - a decline of over 400 since March 2014, when there were 9,137 recorded.
- recent planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

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

LGA – ABB Betting Partnership Framework

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

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

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

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

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

Primary Authority Partnerships in place between the ABB and local authorities

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

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

Local area risk assessments

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

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

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

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

Best practice

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

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

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

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

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

Concerns around increases in the regulatory burden on operators

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

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

Employing additional licence conditions

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

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

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

Other concerns

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

Considerations specific to the Gambling Act 2005 Statement of Principles 2017-2020

Overall, the ABB welcomes the light touch and non-prescriptive nature of the policy. The ABB particularly welcomes the acknowledgment that legal gambling in a fair and open way with suitable protections contributes much to the growth of the local economy and offers an important role for employment.

We respectfully submit that paragraph 11.27 should be redrafted. This indicates that *“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.”* This may be the case if the premises are open and trading but, as the policy acknowledges, it is possible to make an application for premises which are not yet ready to open. In the context of a betting office licence, a premises licence that had been granted would only be breached if the operator provided facilities for betting where the layout of the premises did not accord with the plan attaching to the premises licence. We respectfully submit that this paragraph should be redrafted to reflect this.

Paragraph 13 deals with premises licence conditions. There are also references to the ability to impose conditions in paragraph 12. Paragraph 13 should be expanded to indicate that the mandatory and default conditions will usually be sufficient to ensure that premises operate in a manner that is reasonably consistent with the licensing objectives. Both paragraphs 12 and 13 should be clear that additional conditions will only be imposed where there is clear evidence of a risk to the licensing objectives that requires that the mandatory and default conditions be supplemented. As stated earlier in this response, it is important that the evidential basis for the imposition of additional conditions is clearly established within the draft statement of principles.

Similarly, paragraph 1.8 should include a reference to evidence. This paragraph should be redrafted to indicate that the licensing authority can impose conditions on a premises licence, reject, review or revoke a premises licence where there is evidence of a 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.

Conclusion

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

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

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

Yours faithfully,



GOSSCHALKS



Hampshire Constabulary

Station : **Licensing & Alcohol Harm Reduction Team** Area : **P&N / Strategic Partnerships**

Department : **Licensing & Alcohol Harm Reduction Team** Date : **04 May 2017**

Subject : **Police response to consultation on statement of licensing policy (Gambling)**

FAO: Superintendent Will Schofield (District Commander, Portsmouth)
Chief Inspector James Pegler (Deputy District Commander, Portsmouth)
Chief Inspector Patrick Holdaway (Strategic Partnerships, P&N)

This is a police response to consultation by Portsmouth City Council on its' statement of licensing policy with regards to the principles they propose to apply in exercising their functions under the Gambling Act 2005.

Hampshire Constabulary recognise the 'Guidance to licensing authorities 5th edition, September 2015 (*Parts 17, 18 & 19 updated Sept 2016*)' which promotes partnership working and shared regulation between the Gambling Commission, Local Authority and other regulatory authorities

The Hampshire Constabulary are committed to supporting the licensing objectives linked to gambling legislation, these being;

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

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

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

The Force Licensing & Alcohol Harm Reduction team will be the primary conduit from Hampshire Constabulary. They will support the needs of the policing district whether this is on consultation on applications, compliance and enforcement activity around gambling matters, including test purchase operations.

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 city enjoys a diverse mix of establishments with some gaming elements, there are in excess of 330 venues with some form of gambling license whether as a primary or ancillary function to varying extents.



The range of venues covers casinos, betting shops, pubs, clubs, charity associations, school and sporting societies, cinema, charities, amusement arcades, bingo halls. The list is not exhaustive, likewise this covers an equally diverse range of gaming activities,

The demands of policing **specifically** around establishments linked to gaming are considerably less frequent, compared to venues linked to the day and night time economies

The key signal crime types linked to venues with gambling licences are theft and fraud offences. There are also low level ASB, criminal damage, assault and public orders offences often linked to alcohol consumption. There are very rare, infrequent robberies predominantly linked to a lone offender or a series across geographical districts.

The Record Management System (RMS) is used by Hampshire Constabulary to record all occurrences whether crime or non-crime, this creates a unique record for each location address. Those addresses that are form part of a chain of companies (such as betting shops) are also further linked, this under an umbrella called a 'business organisation'. The purpose is to maximise the ability to analyse trends and patterns of crime and disorder, linked to those venues

The sheer volume and differing complexity of gambling venues (casinos down to simple gaming machines in pubs/ clubs) means that any meaningful analysis would require a disproportionate amount of time to extract and analyse this data set of in excess of 330 venues with some form of gambling license

An analysis conducted of RMS data relating to a cross section of gambling venues of all size and complexity confirmed the hypothesis that 'visible' crime and disorder levels linked to gambling venues are extremely low. The trends show that other factors such as alcohol and illegal substances are inevitably linked to those low proportions of crime and disorder, likewise the temporal and geographical trends confirm commission times tend to be in the Night Time Economy and within NTE related venues

Hampshire Constabulary note that at this time, the draft PCC statement of licensing policy under 10.7 does NOT propose to develop a Local Area Profile. The lack of crime data linked to gambling venues tends to confirm this is not necessary or proportionate at present, if crime and disorder levels (linked to venues with gambling licences) increase the police have the ability to devise and provide crime data sets to contribute to this process

The new Social Responsibility (SR) code [*under the Gambling Commission's Licence Conditions and Codes of Practice (LCCP) revised and published February 2015*] 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.

The venues are also required to share these risk assessments with the Local Authority, however, there is no statutory requirement for licensees to share their risk assessments with responsible authorities (Police) or interested parties. Hampshire Constabulary welcome the draft PCC statement of licensing policy under 10.5 where it states;



“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”

Hampshire Constabulary recognise and support measures to reduce the vulnerability of those adults in venues with gambling licences

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

This Hampshire Constabulary recognise the ‘hidden’ risks of gambling and its’ link to crime and disorder, it fully supports the necessity for these to be mitigated in the risk assessment of any venue with a gambling licence

There are other ‘hidden’ risks factors that need to be considered by the local authority in their statement of licensing policy relating to gambling. There is an unknown 'invisible' crime impact linked to;

- Individuals addicted to gambling who commit crime to fund their habit
- Individuals whose gambling addiction is a factor to familial crime, vulnerability, financial hardship or relationship breakdown
- Individuals / Organised Crime Groups using gambling establishments for money laundering purposes
- Irresponsible gambling associated with FOBT (Fixed Odds Betting terminals) as they allow higher initial stakes with less regulation
- Online betting and associated regulatory difficulties
- Age verification issues. TP ops can help, less effective with online gambling sites

Hampshire Constabulary recognise these ‘hidden’ risks are difficult to quantify and also places adverse impact on other public and voluntary services. Hampshire Constabulary is committed to supporting the Gambling Commission, Local Authority and other regulatory authorities in partnership working to mitigate these risks and work to the licensing objectives

Submitted for your consideration

[Signature]

Dated 04/05/2017
Inspector 2841 Justin Roberts
Force Licensing Inspector
Licensing & Alcohol Harm Reduction Team

From: leslie Immassociates.com
Sent: 19 January 2016 10:05
Subject: Attention Licensing Department -Review of the local authorities

Dear Sirs

I am a licensing lawyer and a member of the International Master of Gambling Law representing a number of operators and stakeholders concerned with social welfare in the gaming sector. In the context of the review of the local authorities ("The Authority) statement of licensing policy (the Licensing Policy) I make the following observations and recommendations with respect to the negative impact and regulation of £100 a spin gaming machines . I recommend that the Authority consider the following **1.**That the Licensing Policy should include a statement that The Authority is concerned at the potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs) by customers who may be least able to afford to lose cash, coupled with the speed and ease with which they can gamble compared with other forms of gambling. The Authority therefore supports any campaign to materially reduce the stake on FOBTs. There should be a consistent policy regarding the stake and prizes which can be available in adult gaming premises on the high street .

2. Specifies that interested parties referred to under S.158 of the Act in the opinion of the licensing authority includes those individuals and organisations concerned with or involved with social welfare, addiction, poverty, public health, poverty and protection of the vulnerable which individuals and organisations will be deemed to represent those who live sufficiently close to the premises to be likely to be affected by the authorised activities.

3. The Licensing Policy specifies that, while each application or review will be decided on its merits, it is likely to take into account when considering applications for premises licences, permits and other permissions, and when determining whether to review a licence the licensing authority's local area profile. In particular, with respect to the local area profile that those with permanent or temporary financial deprivation within the local area and may be least able to afford to lose cash are vulnerable and likely to be harmed potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs) because of the maximum £100 stake coupled with the speed and ease with which they can gamble compared with other forms of gambling.

4. The Licensing Policy acknowledges that while s.172(10) of the Act provides that conditions may not relate to gaming machine categories, numbers, or method of operation, conditions should be imposed upon the player rather than the machine so that those playing category B2 machines should not be permitted to wager more than £2 per spin (or such other level to which the FOBT stake level is reduced as referred to in paragraph 1 above) irrespective of the machines ability to accept a higher stake.

5. The Authority should consider making reference in the Licensing Policy to the local area profile, so that the local area profile, can be reviewed and updated without the need for full consultation and therefore be kept updated to reflect the latest research concerning matters which relate to the licensing objectives and in particular protection of the vulnerable and the manner in which they can be protected

6. The Licensing policy should require operators to report vandalism to FOBTs so the Authority can obtain a true measure of the level of crime associated with the FOBTs (addressing the issue that when machines are smashed by customers who have lost control, it is not being reported).

Kindly acknowledge receipt of this representation

Yours sincerely

Leslie MacLeod-Miller

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Gambling Act 2005

Section 349 - Statement of Licensing Policy - 2017/2020

www.portsmouth.gov.uk



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Note: The appendices, whilst sitting within the policy document, do not form part of the policy and therefore may be updated as and when necessary without the requirement for formal consultation.

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 **31 March 2017 and 5 May 2017**. 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 **11 July 2017** 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.

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

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 authorities¹
- 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);

¹ 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 general 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 2015², 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.

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

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.

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) Regulations³ 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.

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

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.

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.⁴ 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;

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

- 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;
- 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 case⁵, 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 Regulations⁶. The application form allows the applicant to 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 he provides facilities for gambling**. 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

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

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.⁷

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. 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.⁸

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.

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.⁹
- 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.

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.

18.9 The Licensing Authority is concerned at the potential effects of excessive use of Fixed Odds Betting Terminals (FOBTs) by customers who may be at least able to afford to lose cash, coupled with the speed and ease with which they can gamble compared with other forms of gambling.

18.10 Where an applicant for a betting premises licence intends to offer higher stake category B gaming machines (categories B2-B4) including any Fixed Odds Betting Terminals (FOBTs), then applicants should consider the following proposed measures to protect and support vulnerable persons;

- Leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet, such as toilets;
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who are vulnerable;
- Trained personnel for the purposes of identifying and providing support to vulnerable persons;
- Self-exclusion schemes;
- Operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people;
- Posters with GamCare Helpline and website in prominent locations;
- Windows, entrances and advertisements to be positioned or designed not to entice passers-by.

18.11 It is acknowledged that some of the proposed measures above form part of the mandatory conditions placed on premises licences.

18.12 The Licensing Authority may consider any of the above or similar measures as licence conditions should these not be adequately addressed by

mandatory conditions, default conditions or proposed by the applicant.

Betting premises licence conditions

18.13 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.

18.14 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 its 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 regulations¹⁰);
- 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.¹¹
- 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.

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

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

- 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.

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

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) 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



APPENDIX B

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

Please note that this is not an exhaustive list. Page 79
 As it comes to light that other consultees should be included in the consultation, this will be carried out.

APPENDIX C

Glossary of Terms	
Applications	Application for licences and permits under the Gambling Act 2005.
Betting ring	An area that is used for temporary "on course" betting facilities.
Betting machine	A machine designed or adapted for use to bet on future real events (not a gaming machine).
Bingo	A game of equal chance.
Casino	An arrangement whereby people are given an opportunity to participate in one or more casino games.
Child	Individual who is less than 16 years old.
Club gaming machine permit	Permit to enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D).
Club gaming permit	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.
Code of Practice	Any relevant code of practice issued by the Gambling Commission under section 24 of the Gambling Act 2005.
Council	Portsmouth City Council.
Default conditions	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.
Delegated powers	Decisions delegated either to a Licensing Committee, Sub-Committee or Officers.
Disorder	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.
Equal Chance Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
Gaming	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.
Gaming machine	Machine covering all types of gambling activity, including betting on virtual events.

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

Personal Licences	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.
Pool Betting - Tracks	Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track.
Premises	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.
Premises Licence	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.
Prize gaming	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.
Prize gaming permit	A permit to authorise the provision of facilities for gaming with prizes on specific premises.
Provisional statement	Where an applicant can make an application to the Licensing Authority in respect of premises that he/she: <ul style="list-style-type: none"> • Expects to be constructed; • Expects to be altered; • Expects to acquire a right to occupy.
Regulations	Regulations made under the Gambling Act 2005
Relevant representations	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.
Responsible authorities	Responsible authorities can make representations about licence applications or apply for a review of an existing licence. For the purposes of the Gambling Act 2005, the following are responsible authorities in relation to premises: <ul style="list-style-type: none"> • The Council's Licensing Authority in whose area the premises are wholly or mainly situated; • The Gambling Commission; • Hampshire Constabulary; • Hampshire Fire & Rescue Service; • Planning Service, Portsmouth City Council; • Environmental Health Service, Portsmouth City Council; • Children's Social Care and Safeguarding Service; • HM Revenue & Customs.

SIA	The Security Industry Authority
Skills with prizes	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.
Statement of Licensing Policy	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.
Temporary use notice	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.
Totalisator or Tote	Pool betting on tracks.
Track	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.
Travelling fair	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.
Vehicles	Defined as trains, aircraft, seaplanes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted.
Vessel	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.
Vessel and relevant Licensing Authority	The relevant Licensing Authority is that for the area in which the vessel is usually moored or berthed.
Vulnerable persons	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.
Young person	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: licensing@portsmouthcc.gov.uk</p>	<p>The Chief Officer of Police Hampshire Constabulary Portsmouth Licensing and Violent Crime Reduction Team Licensing Office Civic Offices Guildhall Square Portsmouth PO1 2AL</p> <p>Tel: 101 Direct Dial: 023 9268 8314 Fax: 023 9268 8513 Email: force.licensing@hampshire.pnn.police.uk</p>
<p>Regulatory Services (Pollution Control) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8366 Email: pubprot@portsmouthcc.gov.uk</p>	<p>Regulatory Services (Business Support) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8362 Email: pubprot@portsmouthcc.gov.uk</p>
<p>Head of Planning Service Culture & City Development Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Email: planning@portsmouthcc.gov.uk</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: safeguardingnotifications@portsmouthcc.gov.uk</p>

<p>The Chief Fire Officer Hampshire Fire and Rescue Service HQ Leigh Road Eastleigh Hants SO50 9SJ</p> <p>Tel: 023 8064 4000 Email: csprotection.admin@hantsfire.gov.uk</p>	<p>The Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP</p> <p>Tel: 0121 230 6666 Fax: 0121 233 1096</p> <p>Email: info@gamblingcommission.gov.uk</p>
<p>HM Revenue & Customs National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ</p> <p>Tel: 0141 555 3492 Email: nru.betting&gaming@hmrc.gsi.gov.uk</p>	
<p>In respect of vessels only:</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 Email: portsmouth@ghm.mod.uk</p>	<p>Environment Agency Solent & Southdowns Office Guildbourne House Chatsworth Road Worthing West Sussex BN11 1LD</p> <p>Tel: National Call Centre 03708 506 506 (Mon – Fri 08:00 until 18:00) Email: enquiries@environment-agency.gov.uk</p>
<p>Maritime and Coastguard Agency Spring Place 105 Commercial Road Southampton Hants SO15 1EG</p> <p>Tel: 0203 817 2000 Email: infoline@mcga.gov.uk</p>	

Appendix E

Table of Categories of Gaming Machines		
Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 ¹²
B2 ¹³	£100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D - non-money prize (not crane grab)	30p	£8
D - non-money prize (crane grab)	£1	£50
D - Money Prize	10p	£5
D - combined money and non-money prize (coin pusher/penny falls)	20p	£20 (of which no more than £10 may be a money prize)
D - combined money and non-money prize (other than coin pusher or penny falls)	10p	£8 (of which no more than £5 may be a money prize)

¹² With the option of maximum £20,000 linked progressive jackpot on premises basis only.

¹³ Also known as Fixed Odds Betting Terminals (FOBTs).

Appendix F

Table of Maximum Number of Machines by Premises Type								
Premises Type	Machine Category							
	A	B1	B2	B3	B3A	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio).						
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio).						
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead.						
Betting premises and tracks occupied by pool betting			Maximum of 4 machines categories B2 to D (except B3A machines)					
Bingo premises*				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines		
Adult gaming centre**				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines		
Licensed family entertainment centre							No limit on category C or D machines	
Family entertainment centre (with permit)***								No limit on category D machines
Clubs or miners' welfare institute (with permits)****				Maximum of 3 machines in categories B3A or B4 to D				
Qualifying alcohol-licensed premises							1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)							Number of category C or D machines as specified on permit	
Travelling fair								No limit on category D machines

Notes:

- * Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight category B machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines but not B3A machines.
- ** Adult gaming centres are entitled to 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. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.
- *** Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FEC's and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.
- **** Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.

Appendix G

Table of gaming entitlements for clubs and alcohol-licensed premises					
	Members' club or MW institute with club gaming permit	Clubs established to provide facilities for gaming of a prescribed kind (currently bridge or whist clubs)	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit or club machine permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or Whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	Poker £1000 / week £250 / day £10 / person per game Other gaming No limit	Poker £1000 / week £250 / day £10 / person per game Other gaming No limit	Poker £100 / premises per day Other gaming £5 / person per game Cribbage & dominoes No limit
Limits on prizes	No limit	No limit	Poker £250 / game Other gaming No limit	Poker £250 / game Other gaming No limit	Poker £100 / game Other gaming No limit
Max participation fees - per person per day	Bridge/whist* £20 Other gaming £3	£18 (without club gaming permit) £20 (with club gaming permit)	Bridge/whist* £18 Other gaming £3 (for a commercial club) £1 (members' club)	Bridge/whist* £18 Other gaming £1	None permitted
Bankers/ unequal chance gaming	Pontoon <i>Chemin de fer</i>	None permitted	None permitted	None permitted	None permitted
Limits on bingo**	Maximum of £2,000 / week in stakes or prizes	No bingo permitted	Maximum of £2,000 / week in stakes or prizes	Maximum of £2,000 / week in stakes or prizes	Maximum of £2,000 / week in stakes or prizes

* On a day when no other facilities for gaming are provided.

** If more than the maximum, then an operating licence will be required.



Portsmouth
CITY COUNCIL

Licensing Service
Civic Offices
Guildhall Square, Portsmouth
PO1 2AL

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Gambling regulation

Councillor handbook
(England and Wales)

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Foreword

The 2005 Gambling Act was a pivotal point in gambling regulation in the UK. By liberalising previous gambling legislation, it established gambling as a mainstream leisure and social activity. Recent research indicates that as many as 28 million people participated in some form of gambling in the year to 2012 with some of 46 per cent of men and 40 per cent of women participating in gambling.

But even since the Gambling Act was introduced, the gambling landscape has changed significantly. Technological developments mean that significant numbers of people gamble by phone or online, and many of those 28 million people will not have set foot in a gambling premises.

We have also seen significant changes in the physical presence of gambling in our local areas. While much of the concern that accompanied the introduction of the Act centred on the prospect of large scale casinos, in practice it has been patterns of betting shop clustering and use of fixed odds betting terminals inside those betting premises that have generated significant political and public concern in recent years.

Under existing gambling legislation, councils have very limited powers to restrict the opening of gambling premises even if they believe that their local areas are already saturated with them. The LGA will continue to work with our members to make the case for stronger powers for councils in this area. Until then, it is incumbent on us to ensure we make full use of the range of tools at our disposal in relation to gambling regulation, recognising that our responsibilities go much wider than just betting shops and overall numbers of gambling premises.

We have therefore developed this handbook to help you understand and use these tools, as well as some of the key issues relating to local gambling licensing. The handbook provides a comprehensive overview of the responsibilities binding on licensing authorities and gambling operators within their local areas, including the strengthened requirements on social responsibility recently introduced by the Gambling Commission. Many of these changes offer scope for councils to develop much more tailored, local approaches to gambling regulation, including in partnership with the gambling industry, and I would encourage all councils to ensure they have explored them.

We hope you find it useful.



Councillor Tony Page

LGA Licensing Champion, Safer and Stronger Communities Board

The regulatory framework – an overview

The Gambling Act 2005 (the Act) consolidated and updated previous gambling legislation, creating a framework for three different types of gambling: gaming, betting and lotteries. Gambling can take the form of non-remote gambling, which takes place in a gambling premises, and remote gambling, which is typically undertaken by phone or online. Councils do not have any regulatory responsibilities in relation to remote gambling.

The Department for Culture, Media and Sport (DCMS) is the lead government department for gambling issues.

The Gambling Commission

The Gambling Commission is responsible for regulating gambling in accordance with the Act, and for issuing national operating licences to gambling businesses and personal licences to individuals. In regulating gambling, the Commission is required to have regard to the three licensing objectives for gambling, 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
- protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Commission is **required to aim to permit gambling**, providing that it is consistent with the licensing objectives.

To help fulfil its role, the Commission issue codes of practice relating to how gambling facilities should be provided, and guidance to licensing authorities (see below) on how to implement their responsibilities under the Act.

Licensing authorities and types of gambling

Licensing authorities¹ are a key partner in gambling regulation, with a responsibility for overseeing non-remote gambling in their local areas. This involves:

- setting the local framework for gambling through their statement of principles
- considering applications and issuing licences for premises where gambling takes place, with conditions where appropriate
- reviewing or revoking premises licences
- issuing permits for some forms of gambling
- undertaking inspection and enforcement activities, including tackling illegal gambling.

Although betting shops are the most commonly recognised gambling premises, councils are responsible for overseeing gambling in many different types of business:

- betting shops
- bingo halls
- adult gaming centres
- family entertainment centres
- casinos

¹ District and unitary councils.

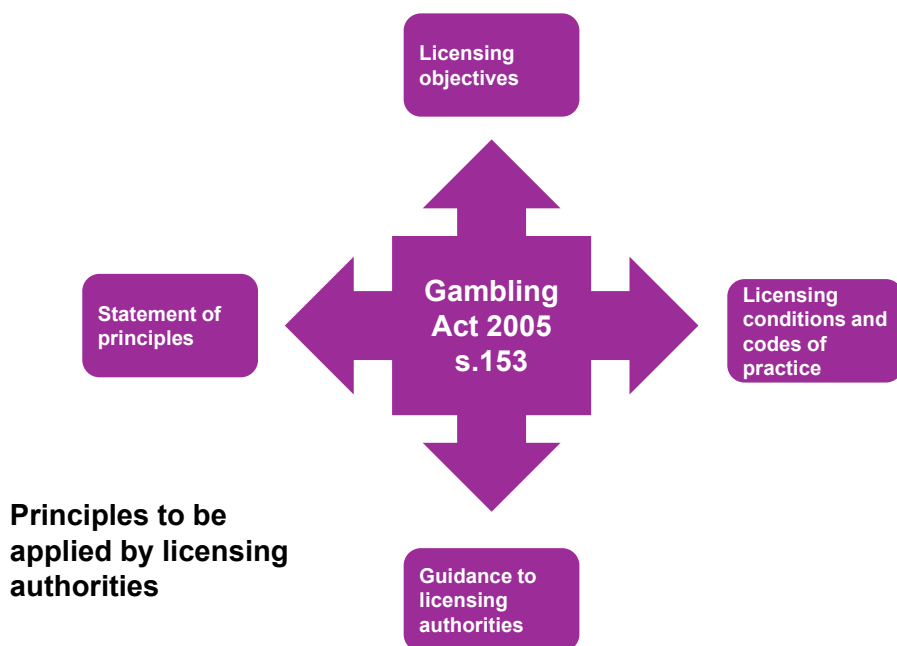
- race-courses and other tracks (defined as sporting venues, eg football or rugby stadiums)
- alcohol licensed premises and clubs that have gaming ('fruit' machines)
- members' clubs with gaming permits.

While most gambling establishments require a premises licence before they are able to operate, licensing authorities issue 'permits' to unlicensed family entertainment centres (typically found in seaside resorts, motorway service stations or airports) and to alcohol licensed premises and clubs.

Licences or permits enable businesses to provide specified maximum numbers and types of gaming machine. There are different types of gaming machines, with varying stakes (the amount allowed to be gambled at one time) and prizes (the amount the machines are allowed to pay out), and some types of machine are only allowed in specific premises. This is outlined in the table at Annex 1. Maximum stakes and prizes are set by the DCMS, and are currently subject to a triennial review, the most recent of which took place in 2013.

Like the Gambling Commission, **licensing authorities are bound by a statutory aim to permit** and must accept premises applications so long as they made are in accordance with:

- the Gambling Commission's codes of practice
- the guidance to local authorities
- the licensing authority's own statement of principles
- the three licensing objectives.



Later sections of this document outline the extensive scope and powers licensing authorities have to shape local gambling regulation. However, it is important to understand at the outset that licensing authorities have very limited grounds on which to refuse premises applications.

The licensing objectives under the Act are different to those under the Licensing Act 2003, and do not include public safety or the prevention of public nuisance. This creates a very high bar for refusing premises applications on the basis of the licensing objectives, and in general, where licensing authorities have tried to do so, they have been successfully challenged in the Courts.

Planning considerations and gambling premises

Councils have sometimes sought to use the planning system to prevent further openings of gambling premises (specifically betting shops) where they believe that additional premises will damage local high streets or economies. However, this approach has also led to legal challenges from the betting industry, and decisions have often been overturned by the Planning Inspectorate if councils have not been able to evidence that decisions have been reached on the basis of material planning considerations.

In response to lobbying from the LGA and others, the Government has recently introduced changes to the planning system in England that remove permitted development rights from betting shops and payday loan shops, which will now be treated as 'sui generis' ie in a use class of its own. This means that anyone wishing to change the use of an existing building to a betting shop will need to apply for planning permission to do so. To refuse such applications, a council would need to have valid planning grounds; in turn, this is likely to link back to the council's local planning policy and development plan. As with licensing statements, planning decisions will be stronger if they are linked back to evidence based criteria explicitly set out in local plans.

Although the LGA believes that this change is a helpful development, we recognise that it is unlikely to have an impact in areas where there is already significant clustering. This is because if an existing betting shop closed down, a rival operator would not need to seek planning permission in order to open a new shop, as there would not be a change of planning use. We therefore believe that a change to the licensing framework in relation to council powers to refuse new betting shops is required.

Under the Act, councils are required to recover the costs of the gambling licensing function, and have discretion to set fees up to specified maximum levels set for England and Wales by the Secretary of State. Fee setting is considered in more detail in the specific section later in this document.

Licensing fees should cover the costs of gambling licensing administration and the compliance / enforcement activity undertaken by the council. As with the Licensing Act 2003, councils have a range of licensing tools that can be used to address issues linked to gambling premises, specifically reviewing existing licences, imposing conditions or – in the most serious cases – revoking licences. However, there is also scope for councils to use other more appropriate powers to tackle certain types of challenges. For example, certain anti-social behaviour powers may be better suited to dealing with anti-social behaviour issues linked to gambling premises. This is considered in more detail in the subsequent section on managing individual premises and enforcement.

Summary of licensing authority powers

Neither the licensing nor planning framework give councils or communities the power to limit the number of gambling premises and gaming machines in their areas, with the statutory 'aim to permit' providing a fundamental obstacle in this regard.

Equally, the licensing objectives under the Act are a relatively narrow set of considerations that do not reflect many of the concerns associated with gambling in the 21st century, such as the lower-level nuisance or disorder that may be associated with premises in some areas. As set out in our Rewiring Licensing proposals, the LGA believes that there is a strong case for consistency of core objectives across different licensing regimes, including a health objective.

The LGA will continue to lobby for changes that give local communities a greater say in the range of amenities in the places where they live, and for a broader range of licensing objectives that properly reflects the risks associated with different types of licensable activity.

However, council responsibilities for gambling go much wider than just overall numbers of premises. Despite the limitations of the Act, **it is still the case that, through the powers councils do have under the Act and other pieces of legislation, there is considerable scope for councils to set out their expectations of gambling premises and manage them accordingly**, particularly in places that have concerns and evidence about the impact of gambling in their areas. The next sections of this handbook provide more information on the sort of approach that councils can consider.

Operators

Gambling businesses are required to have an operator licence issued by the Gambling Commission before they can operate in Great Britain. Operator licences can be issued for up to ten different types of gambling activity² and a separate licence is needed for both remote and non-remote gambling of the same types.

An operator licence gives a general authorisation for a business to provide gambling facilities, but a business wishing to provide non-remote gambling facilities in a licensing authority area is required to apply for a premises licence that is specific to the particular premises.

Operators are required to comply with conditions attached to both their operator and individual premises licences. They are also required to adhere to the mandatory provisions in the Gambling Commission's Social Responsibility Code of Practice and take account of the provisions in the Ordinary Code of Practice (although these are not mandatory).

The Licence Conditions and Codes of Practice (LCCP) were updated in April 2015, and have introduced significant new responsibilities for operators in relation to their local premises.

With effect from April 2016, all non-remote licensees that run gambling premises will be required to assess the local risks to the licensing objectives arising from each of their premises and have policies, procedures and control measures to mitigate them.

Licensees are required to take into account the licensing authority's statement of principles in developing their risk assessments.

Local risk assessments should be undertaken or reviewed and if necessary updated by operators:

- when applying for a new licence or to vary a premises licence
- to reflect significant changes to local circumstances, including those identified in the statement of principles
- when there are significant changes at the premise which may affect mitigation of local risks.

Operators are advised to share their risk assessments when submitting such applications.

² The ten types of operator licences are for: casinos; bingo; general betting; pool betting; gaming machines for adult gaming centres; gaming machines for family entertainment centres; gambling machines – technical; gambling software operating; lottery operating.

A partnership approach to local regulation

In line with the principles of better regulation, the Gambling Commission are encouraging operators and licensing authorities to work together in partnership. The LGA also recognises the value of this approach, having convened a 'Betting Commission' in 2014 to bring together councils and representatives of the betting shop industry to discuss council concerns about clustering and fixed odds betting terminals (FOBTs) machines.

The Betting Commission did not reach agreement on the changes that councils wish to see in relation to council powers in this area. The LGA policy position remains that councils need stronger powers to shape their local high streets by refusing licences if there is already a concentration of gambling premises in the area, and while some within industry may be sympathetic to this view, there are differing views and some sections are opposed to such a change.

However, the work of the Betting Commission indicated that there is willingness across the industry and local government to try to increase joint working to meet the shared objective of tackling local issues linked to betting shops: a framework agreement by the LGA and Association of British Bookmakers to promote partnership working is available on our website. The new requirement for operators to prepare local risk assessments will also necessitate a much closer relationship between the gambling industry and licensing authorities, as is already common in relation to alcohol. The LGA believes that in many areas this will help councils in implementing more effective local gambling regulation.

Role of councillors and the licensing authority

Overview

Under the Act, the licensing authority's responsibilities are delegated to the authority's licensing (or regulatory) committee, which is likely to be made up of non-executive/ cabinet councillors.

The licensing committee is likely to be responsible for considering and proposing the authority's gambling policy through developing the statement of principles prior to its approval by full council, and for taking decisions on specific licence applications or issues.

However, two core functions are not delegated and remain the responsibility of the full council:

- a resolution not to issue casino premises licences
- adopting the licensing statement of principles.

Fee-setting is not delegated to the licensing committee by default, but a licensing authority may choose to delegate this function. Otherwise, fee-setting remains a council function and cannot be delegated to a cabinet or executive committee.

Decision-making in respect of individual cases, whether applications for licences or relating to existing licences, may be further delegated from the licensing committee to a sub-committee, or to an officer. Officers may not, however, exercise delegated powers in the following circumstances:

- where an application has been made for a premises licence, or to vary an existing premises licence, and representations have been made, or
- in the case of a review of an existing premises licence.

Interested parties and responsible authorities

Unlike the Licensing Act 2003 framework, representations may be made by or on behalf of 'interested parties' defined as:

- people living sufficiently close to a premises to be likely to be affected by it, or
- whose business interests may be similarly affected, or
- people representing them (eg advocates, neighbours / residents / tenants associations, MPs, councillors etc).

It is up to the licensing authority to determine whether a person is an interested party with regard to a particular premises or application, and this should be decided on a case-by-case basis. However, the licensing authority's statement of principles should set out the principles the authority will apply in doing so. The Gambling Commission's guidance to licensing authorities advises that this may include:

- the size of premises (eg, a larger premises might be expected to affect people over a broader geographical area)
- nature of the premises
- distance of the premises to a person making the representation
- the potential impact of the premises, eg number of customers, routes likely to be taken to visit the premises
- the circumstances of the person who lives close to the premises.

The Commission also states that licensing authorities should take a broad interpretation of business interests, to include partnerships, charities, faith groups and medical practices. In respect of gambling businesses themselves, it advises that authorities consider the size and catchment of a premises, and whether the person making the representation has business interests in the catchment area which might be affected.

Representations may also be made by 'responsible authorities', defined under the Act as the:

- licensing authority
- Gambling Commission
- police
- fire and rescue service
- planning authority
- environmental health
- local safeguarding board
- Her Majesty's Revenue and Customs.

Decision making and conditions

In circumstances where the committee or sub-committee considers specific cases, it sits as a quasi-judicial body and therefore must follow the rules of natural justice – **anyone affected by a decision has a right to be heard and no one should be a judge in his own cause. All decisions should be made without 'fear or favour', however difficult they may be.**

In general, the volumes of applications and cases dealt with in respect of the Act will be significantly less than in relation to alcohol or taxi licensing. However, in broad terms, committees have similar options available to them when considering an application / issue relating to a gambling premises as they do in relation to alcohol licences and taxis:

- to grant a licence, with or without conditions, or refuse it
- when reviewing a licence,
 - do nothing
 - introduce conditions on a premises licence
 - revoke a licence.

Licensing authorities may attach specific conditions to premises licences, in addition to the mandatory and default conditions that apply either because they are set out in the Act or in regulations made by the Secretary of State. In relation to an individual premises, they may also choose to disapply default conditions set out in regulations which would otherwise apply to all premises licences.

The Gambling Commission's Guidance to Licensing Authorities (GLA) advises that premises licence conditions issued by authorities should be:

- 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
- reasonable in all other respects.

The GLA also states that ‘decisions on conditions should be taken on a case by case basis. [Licensing authorities] must aim to permit the use of premises for gambling and so should 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 guidance, or their own policy statement. Conversely, licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.’

Good practice on licensing conditions

In any area of licensing, conditions must not:

- exceed the council’s powers set out in the controlling legislation (‘ultra vires’)
- be unreasonable or disproportionate (‘Wednesbury unreasonable’)
- be beyond the applicant’s powers to comply with
- be for an ulterior motive
- **but must** be clearly stated in order that they can be properly understood to be complied with and enforced.

Both applicants seeking new licences and the holders of existing licences will have the right of appeal to the local magistrates’ or crown court if they are aggrieved by the decision of the licensing committee.

Training of councillors

No councillor should be permitted to sit on a licensing committee or sub-committee without having been formally trained. It is important that training does NOT simply relate to procedures, but also covers the making of difficult and potentially controversial decisions, and the use of case study material can be helpful to illustrate this.

All training should be formally recorded by the council and require a signature from the councillor.

In addition to in-house training, there are a number of independent training providers, including the professional bodies – the National Association of Enforcement and Licensing Officers (NALEO), and the Institute of Licensing (IoL). The LGA has also made available a free online module on regulatory services for all councillors to use – <http://lga.learningpool.com/> – and the Better Regulation Delivery Office Regulator’s Development Needs Analysis has a competency module on gambling which may be of interest: <http://rdna-tool.bis.gov.uk/>

Appearance of bias

While third party lobbying of elected members is legitimate and certain members may make representations to the licensing committee on behalf of ‘interested parties’, it is crucial for the licensing authority and its committee to ensure that there is neither actual nor an appearance of bias in its decision-making. It should also be remembered that concerns about political lobbying were the basis of the concerns which lead to the first Nolan Committee on Standards in Public Life.

Section 25 of the Localism Act 2011 does not prevent members from publicly expressing a view about an issue or giving the appearance of having a closed mind towards an issue on which they are to adjudicate. However it is recommended that to avoid an appearance of bias the following advice should be observed:

- No member sitting on the licensing sub-committee can represent one of the interested parties or the applicant. If s/he wishes to do so s/he must excuse him/herself from membership of the sub-committee which is considering the application. Case law has also established they should not be in the room for the hearing once an interest has been declared.
- If a member who sits on the licensing sub-committee is approached by persons wishing to lobby him/her as regards the licence application then that member must politely explain that they cannot discuss the matter and refer the lobbyist to his/her ward member or the licensing officer who can explain the process of decision making. If the member who sits on the licensing sub-committee wishes to represent them then s/he will need to excuse him/herself from the licensing sub-committee.
- Members who are part of the licensing sub-committee must avoid expressing personal opinions prior to licensing sub-committee decision. To do so will indicate that the member has made up his/her mind before hearing all the evidence and that their decision may not be based upon the licensing objectives nor the statement of licensing policy.
- Political group meetings should never be used to decide how any members on the licensing sub-committee should vote. The view of the Ombudsman is that using political whips in this manner may well amount to findings of maladministration. It may be advisable that the chair of the licensing sub-committee should state, during proceedings, that no member of the sub-committee is bound by any party whip.
- Councillors must not be members of the licensing sub-committee if they are involved in campaigning on the particular application.
- Other members (ie those who do not sit on the licensing sub-committee) need to be careful when discussing issues relating to matters which may come before the licensing sub-committee members as this can easily be viewed as bias / pressure and may well open that sub-committee member to accusations of such. While a full prohibition upon discussing such issues with committee members by other members may be impractical and undemocratic, local authorities are advised to produce local guidance for members on how such matters can be dealt with.¹ Such guidance could include a definition of what is viewed as excessive eg attempting to obtain a commitment as to how the member might vote.
- Members must also be aware of the need to declare any pecuniary or non-pecuniary interests in matters that may come before them, whether these relate to policy issues or to specific applications.
- Members must not pressurise licensing officers to make any particular decisions or recommendations as regards applications.
- Member behaviour is also governed by the member's code of conduct which you should have regard to, and most authorities also have a member/officer protocol which governs how members and officers should interact and the differences in their roles and responsibilities.
- Members should consult their monitoring officers for further advice where necessary.

¹ "It is undemocratic and impractical to try to prevent councillors from discussing applications with whomever they want; local democracy depends on councillors being available to people who want to speak to them. The likely outcome of a prohibition would be that lobbying would continue but in an underhand and covert way." (Nolan Committee Report into Standards in Public Life 285 p. 72)

The licensing authority statement of principles

Under section 349 of the Act, licensing authorities are required to prepare a statement of principles that they propose to apply in relation to their regulatory responsibilities in gambling. Statements of principles typically run for a period of three years, although there is nothing to prevent an authority from updating its statement more frequently if it wishes to.

In previous years, the LGA / LACORS produced a template statement of principles for licensing authorities to adopt. However, following changes to the licensing conditions and codes of practice, reflected in the updated guidance to licensing authorities published in March 2015, we have produced the guidance below to assist licensing authorities in reviewing and considering their statements.

Objective and purpose

The objective of the statement of principles is to provide a vision for the local area and a statement of intent that guides practice: licensing authorities must have regard to their statement when carrying out their licensing functions. The statement cannot create new requirements for applicants outside of the Act, and cannot override the right of any person to make an application under the Act, make representations or seek a review of a licence. However, it can invite people and operators in particular to consider local issues and set out how they can contribute towards positively addressing them.

The updated licence conditions and codes of practice have significant implications for the statement of principles. The **requirement for operators to prepare local risk assessments in relation to all their premises from April 2016 means that licensing authorities will need to set out their expectations of operators' risk assessments, ideally in their statements.**

This provides a real opportunity for councils to reflect local needs and issues in their gambling policies, in a similar way to licensing policy statements prepared under the Licensing Act 2003.

Most licensing authorities will not experience the same volume of applications in gambling as they do in other areas of licensing, but the issues of betting shop clustering and concern over FOBTs have shown that gambling generates extremely strong feelings. While licensing authorities may not have the powers to refuse new applications or limit FOBT machines, developing detailed and robust statements of principles that reflect local circumstances will enable them to shape local gambling regulation as much as possible. A statement that reflects local circumstances and risks can help operators to better understand and proactively mitigate the risks to the licensing objectives.

Conversely, as in other areas of licensing, if an authority's statement of principles does not cover a specific issue, it will be in a significantly weaker position if it is ever challenged on a decision on that issue. It is always better to pre-empt legal challenge through a comprehensive statement of principles, and setting out a position in the statement should encourage an applicant to work with the council and community from the start to develop an application that will add to the local area, rather than detract from it.

The significant changes to the LCCP in 2015 offer scope for authorities to develop statements of principles that are more closely tailored to their local circumstances. The Gambling Commission recognise that in some places, developing more localised statements of principles will be an iterative process that takes place over time, as different information and more tools (for example, from the Westminster / Manchester research into local gambling related harm which is due to conclude in September 2015) become available. Licensing authorities that have made relatively minor changes to their existing statements in 2015 may consider more comprehensive updates ahead of the statutory deadline for the next update of the statement (in most cases, 2019).

Process

In developing their statements, the Act requires licensing authorities to consult with:

- local police
- those representing the interests of gambling businesses in their localities
- people likely to be affected by it (or those who represent them).

Authorities may also wish to consult with:

- organisations including faith groups, voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, such as public and mental health teams, and advocacy organisations (such as the Citizen's Advice Bureau and trade unions)
- local businesses
- other tiers of local government (where they exist)
- responsible authorities.

Cabinet office guidance on public consultations³ states that the time required for a public consultation 'will depend on the nature and impact of the proposal (for example, the diversity of interested parties or the complexity of the issue, or even external events), and might **typically vary between two and 12 weeks.**'

Licensing authorities should look at the views submitted by consultees and consider carefully whether they should be taken into account in finalising their statements. A licensing authority should always be able to give reasons for the decisions it has made following consultation. However, they should ensure that they only consider matters within the scope of the Guidance, Act and Codes of Practice. Even if there is a large response regarding a certain issue, an authority may be unable to deal with the issue under the Gambling Act, although there may be other options for addressing issues raised (eg planning).

Given the requirement to undertake a consultation when the statement of principles is amended, authorities may wish to consider separating their statements into distinct segments (possibly by sector). This would ensure that they need only consult on the section they propose to amend, rather than on the full statement, if changes need to be made.

Licensing authorities are required to publish their statements four weeks prior to them coming into effect, ie on or by 3 January 2016 if the statement takes effect on 31 January 2016. Licensing authorities are required to publish a notice advertising the publication of the statement on or before it comes into effect.

³ Cabinet Office 2013: www.gov.uk/government/uploads/system/uploads/attachment_data/file/255180/Consultation-Principles-Oct-2013.pdf

Key issues for the statement of principles

Legal requirements

Licensing authorities are required to include within their statements a number of points set out in statutory regulations:

- a list of the three licensing objectives that the statement is intended to uphold
- a commitment to upholding the statutory aim to permit gambling
- a description of the geographical area to which the statement applies (typically a plan of the area)
- a list of those consulted in preparing the statement
- the principles the licensing authority will apply in designating a competent body to advise it about the protection of children from harm and, if already determined, who this body is. In most places, this will be the Local Safeguarding Children Board (see page 26)
- the principles the licensing authority will apply in determining whether someone is an interested party for the purposes of premises licences or applications for them (see page 9)
- the principles to be applied in relation to exchanging information with the Gambling Commission or other bodies with whom licensing authorities are authorised to share information under the Act
- the principles to be applied in exercising inspection functions and instigating criminal proceedings (see page 19).

If the licensing authority has agreed a 'no casino' resolution, this should be included within the statement, alongside details of how (ie by full council) and when the decision was reached.

Local area profiles

The updated guidance for licensing authorities recommends that, like operators, licensing authorities complete and map their own assessment of local risks and concerns by developing local area profiles to help shape their statements (although there is no requirement to do this). In simple terms, the objective of the profiles is to set out what your area is like, what risks this might pose to the licensing objectives, and what the implications of this are for the licensing authority and operators.

Licensing authorities may wish to include local area profiles within their statements. Alternatively, they could reference the implications of local area profiles for their regulatory approach in the statement, but maintain the actual profiles separately. **This would enable the profiles to be updated without the need to re-consult on amending the full statement of principles.**

Some councils have expressed concern about whether they have access to information about local risks, or whether there are any local gambling risks to be addressed at all. It may therefore be helpful to start from simple principles, and expect that for many authorities these profiles will develop over a period of time. Public health colleagues may have useful data to contribute, in addition to that supplied by the Police.

As stated, the aim of local area profiles is to build up a picture of the locality, and in particular the elements of it that could be impacted by gambling premises. This profile might therefore include reference to:

- schools, sixth form colleges, youth centres etc, with reference to the potential risk of under-age gambling
- hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups
- religious buildings
- any known information about issues with problem gambling
- the surrounding night time economy, and possible interaction with gambling premises
- patterns of crime or anti-social behaviour in the area, and specifically linked to gambling premises
- the socio-economic makeup of the area
- the density of different types of gambling premises in certain locations
- specific types of gambling premises in the local area (eg, seaside resorts may typically have more arcades or FECs).

Crucially, local councillors know and understand their areas as well as anyone, and are well-placed to contribute to the development of local area profiles. The Gambling Commission also recommend engaging with responsible authorities and other organisations that can help build up a profile of both actual and potential local risks in developing local area profiles. This includes organisations involved in public health, mental health, housing, education, welfare groups and community safety partnerships, and organisations such as Gamcare or equivalent local support organisations.

One issue to consider is whether there is a need to differentiate different parts of the licensing authority area in drawing up local area profiles, depending on the size and nature of the area.

A smaller authority may take the view that there are no reasons to distinguish one part of the borough from any other. In contrast, larger areas may wish to differentiate the area into segments or zones with different characteristics and risks, enabling them to outline different expectations for applications or operators based in each. For example, a larger licensing authority that has a specific geographic area with a higher density or specific type of gambling premises may wish to differentiate this from the rest of the borough. Similarly, smaller authorities may also find this approach suitable, for example if there is a busier town centre and surrounding rural area with a very different profile.

In March 2015, Westminster and Manchester councils launched a piece of research⁴ aimed at better understanding the issue of gambling related harm and local area vulnerability to it. The research is considering different risk factors related to gambling, with the intention of developing a tool that helps the councils map these to the local area and shape their statements of policy. The research is expected to conclude in September 2015, and the LGA (which has part funded the research) will help disseminate the findings and tools from the research to other licensing authorities, who may subsequently want to use these to develop their local area profiles.

⁴ www.westminster.gov.uk/research-project-tackle-gambling-issues-local-communities

Expectations of operators

Local area profiles will help the authority to develop its expectations of existing operators and new applicants in the licensing authority area. The statement of principles is the key tool for setting this out clearly, so that operators are clear what is expected of them.

Risk assessments

As an example, the statement of principles is an **opportunity for a licensing authority to set out its expectations of the local risk assessments that operators must now undertake** in respect of all gambling premises.

Operators are required to take into account the licensing authority's statement of principles in developing their risk assessments, so authorities should therefore specifically outline the issues they expect operators to cover within their risk assessments. Operators are not automatically required to share their risk assessments with licensing authorities except when they are applying for a new premises licence or to vary an existing one. However, the Gambling Commission is advising operators to do so. Authorities may use the statement of principles to clarify whether or not and how regularly they expect to receive a copy of each premises' risk assessment.

Authorities will wish to ensure that the risk assessment covers the following broad headings:

- reference to any specific local risks (linked to the local area profile)
- how the operator proposes to mitigate these risks
- how the operator will monitor specific risks.

The statement should also set out if the licensing authority has any specific expectations of risk assessments for different types of premises. This will be linked to broader expectations of operators (linked to activity and location), as set out below.

Applications and variations

The statement should also set out the licensing authority's expectations of new applications and the issues the authority will take into account in considering applications for new licences, permits or variations in different sectors or parts of the borough, depending on the risks associated with each.

This should include the information that the authority would expect to see as part of any such application, for example minimum standards for a plan and layout of the premises. It could also include a list of required information about staffing arrangements in the premises, or the security features that will be put in place.

Depending on the local area profile, authorities may wish to invite information at application stage about premises' intended participation in local business schemes (eg, if there is a BID) or other specific schemes such as Betwatch, if this is in place.

Similarly, authorities could invite applicants to outline specifically how individual premises will be implementing the various voluntary codes of practice that different sectors have developed, as well as the measures mandated in the licensing conditions and codes of practice.

The key point is that the statement is an opportunity to clarify your expectations of businesses in relation to new applications, reducing the input and resources required at the time an application is submitted.

Sector / area specific expectations

The statement should be used to set out the licensing authority's expectations of operators of different types of premises, or (if relevant) of premises in different parts of the licensing authority area. If there are particular risks associated with certain premises due to the facilities offered or their location, it is legitimate for the statement to set out upfront how it expects operators and premises to address this.

Local licensing guidance – South Leeds alcohol premises

South Leeds is an area of deprivation, with increasing numbers of outlets to buy alcohol, but a decline in the number of pubs. NHS Leeds (as was) and the local community officers had increasing concerns about the availability of alcohol in the area, along with an increase in street drinking, and generalized disorder. The publication of the Joint Strategic Needs Assessment highlighted a disparity in the life expectancy of residents in the area in comparison with other areas in Leeds and the national average. Alcohol misuse is known to be a possible contributory factor for a lowered life expectancy.

The council's South Leeds area team formed the multi-agency South Leeds Alcohol Group with the objective of reducing the health harms in the area which were linked with alcohol. The group consisted of the police, health, community safety, treatment services, planning, environmental health and licensing. The group met monthly to look at a number of approaches. The availability of alcohol was seen as key, but there were not enough on-licensed premises to warrant a cumulative impact policy. The group looked at alternative options and looked towards licensing as a solution.

In 2012, changes to statutory guidance on the Licensing Act enabled councils to require operators to have regard for the local area when making their application. The group therefore developed Local Licensing Guidance specifically for postcode areas of LS10 and LS11 (also known as Inner South Leeds), which has a population of approx. 82,000. The guidance has helped premises ensure that they are able to identify and include appropriate control measures in their applications. Of the five applications received since the development of the guidance that didn't include appropriate control measures, the Health and the Licensing Authority have negotiated with four premises who subsequently agreed to include additional control measures and a further application was withdrawn prior to hearing. The control measures included matters such as the positioning of alcohol within the store and agreement to display health information.

Similar approaches in gambling could include:

- Under-age sales
 - If a premises is based near a school or college, the measures that might be required to manage a higher risk of attempted under-age sales.
 - If the premises is a FEC or UFEC, expectations for how the premises will manage the risk of children and young people understanding different types of machine and / or seeking to access them.
- Security issues
 - Staffing requirements, if the premises is open late, or located in an area with a busy night time economy or record of crime / anti-social behaviour.
 - Whether alcohol is permitted, eg in a premises on a seaside pier.
 - Requirement for CCTV, maglocks, door chimes, alarms etc if there is a history of security incidents in the premises.

- Signage
 - For example, language requirements if there is a diverse local community where English may not be the first language.
 - Clear identification of different types of machine (eg gaming or skill machines) and / or prizes in premises where these may vary.
- Staff issues
 - Training requirements on particular issues relevant to the premises or area, eg) on different types of machine in a FEC / UFEC.

Another option is operator / premises participation in local schemes or industry best practice schemes (eg Safebet Alliance) designed to promote best practice and tackle any issues. In the alcohol licensed trade, schemes such as PubWatch, Best Bar None etc are common practice. This is far less common in relation to gambling, but may also have a role to play in some areas. Authorities could consider this as a default approach in specific areas, or as a first stage enforcement approach in areas where there are particular issues.

In relation to both existing operators and new applicants, the authority may wish to use the statement to outline a set of model licence conditions that operators could adopt if the local area profiles and risk assessments indicate it is necessary. The Gambling Commission's guidance to licensing authorities includes a helpful set of sample premises licence conditions arranged by security; anti-social behaviour; underage controls; player protection controls. These are listed at Annex 2.

Enforcement approach

Licensing authorities are required to set out in their statement the 'principles that they will apply in exercising their inspection function and instigating criminal proceedings' (that is, their approach to enforcement). As a minimum, the statement should outline the authority's intended approach in relation to:

- information sharing and targeting activity
- inspection activity and visits
- dealing with non-compliance by premises
- tackling illegal gambling.

It should be noted that in setting out its approach to inspection and enforcement, the authority will also be providing an outline of the basis for its fee structure, see page 23.

As in other areas of regulatory services, in developing their enforcement strategy, **authorities should adopt a 'better regulation' approach** that recognises the requirements of the statutory regulator's code⁵ and applies the principles of proportionality and transparency, particularly in terms of consultation and engagement with regulated businesses.

The Gambling Commission is keen for licensing authorities to foster a partnership approach to local regulation through working jointly with local businesses to tackle issues linked to gambling premises. The LGA – Association of British Bookmakers Framework for local partnership working on betting shops⁶ outlines this type of approach to partnership working between councils and the industry.

5 www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

6 www.local.gov.uk/documents/10180/6869714/L14-708++LGA-ABB+framework+for+local+partnership+working_08.pdf/29a0d2de-9cb5-4209-8544-d4c651c84470

LGA-ABB framework for partnership workings

The framework recognises that, despite the different opinions held by councils and the industry about the statutory aim to permit, there is a mutual interest in ensuring that local problems linked to betting shops are addressed. It also recognised that a partnership approach is likely to be more effective in resolving issues. This could include ward councillors; council licensing teams and community safety teams; police licensing and community officers; betting shop managers and betting shop area managers, as well as town centre managers, representatives of the wider business community and other stakeholders listed above.

There are different approaches that local areas can take for partnership working:

Ealing council set up a Betwatch scheme following concerns raised by local residents and councillors about the proliferation of 13 betting shops in Southall town centre and associated crime and disorder and antisocial behaviour. In a single year, there were 89 allegations of crime where a gambling premises was named as the location of the incident in Southall. The Betwatch group drew up action plans for tackling the issues, as well as test purchase failures in 3 of the premises, and a 'ban by one, ban by all' approach was introduced. Following the creation of the Betwatch scheme, crime within gambling premises decreased by more than 50 per cent on 2011 levels, alongside a significant reduction in public order offences and criminal damage incidents. Additionally, further underage test purchases took place in 2012 with no failures reported.

When concerns were raised about anti-social behaviour and crime associated with bookmakers on Deptford High St, **Lewisham Council** involved bookmakers in the development of two general business initiatives – the Deptford High Street Charter and Lewisham Borough Businesses Against Crime initiative. Alongside this, individual bookmakers made changes in order to address the problems of anti-social behaviour in and around their premises, including installing external CCTV and signs highlighting that the area is under surveillance; making amendments to remove places where street drinkers would often congregate; setting up new CCTV systems within stores which are regularly monitored; introducing banning orders against some problem individuals; and changing management and staff. This work resulted in a reduction of incidents in and around the bookmakers. Following the work, a local Betwatch scheme has been established.

Medway council worked with the Association of British Bookmakers and major operators to agree a voluntary agreement relating to the promotion of responsible gambling in Medway. Launched in December 2015, the agreement committed all parties to establishing a cross-operator self-exclusion pilot scheme within the Medway area; to developing a reporting of crime protocol in collaboration with the Medway Community Safety Partnership and Kent Police; and to adopting the industry voluntary code on safety and security – the 'Safe Bet Alliance'. See full case study on page 30.

A number of councils have now signed **primary authority agreements with some of the largest gambling operators covering the issue of age verification**.⁷ As with any other area, licensing authorities should therefore have regard to the plan agreed between the company and primary authority in developing their own programmes of activity and inspection. However, the primary authority relationship provides a useful mechanism to feedback general concerns about a particular operator, as the primary authority will have regular contact at senior levels with the operator: authorities should seek to reflect this in their enforcement approach.

Information sharing

To help target their enforcement activity and resources, authorities could use their statements to request that operators / premises share relevant information with them, for example about test purchasing results (subject to the terms of primary authority agreements) or about incidents in premises, which managers are likely to be required to report to head office. A licensing authority might seek information about numbers of self-excluded gamblers to help it develop its understanding about the risk of problem gambling in its area.

This type of information would help the authority to get a clearer picture of which premises may be experiencing issues, meaning that they can structure their inspection and enforcement activity appropriately.

Inspection activity and visits

The statement should set out the activity the authority intends to undertake as part of its standard (that is, pre-planned) inspection activity, and the issues it will be looking at when it does visit. This will ensure that operators know what to expect in terms of the frequency and nature of licensing authority visits.

The Gambling Commission, working with the Leicester, Rutland and Leicestershire Licensing Forum and Leicestershire Local Economic Partnership, has developed a range of templates to help authorities when they visit gambling premises:

www.gamblingcommission.gov.uk/Licensing-authorities/Information-for-licensing-authorities/Licensing-authorities-inspection.aspx. Compliance is made easier by making the regulations easier to understand and explain, and the Commission is encouraging authorities to make use of the templates.

The issues that licensing authorities may cover during their visits may include:

- details of training policies and training undertaken by staff
- records of refusals to serve / admit on age grounds (subject to the terms of any primary authority agreements)
- records of any relevant incidents in or outside the premises, eg anti-social behaviour
- approach to managing self-exclusion and numbers of people currently self-excluded
- involvement / impact of any work in local schemes or partnership working with other local businesses
- reviewing paperwork relating to the purchase of machines from licensed manufacturers
- interviews with staff members
- confirming that appropriate signage is in place.

⁷ The primary authority register is available to search at: <https://primaryauthorityregister.info/par/index.php/publicregister>

Dealing with non-compliance / risks to the licensing objectives

The statement should outline the steps the authority will take where there are reports of non-compliance, or there have been serious incidents linked to a premises. Authorities should make clear when and how they would expect to work with operators to try to resolve or address problems, and when an issue is so serious that it would expect to move immediately to initiate some form of enforcement action.

Authorities may wish to specifically cover:

- Dealing with test purchase failures (subject to the terms of any primary authority agreements). For example, the authority might require a premises to undertake certain measures to address this and undergo a follow-up test within a specified amount of time. A second failure would be expected to lead to enforcement action.
- Dealing with complaints from residents or neighbours. For example, an authority might have an established process to implement when it receives complaints about specific premises.
- Dealing with anti-social behaviour issues. For example, if an authority becomes aware that a premises is becoming associated with anti-social behaviour issues, it might in the first instance seek to work with the premises to address these through voluntary measures. If this is not successful in resolving the issues, the authority might then consider introducing conditions on the premises licence, or using other tools as appropriate.

The section on enforcement should the tools that licensing authorities will consider using to address issues that may be associated with gambling premises, often linked to alcohol and/or anti-social behaviour. Licensing authorities have the option under the Act to review, vary or impose conditions on a premises licence, but in practice these might not be the most effective tools to use to tackle problems linked to anti-social behaviour. Instead, tools specifically designed to reduce anti-social behaviour⁸, such as dispersal powers, community protection notices or new public space protection orders, may have more of an impact. In very, very rare instances, where a premises is being used or likely to be used to commit nuisance or disorder and working with the operator had failed to address this, a closure notice may also be served.

Tackling illegal gambling

The enforcement approach could also set out the authority's approach to illegal gambling, including how the authority intends to monitor the risk of illegal gambling or respond to any information linked to this risk. More information on illegal gambling is available on page 32.

⁸ See Home Office guidance on ASB powers: www.gov.uk/government/uploads/system/uploads/attachment_data/file/352562/ASB_Guidance_v8_July2014_final__2_.pdf

Licensing fees

Unlike fees for alcohol licences under the 2003 Licensing Act, licensing authorities have some discretion to set premises licence fees for gambling establishments. Councils in England and Wales have devolved powers to set fees for premises licence applications and annual fees up to a prescribed maximum fee set out in the table below. Licensing authorities can delegate responsibility for setting fees to their licensing committee or officers.

As with other licensing fees, licensing authorities should set their fees on the basis of cost recovery, so that the income received from fees is 'as nearly as possible' equal to the cost to the authority of administering the Act. Licensing fees should be reviewed annually to ensure that income from licensing fees does not exceed the costs of administering the Act in any single financial year, and income from licensing fees should effectively be ring-fenced to support councils' gambling work.

Licensing authorities are expected to be transparent about the assumptions that they make in setting fees, and will need to have a clear understanding of the costs they incur in carrying out duties under the Act in order to set fees accurately.

Licensing authorities can set fees in relation to the different types of gambling premises licence, and within each class, may set:

- an application fee
- an annual fee. As the first annual fee is payable 30 days after a licence is issued, councils have discretion to set a lower first annual fee to reflect that checks will recently have been made as part of the application process.
- a first / annual fee for a premises licence subject to a seasonal condition.
- fees to:
 - notify a change of circumstance
 - apply to vary a licence
 - apply to transfer a licence
 - apply for a copy of a licence
 - apply for reinstatement of a licence
 - apply for a provisional statement.

DCMS has previously provided advice⁹ on the type of costs that licensing authorities should include within their licensing fees. In relation to applications, any costs associated with the licensing authority of receiving, considering and determining the application may be included, including:

- staff costs
- overheads, IT, legal and other central support costs
- initial inspections
- Licensing Committee costs, and
- the cost of hearings and appeals.

In relation to annual fees, fees should cover:

- regulatory compliance and enforcement costs for the forthcoming year (eg inspection, holding reviews and enforcement activity). This would include any action in relation to illegal gambling, and could also include the cost of providing councillor training on gambling licensing.
- the costs associated with processing the annual fee (eg updating computer systems, register of gambling premises licences and processing fee).
- annualised periodic costs incurred by the licensing authority in respect of its three year licensing policy statements.

Licensing authorities that have set their fees close to or at the maximum levels prescribed by Government should be able to demonstrate why their fees are at higher levels than those set by other authorities. This may be because local costs (eg, salaries) are higher, or because they are undertaking a wider range of activities in relation to gambling premises, which can broadly be assessed from licensing authority returns to the Gambling Commission. This could include an extensive under-age sales programme, or work to tackle illegal gambling.

Again, as with other licensing fees, we are aware that **operators and their trade associations maintain a close eye on fees, and will not be afraid to challenge licensing authorities they believe are over-inflating fees** and / or not using the income solely for the purpose of overseeing gambling regulation.

The LGA has published general guidance on fee setting¹⁰, which licensing authorities may find helpful in determining licensing fees for gambling premises.

⁹ Available on the LGA Betting knowledge-hub group <https://knowledgehub.local.gov.uk/home>

¹⁰ www.local.gov.uk/documents/10180/5854661/L14-42+fees+guidance+report_05.pdf/5a4e8874-31e2-4158-b0cc-b5f30556c243

Table of maximum fees for gambling premises

Type of licensed premises	Maximum fee level					
	Application for premises licence	Annual fee	Application to vary a licence	Application to transfer a licence	Application for reinstatement of a licence	Application for provisional statement
Regional casino	15000	15000	7500	6500	6500	15000
Large casino	10000	10000	5000	2150	2150	10000
Small casino	8000	5000	4000	1800	1800	8000
Converted casino		3000	2000	1350	1350	
Bingo	3500	1000	1750	1200	1200	3500
Adult gaming centre	2000	1000	1000	1200	1200	2000
Betting premises (track)	2500	1000	1250	950	950	2500
Family entertainment centre	2000	750	1000	950	950	2000
Betting premises (other)	3000	600	1500	1200	1200	3000

Source: The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 SI No 479/2007

Protecting vulnerable people from gambling related harm

Protecting children and other vulnerable people from being harmed or exploited by gambling is one of the three licensing objectives. Ensuring that this objective is upheld is one of the core responsibilities licensing authorities must meet.

Children and young people

It is an offence under the Act **to invite, cause or permit** a child (anyone aged under-16) or young person (anyone who is not a child but is aged under-18) to gamble. There are certain exceptions to this; for example participation in a lottery or football pools, or use of a category D gaming machine. It is also an offence **to permit** a child or young person to enter a casino, betting premises (other than a racecourse or track) or adult gaming centre. Again, there are exceptions to this, for example children and young people may enter family entertainment centres providing that they cannot access category C machines, and similarly can enter bingo establishments.

Operator responsibilities

The Gambling Commission's codes of practice deal extensively with the issue of access to gambling by children and young people. **Recent changes to the licensing conditions and codes of practice have significantly strengthened the responsibilities that are binding on operators in this area.** Specifically, operators and premises are required to:

- have **policies and procedures designed to prevent underage gambling**, and monitor the effectiveness of them
- **ensure that their policies and procedures take account of the structure and layout of their premises.** This is intended to ensure that issues such as the line of sight between counters and entrances in premises are taken into account. Test purchasing results have indicated that where the line of sight to entrances or gambling facilities is restricted, it is harder to perform successfully. This might particularly be the case in premises with limited staff numbers.
- **take all reasonable steps to ensure staff understand their responsibilities to prevent** under-age gambling, including the legal prohibitions on children and young people entering gambling premises
- **operate a Think 21 policy**, whereby staff check the age of customers who appear to be under 21.¹¹

Larger operators and casinos are now required to conduct underage test purchasing or take part in a programme of test purchasing, and provide the results of these exercises to the Gambling Commission. Many of these operators will have a primary authority agreement in place with a council covering age related sales. Smaller operators are advised to monitor the effectiveness of their policies and procedures for preventing underage gambling, but are not specifically required to undertake test purchasing.

¹¹ This is an ordinary code provision rather than a mandatory social code provision, but in practice it appears to be adopted by all operators. It is also part of the Association of British Bookmakers voluntary code.

Role of licensing authorities

Licensing authorities also have an important role to play in ensuring that operators uphold the licensing objective in relation to children and young people. The Act requires that authorities designate in writing a body to advise it on the protection of children from harm, and the principles for choosing this body must be set out in the authority's statement of principles. These principles are likely to include that the body should cover the whole licensing authority area, have sufficient resources, and be accountable to a democratically elected organisation, rather than a particular group. The Gambling Commission's guidance to licensing authorities states that 'such a body may, but will not necessarily, be the Local Safeguarding Children Board.'

Whoever the licensing authority nominates, the important issue is that it has ongoing engagement with that body in relation to gambling and wider licensing issues, rather than simply nominate them.

Licensing authorities can also use their statements of principles to set out their expectations of operators and individual premises in relation to preventing children and young people from gambling. This might include specific expectations of premises in the vicinity of schools or sixth form colleges; for example, a council may make specific recommendations relating to line of sight or door chimes in premises where there is a particular risk of children or young people seeking access to gambling.

Councils should also consider how under age testing programmes can help ensure the licensing objectives are met. Many councils operate their own underage test purchasing through trading standards and / or licensing teams, particularly in response to complaints or intelligence. Larger operators are now responsible for conducting / taking part in under-age testing and sharing these results with the Gambling Commission. Although these results are not automatically provided to licensing authorities, **licensing authorities may choose to ask for copies of test purchasing results and use this evidence to help target their own activity in this area** (subject to the terms of any primary authority agreements)

If there is evidence of ongoing failure by premises to prevent under-age gambling, licensing authorities will wish to consider whether it is appropriate to review the relevant licences and potentially include conditions aimed at addressing the issue.

New conditions for operators failing second underage test

A number of independent gambling operators had new conditions attached to their premises licences to strengthen underage gambling controls after East Lindsey District Council, Brighton and Hove City Council and Hastings Borough Council reviewed premises licences where operators failed to challenge an underage test purchaser for a second time.

Two adult gaming centre operators, a family entertainment centre and a betting shop were subject to premises licence reviews. These operators had submitted improvement plans to their authorities after failing a first test purchase exercise, but the latest re-tests demonstrated that weaknesses in controls had not been remedied.

Examples of the conditions now attached to premises licences include:

- a requirement for the licensee to have a Think 21 or Think 25 policy
- a requirement for regular test purchasing to be undertaken, to ensure the licensee monitors the effectiveness of their controls
- the use of magnetic locks to restrict access to premises
- the use of an infra-red beam system to alert staff to the presence of customers in age-restricted areas
- barriers to reduce the risk of children crossing from family entertainment centre premises into adult gaming centre premises
- re-positioning category D gaming machines away from entrances to adult gaming centre premises, to reduce the attraction of children to those areas
- induction and refresher training for staff.
- Operators cooperated with the local authorities during the review processes, and some offered up further measures to strengthen their controls in addition to the formal licence conditions, such as:
 - improving staff supervision of customers by moving age-restricted gaming machines to areas in front of manned areas or a staff counter
 - assigning a member of staff to have specific duties for supervising the age-restricted area.

In addition to managing the risk of under-age sales, councils could also consider how they can work with premises that may be able to identify children or young people who are truanting or in relation to whom there are safeguarding issues. As societal awareness of child sexual exploitation increases, it may be the case that premises that children and young people legitimately visit have a role to play in understanding and potentially highlighting the risk if they observe any warning signs. Councils and the police are developing training for other types of licensees (eg taxi drivers, takeaway owners) in relation to child sexual exploitation; there may be value in ensuring this type of material is available to staff working in family entertainment centres, for example. Again, the statement of principles can be used to set out any expectations in this area.

Gambling related harm and problem gamblers

The licensing objectives also aim to prevent other vulnerable people from being harmed or exploited by gambling. People who are vulnerable to gambling related harm may risk becoming problem gamblers, where problem gambling is defined as an individual's gambling that disrupts or damages personal, family or recreational pursuits. In a severe form it becomes an addiction which is recognised as a clinical psychiatric diagnosis, 'disordered gambling.'

The 2012 Health Survey for England found that in the previous year 68 per cent of men and 61 per cent of women had gambled, and that problem gambling rates were 0.8 per cent for men and 0.2 per cent for women.

Operator responsibilities

Under the social responsibility code, gambling licensees are required to have and put into effect policies and procedures designed to promote socially responsible gambling that reduces the risk of (or seeks to identify) problem gambling. Additionally, following increasing public concern about the risks posed by certain types of gambling (and in particular Fixed Odds Betting Terminals), in April 2014 DCMS announced new measures designed to strengthen player protection. The requirements on operators are summarised below:

- **Provision of information on gambling responsibly.** Licensees are required to make information available about how to gamble responsibly and access information / help about problem gambling. This must be displayed prominently throughout premises (eg, posters), next to ATMs and on screens. The information should include:
 - the availability of measures designed to control gambling, eg setting time or monetary limits, timeouts or reality checks
 - options for self-exclusion (see below)
 - options for seeking further help and advice.
- **Fixed odds betting terminals.** Operators providing B2 gaming machines must ensure that they automatically offer users the choice to set time or monetary alerts for both staff and customer. With effect from April 2015, anyone wishing to stake more than £50 on a B2 gaming machine must do so using account based play, or do so via a premises manager.
- **Customer interaction.** Licensees are required to have policies and procedures in place governing customer interaction where there are concerns that a customer is displaying signs of problem gambling. These will include the types of behaviour that may trigger an intervention; staff training in this area, and the circumstances when staff may consider refusing services to customers.
- **Layout of premises.** Operators must also ensure that their policies and procedures take account of the structure and layout of the premises. Licensing authorities can also ask for more information when considering premises applications to ensure they are satisfied that there are no impediments to supervision of the premises.
- **Self-exclusion.** Licensees must have procedures for self-exclusion that ensure those individuals who wish to self-exclude from gambling are prevented from participating in gambling. These should include closing customer accounts and removing individuals from marketing lists. Operators are expected to maintain registers of self-excluded individuals, and apply their procedures either through photo identification or alternative measures. Individuals who self-exclude must also be signpost to counselling and advice.

With effect from April 2016, self-exclusion schemes will operate on a multi-operator basis, meaning that an individual who self-excludes from one operator will be offered the ability to self-exclude from all operators offering the same type of gambling in the same locality.

Medway multi-operator self-exclusion pilot

The Association of British Bookmakers (ABB) and Medway Council developed the Medway Responsible Gambling Partnership that is currently piloting a multi-operator self-exclusion pilot. The agreement was signed in November 2014 by Medway Council, the ABB, Betfred, Coral, Ladbrokes, Paddy Power and William Hill.

Discussions between the bookmaking industry and Medway Council were started following council concerns about problem gambling. Both parties have subsequently worked together to address these concerns.

The partnership agreement committed all parties to establishing a cross-operator self-exclusion pilot scheme within the Medway area; to developing a reporting of crime protocol in collaboration with the Medway Community Safety Partnership and Kent Police; and to adopting the industry voluntary code on safety and security – the ‘Safe Bet Alliance’. The cross-operator self-exclusion pilot scheme provides the main focus of the partnership agreement and has now been established in the Chatham area of Medway. All customers seeking to self-exclude will automatically enter into the pilot scheme which involves ten shops owned by three operators.

The pilot will be used as a learning exercise and test case for the Gambling Commission’s proposed amendments to the social responsibility code of practice, as outlined in their Autumn 2014 Licensing Conditions and Codes of Practice consultation. To assist in this process all parties have committed to participating in a quarterly review process on a regular basis. The Chatham pilot scheme commenced on 1 December 2014 and will run for 12 months.

Operators must also ensure that their policies and procedures for customer interaction and self-exclusion take account of the structure and layout of the premises.

Alongside the requirements that are binding on gambling operators and premises, **many sections of the industry have developed their own voluntary codes to promote responsible gambling**. However, these codes will only have an impact if they are genuinely implemented by local premises. Licensing committees should question applicants on what practical steps will be put in place under these codes, with particular reference to any local risks or issues that may need addressing. For instance, a premises potentially opening in the vicinity of an addiction treatment centre is likely to need significantly enhanced safeguards around entry and exclusion.

Role of licensing authorities /councils

Licensing authorities will need to consider how they ensure that the objective of preventing gambling related harm is being met in their area. To ensure that their efforts are being targeted effectively, licensing authorities should consider how they can work with local operators to ensure that they are effectively implementing their responsibilities in this area. They should also consider the specific risks of gambling related harm / problem gambling in their area.

The LGA continues to lobby for a health objective in all licensing areas. However, unlike the Licensing Act 2003, health is not even a responsible body under the Act and therefore the onus will be on licensing authorities to develop evidence relating to specific risks and / or areas as part of their work on the statement of principles. This will help to inform the measures that councils expect operators to take to address such risks, if they are above and beyond the mandatory conditions that operators must already adhere to.

The risks and evidence of problem gambling can be difficult to identify and assess, not least as problem gambling is a hidden addiction in comparison to much more visible problems such as alcoholism or drug addiction. However, there is scope for councils to consider a range of data (for example, from public health teams or the Citizens Advice Bureaux). Additionally, more evidence is likely to become available following the conclusion of Westminster and Manchester's research into area vulnerability to gambling related harm.

Alongside the licensing role, councils have an important role in supporting problem gamblers through their public health responsibilities; for example, health and wellbeing boards can develop strategic approaches to problem gambling. Pressures on public health budgets may make it difficult to prioritise work on problem gambling, but there is nevertheless scope for effective targeting through work with known high-risk groups (eg, homeless people, or people suffering mental health issues) and through recognising the linkages (known as 'co-morbidity') with other addictions such as smoking or alcoholism. Health data can also be an important source of information to inform the local area risk assessment.

Further information is available in a joint LGA - Public Health England briefing note for councillors on problem gambling, which can be viewed at: <http://tinyurl.com/problemgamblingguide>

Other support providers

The Responsible Gambling Trust (RGT) is a charity committed to minimising gambling-related harm. The RGT is funded by donations from the gambling industry, and funds education, prevention and treatment services, as well as funding research to broaden understanding of gambling related harm. The Responsible Gambling Trust fund GamCare and gives grants to several treatment providers including Gordon Moody Association and CNWL National Problem Gambling Clinic.

In 2013/4, £6.3 million was raised, of which 85 per cent was spent on treatment and harm prevention activities.

Illegal gambling

Licensing authorities are entitled to use income from licensing fees to tackle instances of illegal gambling in their areas. Illegal gambling occurs where gambling takes place without the necessary licences or permits in place, or in a premises that isn't entitled to host a particular type of gambling. The typical types of illegal gambling that licensing authorities are likely to encounter locally are illegal poker clubs and illegally supplied or illegally sited gaming machines

Poker

Poker can be played legally in casinos, and can also be played in non-domestic / residential venues in certain specified circumstances, where:

- In the case of alcohol licensed premises, no participation fees are levied and stakes and prizes do not exceed those set in statutory regulations.
- In the case of clubs, participation fees, stakes and prizes do not exceed those set in statutory regulations.
- In the case of members' clubs with club gaming permits, participation fees do not exceed those set in statutory regulations; monies are not deducted from stakes or prizes; and clubs are not run wholly or mainly for the purpose of gaming. The Commission advises councils to scrutinise applications for club gaming permits carefully, warning that experience has shown that clubs will go to 'great lengths to disguise the true nature of their activities.'
- Poker takes place on a non-commercial basis that is not for private profit or gain, for example a poker night held to raise money for charity.

As a broad guide, where poker taking place outside of a casino involves a 'rake' (ie a commission fee taken by the person operating the game which exceeds statutory fees), it is possible that the game may be operating illegally.

The Gambling Commission has recently strengthened its guidance to licensing authorities on illegal gambling, urging councils not to discount taking action in relation to illegal poker clubs on the basis that they have not received complaints against them. In its guidance to licensing authorities, the Commission states that: '[councils are] very unlikely to receive complaints about such clubs, unless it is issues such as local noise and nuisance [as] the people attending the club do so from choice. [However] the club is effectively operating as an illegal casino and none of the protections afforded in a casino are in place, such as personal licence holders and anti-money laundering safeguards.' As in other areas of regulatory services, it may be the case that wilful non-compliance in relation to gambling controls is evidence of wider disregard for the law and in some cases serious criminal behaviour.

Reigate social club and its withdrawal of a club premises certificate and cancellation of a club gaming permit after an investigation into alleged illegal poker

A joint visit was undertaken to a club where illegal poker was allegedly taking place, involving the police, the local authority and the Gambling Commission. The visit identified customers who were not members, poker only being played on the premises and rakes being taken by the house.

The local authority decided to revoke the club premises certificate, which also allowed the club gaming permit to be revoked and the premises were closed.

The first action was therefore to cancel the club-gaming permit. The second action was to withdraw the club premises certificate under section 90 of the Licensing Act 2003. Although there is a right of appeal under s181 and schedule 5 part 2 paragraphs 14 and 15 of the Licensing Act 2003, there is no provision for the certificate to be effectively re-instated pending the appeal. The decision therefore takes effect once the notice is given to the club.

The consequence of that is that paragraph 17(2)(c) of schedule 12 to the Gambling Act comes into effect and this provides that because the club gaming permit was granted under paragraph 10 (ie the fast track procedure), it “shall lapse if the club premises certificate on which the application relied ceases to have effect.”

Two months later those involved in the previous club tried to apply for new permission under a new name to reopen the club but the local authority refused the application on the basis of their previous behaviour.

Gaming machines

There are controls relating to both the supply and provision of gaming machines:

- manufacturers and suppliers of gaming machines must be licensed by the Gambling Commission
- a premises wishing to site a gaming machine typically requires a licence or permit, either:
 - an operator licence from the Commission and a premises licence from the licensing authority
 - an alcohol premises licence from the licensing authority
 - a gaming machine permit from the licensing authority.

Gaming machines may be illegally manufactured or supplied in order to avoid tax (machine games duty) and licence fees, and may not have the technical standards required by the Gambling Commission. The Gambling Commission advises operators and other venues entitled to provide gaming machines to ensure that they only obtain machines from Commission-licensed manufacturers: this might be something that licensing authorities wish to confirm as part of their compliance work in this area.

Operation Tailgate in London Borough of Haringey

In March 2014 Haringey's LA Tactical Enforcement Team coordinated and led Operation Tailgate, a multiagency, intelligence-led operation designed to address the concerns of residents, businesses and the Police about the unlawful activities of a minority of businesses engaging in various types of environmental crime and criminal behaviour. The Operation involved Met officers from the Neighbourhood Policing Team; Immigration Compliance and Enforcement Officers and Benefit Fraud Officers and Haringey Council Tactical Enforcement Officers.

The operation was very successful:

- five illegal gaming machines were discovered operating within a business. All illegal machines were seized by the police
- 13 individuals had their details taken by Benefit Fraud Officers. These will be investigated further and anyone found to be unlawfully claiming will be interviewed with the view to prosecution
- 16 immigration status checks were carried out by Immigration Compliance and Enforcement Officers
- two people were arrested by Immigration Compliance and Enforcement Officers. They have been detained and are currently awaiting removal from the UK
- Immigration Compliance and Enforcement Officers gathered intelligence from several businesses within Haringey identified as requiring further visits.

While the Gambling Commission is responsible for compliance issues relating to the manufacture and supply of machines, licensing authorities are responsible for compliance and enforcement where gaming machines are illegally sited, ie the required licences or permits authorising the machines (or number of them) are not in place. Typically, this issue has tended to occur in relation to pubs, clubs, social clubs and takeaways.

Lewisham – illegal gaming machines in takeaways

In January 2012, the Commission received information suggesting there may be gaming machines in a number of takeaways in the Lewisham area, without the required licence and/or permit. The Commission forwarded the information to the London Borough of Lewisham under the local authority compliance event (LACE) process. On receipt of the intelligence, the local authority took the following action:

- The six venues mentioned were visited. Each was found to have an unauthorised gaming machine.
- Suitable advice was given and all the machines were deactivated on the understanding they will be removed.
- Each was written to and given a formal warning that further offences will result in legal proceedings.
- The six venues were revisited by the enforcement team within fourteen days to ensure compliance.

This is a reoccurring problem. All takeaways in Lewisham are visited on a regular basis, and every owner has previously been verbally advised concerning the legal position. Initially all unauthorised machines were removed. In the event of further offences of this nature the licensing manager has agreed that the offender will be prosecuted and the matter extensively publicised at a local local level.

Intelligence and compliance action

Licensing authorities can work with the Gambling Commission in relation to illegal gambling, to draw on their experience and share intelligence. The Commission operates 'Local Authority Compliance Events' through which it will alert licensing authorities to intelligence it has received about allegations or evidence of illegal gambling affecting their areas. The Commission and licensing authorities might also receive or uncover evidence or concerns about illegal gambling on, for example, online poker forums, from the police, and from the gambling industry.

The Gambling Commission have developed a range of template letters for dealing with the types of illegal gambling that licensing authorities might experience, which can be accessed on their website.

Sector specific issues

Casinos

Unlike other types of gambling premises, the number of casinos is strictly limited and if a licensing authority does not already have an existing casino or is not a permitted area eligible to launch a competition for a casino licence, it is not currently possible to issue a casino licence for that area.

When the Act was introduced in 2005, 186 casino premises licences issued under previous legislation 'were converted' to the new regime. A converted licence can only be used in the licensing authority area in which it was granted, or its successor authority, but there is scope for these premises to relocate. There are 53 licensing authority that were designated in 1969 as 'permitted areas' entitled to have a casino.¹²

Additionally, fifteen English and Welsh licensing authority areas¹³ are permitted to issue a casino premises licence under the Act. These areas were selected following open competition; casinos authorised under this route can only be built at the location specified in the application. The Act specifies two different types of casino licence; for a large or small casino.

As part of its statement of principles, licensing authorities are entitled to pass a 'no casino resolution' or to state that it would welcome a casino if the opportunity to bid for a premises licence were to become available. As outlined above, a 'no casino' resolution must be agreed by the council, rather than delegated to the licensing committee. The Gambling Commission advises that the overall number and locations of casinos may be varied at some point in the future, it is still appropriate for licensing authorities to consider and determine their approach to casinos. However, when considering any additional work beyond this determination, councils should recognise that the likelihood and timescale of any change to existing numbers and permitted areas is unclear.

Alcohol licensed premises

The Act allows alcohol licensed premises to offer certain types of gambling activity, within certain parameters. In particular, gambling must remain ancillary to the main purpose of the premises, and the exemptions and entitlements are reliant on the premises holding a valid alcohol licence. Licensing authorities should be alert to the possibility of someone seeking an alcohol licence solely for the benefit of the gambling entitlements.

Alcohol licence holders are entitled to make available two gaming machines (category C or D) for use in alcohol licensed premises. To do so, the person holding the licence must notify the licensing authority of their intention to make gaming machines available for use, and pay the prescribed fee. If the person ceases to be the holder of the relevant licence for the premises, the entitlement ceases, and the new holder would subsequently need to apply.

Licensing authorities can make an order that removes the automatic entitlement to two gaming machines under certain circumstances. However, they may also replace the entitlement to two gaming machines by issuing licensed premises gaming machine permits for any number of C or D gaming machines in licence premises.

¹² Permitted areas under the 1968 Act: Birkenhead, Birmingham, Blackpool, Bolton, Bournemouth, Bradford, Brighton, Bristol, Cardiff, Coventry, Derby, Dudley, Great Yarmouth, Hove, Huddersfield, Kingston upon Hull, Leeds, Leicester, Liverpool, London, Luton, Lytham St Annes, Manchester, Margate, Newcastle upon Tyne, Northampton, Nottingham, Plymouth, Portsmouth, Ramsgate, Reading, Ryde, Salford, Sandown/Shanklin, Scarborough, Sheffield, Southampton, Southend-on-Sea, Southport, Stockport, Stoke-on-Trent, Sunderland, Swansea, Teesside/Middlesbrough, Torbay, Walsall, Warley, West Bromwich and Wolverhampton.

¹³ Permitted areas under the 2005 Act: Great Yarmouth, Hull, Leeds, Middlesbrough, Milton Keynes, Newham, Solihull, Southampton (large casinos); Bath and North East Somerset, East Lindsey, Luton, Scarborough, Swansea, Torbay, Wolverhampton (small casinos)

One current issue in alcohol licensed premises relates to the possibility of bingo in pubs. The Greene King pub chain applied to the Gambling Commission for a bingo operating licence, but was refused. Greene King appealed the refusal to First Tier tribunal, and the issued has been remitted back to the Gambling Commission, and both parties are now awaiting a date for the Upper Tier Tribunal.

Until such time as Greene King has an operating licence for bingo, there is no issue for licensing authorities to consider in terms of determining individual applications for premises licences by Greene King's pubs. It is likely that relevant legislation or regulations may be amended before such an instance occurs. However licensing authorities are advised to notify the Gambling Commission if any existing bingo operator licence holders seek to operate commercial bingo in a pub.

Family entertainment centres and unlicensed family entertainment centres

Family entertainment centres are premises (other than an adult gaming centre) wholly or mainly used for making gaming machines available for use. These can be either licensed or unlicensed.

An unlicensed family entertainment centre is subject to limited regulation under a uFEC permit, but is only entitled to make Category D machines available (see Annex 1 for an overview of machines, stakes and prizes). The entity making machines available on the premises (the arcade operator) does not need a Commission operating licence. However the entity supplying machines to the business (the machine supplier) must be licensed by the Commission.

A licensed family entertainment centre is entitled to make both Category C and D machines available. It is subject to similar controls to many other gambling businesses – the premises need a full premises licence from the licensing authority and the entity making machines available on the premises requires a Commission operating licence, as does the supplier of the machines.

Only premises that are wholly or mainly used for making gaming machines available may hold an uFEC gaming machine permit or an FEC premises licence. Both a licensed FEC and an uFEC are classified as 'premises'. Therefore, it is generally not permissible for such premises to correspond to an entire shopping centre, airport, motorway service station or similar: typically, the machines should be in a designated, enclosed area. The Gambling Commission has issued guidance to licensing authorities outlining its view that it is 'highly undesirable for FEC/ uFECs to be granted for entire venues.'

Licensing authorities must be aware of the distinction between machines that are defined as 'skill with prize' (SWP) machines and gaming machines. SWP machines must not have any mechanism that determines the outcome of the game: the game must operate in a consistent manner, and must be genuinely achievable, providing time and opportunity to win using skill, and not be influenced by chance. A game that contains an element of chance is a gaming machine.

SWPs are not caught as gaming machines and therefore do not count towards the B3 machine allowance in a family entertainment centre, or an alcohol licensed premises, members club, adult gaming centres or bingo premises. They may however be liable for Machine Games Duty and operators should confirm with Her Majesty's Revenue and Customs (HMRC) if they need to be registered.

Some operators have deployed machines as ostensibly SWPs, when in fact they contain elements of chance or other features which would make them properly gaming machines; or indeed contain a function that allows them to be switched between a "skill" game and a gaming machine. In such cases, these machines should be treated as gaming machines.

Checklist for councillors in England and Wales

This list is intended to help you focus on the key issues your authority should consider in developing its approach to local gambling regulation.

- Has the authority mapped local gambling provision / premises in the local area?
- Is the authority aware of any specific gambling related risks in the local area? How might these be mitigated?
- Has the authority set out an approach to preventing gambling by children and young people?
- What is the authority's approach to tackling illegal gambling?
- Has the authority engaged with local public health, addiction and treatment charities, CAB, homeless charities etc about problem gambling in the locality?
- Has the authority engaged with local operators and premises in developing its approach?
- Has the authority clearly set out its expectations of operator local risk assessments?
- Has the authority clearly set out its expectations of operators in relation to children and young people, including in those sectors where children and young people might legitimately frequent premises?
- Has the authority developed and shared with operators its approach to compliance and enforcement?
- How might partnership 'working with local operators support the authority's approach to local gambling regulation?
- How might tools and powers outside the Gambling Act support the authority's approach to gambling regulation?
- Can the authority demonstrate how it has reached the fee levels it has set?
- Has the authority ensured that licensing and planning policies share a common approach to new premises for gambling?

Glossary / definitions

Term	Description
The Act	The Gambling Act 2005
2003 Act	The Licensing Act 2003, covering alcohol, late night refreshment and regulated entertainment
Child	For the purposes of the Gambling Act 2005, anyone under the age of 16
Crane grab machine	A non-money prize machine in respect of which every prize which can be won consists of an individual physical object (such as a stuffed toy) won by a person's success in manipulating a device forming part of the machine so as to separate, and keep separate, one or more physical objects from a group of such objects.
Default condition	These are prescribed in regulations and will be attached to all classes of premises licence, unless excluded by the licensing authority
Equal Chance Gaming	Gaming which does not involve playing or staking against a bank.
Fixed odds betting	If a gambler is able to establish what the return on a bet will be when it is placed, (and the activity is not 'gaming' see below), then it is likely to be betting at fixed odds.
Fixed Odds betting terminals (FOBTs)	FOBTs are a type of gaming machine which generally appear in licensed bookmakers. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.
Gaming	Gaming can be defined as 'the playing of a game of chance for winnings in money or monies worth, whether any person playing the game is at risk of losing any money or monies worth or not'.
Gaming Machine	Any type of machine allowing any sort of gambling activity including betting on virtual events but not including home computers even though users can access online gaming websites.
Licensing authority	A district, borough or unitary authority responsible for licensing gambling and other activities.
Licensing Objectives	<p>The licensing objectives are three principal goals which form the basis of the Gambling Act. Stakeholders who have an interest in the Act need to try and promote these objectives: The licensing objectives are:</p> <ul style="list-style-type: none"> • preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime • ensuring that gambling is conducted in a fair and open way • protecting children and other vulnerable persons from being harmed or exploited by gambling.

Term	Description
Lottery	A lottery generally refers to schemes under which prizes are distributed by chance among entrants who have given some form of value for their chance to take part. A lottery is defined as either a simple lottery or a complex lottery.
Mandatory condition	A condition which will be set by the Secretary of State (some are set out in the Act and some will be prescribed by regulations) which will be automatically attached to a specific type of premises licence. The licensing authority will have no discretion to alter or remove these conditions.
Money prize machine	A machine in respect of which every prize which can be won as a result of using the machine is a money prize.
Non-money prize machine	A machine in respect of which every prize which can be won as a result of using the machine is a non-money prize. The winner of the prize is determined by: <ul style="list-style-type: none"> (i) the position in which the coin or token comes to rest after it has been inserted into the machine, together with the position of other coins or tokens which have previously been inserted into the machine to pay a charge for use, or (ii) if the insertion of a single coin to pay the charge for use enables the person using the machine to release one or more tokens within the machine, the position in which such tokens come to rest after being released, together with the position of other tokens which have previously been so released.
Non-remote gambling	Gambling that takes place in a physical premises.
Remote gambling	Gambling which people participate in via remote communications, eg telephone, internet etc.
Young person	For the purposes of the Gambling Act 2005, anyone who is not a child but is aged under 18

Annex 1: gaming machines - allowances, stakes and prizes

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000
¹⁵ B2	£100	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize (other than a crane grab machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D – money prize	10p	£5
D – combined money and non money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

1

¹⁵ The category B2 is not actually a traditional slot machine. It refers to a type of gaming machine known as a fixed odds betting terminal (FOBTs). These are a new type of gaming machine which generally appear in licensed bookmakers. FOBTs have 'touch-screen' displays and look similar to quiz machines familiar in pubs and clubs. They normally offer a number of games, roulette being the most popular.

	Machine category						
Premises Type	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act Casinos (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks operated by pool betting		Maximum of 4 machines categories B2 to D					
Bingo Premises				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit C or D machines	
Adult gaming centre				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit C or D machines	
Family entertainment centre (with premises licence)						No limit C or D machines	
Family entertainment centre (with Permit)							No limit on category D machines
	A	B1	B2	B3	B4	C	D

Premises Type	Machine category						
	A	B1	B2	B3	B4	C	D
Clubs or miners' welfare institutes with permits					Maximum of 3 machines in categories B3A or B4 to D		
Qualifying alcohol licensed premises					1 or 2 machines of category C or D automatic upon notification		
Qualifying alcohol licensed premises with gaming machine permit					Number of category C-D machines as specified on permit		
Travelling fair						No limit on category D machines	
	A	B1	B2	B3	B4	C	D

Annex 2 – sample of premises licence conditions

Extract from Guidance to Licensing Authorities 5 consultation
<http://www.gamblingcommission.gov.uk/pdf/GLA5---March-2015.pdf>

This section provides a sample of conditions that have been attached to premises licences by licensing authorities, with some amended for illustrative purposes. Licensing authorities should note that these are not blanket conditions but have been imposed in a number of circumstances to address evidence based concerns. Part 9 of this Guidance to Licensing Authorities (GLA) provides further details on the principles licensing authorities should apply when exercising their discretion to impose premises licence conditions.

The conditions listed below have been grouped under specific headings for ease of reference. There will inevitably be some overlap between those conditions that address different concerns, for example those related to security and to anti-social behaviour.

1. Security

- 1.1 No pre-planned single staffing after 8pm and, when this is unavoidable, for a Maglock to be in constant use.
- 1.2 A minimum of two members of staff after 10pm.
- 1.3 A minimum of two members of staff will be on duty throughout the whole day.
- 1.4 The premises will have an intruder alarm and panic button.
- 1.5 Maglock systems are employed and access is controlled.
- 1.6 Requirements for full-height security screens to be installed.
- 1.7 A requirement for 50% of the shop frontage to be clear of advertising so that staff have a clear view and can monitor the exterior of the premises.
- 1.8 The premise shall maintain a 'safe haven' to the rear of the counter.
- 1.9 The premises shall install and maintain a comprehensive CCTV system as per the minimum requirements of a Metropolitan Police Crime Prevention Officer. All entry and exit points will be covered enabling frontal identification of every person entering in any light condition. The CCTV system shall continually record whilst the premises is open for licensable activities and during all times when customers remain on the premises. All recordings shall be stored for a minimum period of 31 days with date and time stamping. Recordings shall be made available immediately upon the request of Police or an authorised officer throughout the preceding 31-day period.
- 1.10 A member of staff from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open to the public. This member of staff must be able to show a member of the police or authorised council officer recent data or footage with the absolute minimum of delay when requested.
- 1.11 A monitor shall be placed inside the premises above the front door showing CCTV images of customers entering the premises.
- 1.12 If at any time (whether before or after the opening of the premises), the police or licensing authority supply to the premises names and/or photographs of individuals which it wishes to be banned from the premises, the licensee shall use all reasonable endeavours to implement the ban through staff training.

2. Anti-social behaviour

- 2.1 The Licensee shall develop and agree a protocol with the police as to incident reporting, including the type and level of incident and mode of communication, so as to enable the police to monitor any issues arising at or in relation to the premises.
- 2.2 The Licensee shall take all reasonable steps to prevent street drinking of alcohol directly outside the premises and to ban from the premises those who do so.
- 2.3 The Licensee shall place a notice visible from the exterior of the premises stating that drinking alcohol outside the premises is forbidden and that those who do so will be banned from the premises.
- 2.4 Notices indicating that CCTV is in use at the premises shall be placed at or near the entrance to the premises and within the premises.
- 2.5 The Licensee shall place and maintain a sign at the entrance which states that 'only drinks purchased on the premises may be consumed on the premises'.
- 2.6 The Licensee shall implement a policy of banning any customers who engage in crime or disorder within or outside the premises.
- 2.7 The Licensee shall install and maintain an ultraviolet lighting system in the customer toilet.
- 2.8 The Licensee shall install and maintain a magnetic door locking system for the customer toilet operated by staff from behind the counter.
- 2.9 Prior to opening the Licensee shall meet with the Crime Prevention Officer in order to discuss any additional measures to reduce crime and disorder.

3. Underage controls

- 3.1 The Licensee shall maintain a bound and paginated 'Think 21 Refusals' register at the premises. The register shall be produced to the police or licensing authority forthwith on request.
- 3.2 Customers under 21 will have to provide ID.
- 3.3 The premises will operate a 'challenge 25' policy and prominent signage and notices will be displayed showing the operation of such policy
- 3.4 Compulsory third party test purchasing on a twice yearly external system and the results to be reported to the Local Authority and police. In the first twelve months (from the date of the Review) two additional internal test purchase operations to be carried out.⁹⁷
- 3.5 A physical barrier (ie a supermarket metal type or similar) acceptable to the licensing authority, and operated in conjunction with the existing monitored alert system, to be put in place within 3 months from the date of the review.
- 3.6 No machines in the Unlicensed Family Entertainment Centre to be sited within one metre of the Adult Gaming Centre entrance.

4. Player protection controls

- 4.1 Prominent GamCare documentation will be displayed at the premises.
- 4.2 There shall be no cash point or ATM facilities on the premises.
- 4.3 The Licensee shall train staff on specific issues related to the local area and shall conduct periodic refresher training. Participation in the training shall be formally recorded and the records produced to the police or licensing authority upon request.
- 4.4 New and seasonal staff must attend induction training. All existing staff must attend refresher training every six months.
- 4.5 All notices regarding gambling advice or support information within the vicinity of Chinatown must be translated into both simplified and traditional Chinese.
- 4.6 Infra Red Beam to be positioned across the entrance to the premises.
To be utilised whenever:
 - (a) The first member of staff is not positioned within the Cash Box or,
 - (b) The second member of staff is not on patrol.



Local Government Association

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For a copy in Braille, larger print or audio,
please contact us on 020 7664 3000.
We consider requests on an individual basis.

Equality Impact Assessment

Preliminary assessment form v5 / 2013

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



Title of meeting: LICENSING COMMITTEE

Date of meeting: 23 June 2017

Subject: The Licensing Act 2003 - Adoption of Statement of Licensing Policy

Report by: Licensing Manager

Wards affected: All

Key decision: No

Full Council decision: Yes

1. Purpose of report

- 1.1 The purpose of this report is to inform the Committee of the representations received in response to the consultation process which was undertaken on the draft statement of licensing policy in respect of the Licensing Act 2003. The consultation was undertaken between 31 March 2017 and 5 May 2017.
- 1.2 The report also seeks the approval of the Licensing Committee of the proposed final statement of licensing policy and to commend it for formal adoption by Council.

2. Recommendations

2.1 *That the Licensing Committee:*

- (a) Considers the responses received and approves the amendments to the proposed final statement of licensing policy;*
- (b) Refers this report to Council for information and guidance in respect of the requirements of the Licensing Act 2003; and*
- (c) Recommend that Council adopts the statement of licensing policy in accordance with Section 5 of the Licensing Act 2003 with effect from 12 July 2017.*

3. Background

- 3.1 The Licensing Act 2003 ("the Act") first came into effect on 24 November 2005 and created a single integrated regime for regulating alcohol, entertainment and late night refreshment.

3.2 The Council, as Licensing Authority, is responsible for regulating the following types of licensable activities:

- 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 the club;
- The provision of regulated entertainment; and
- The provision of late night refreshment.

The Act provides for four different types of authorisations or permissions that the Licensing Authority may grant which are:

- Premises licences - to use premises for licensable activities;
- Club premises certificate - to allow a qualifying club to engage in qualifying club activities;
- Temporary event notice - to carry out licensable activities at a temporary event;
- Personal licence - to sell or authorise the sale of alcohol from premises in respect of which there is a premises licence.

3.3 **The licensing objectives**

The Act sets out four licensing objectives that underpin the functions that the Licensing Authority performs. They are:

- Prevention of crime and disorder;
- Public safety;
- Prevention of public nuisance; and
- Protection of children from harm.

3.4 **Statement of licensing policy**

Section 5 of the Licensing Act 2003 (“the Act”) requires the Council to prepare and publish a statement of its licensing policy every 5 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. The Council must keep the policy under review throughout each 5 year period and to revise it as necessary. However, prior to making any changes the Council must carry out a consultation process.

3.5 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.

3.6 Consultation process

The draft statement of licensing policy was made available for consultation between 31 March 2017 and 5 May 2017 in accordance with the statutory requirements. It was published on the Council's website, facebook and twitter pages, copies were distributed to all public libraries, City Help Desk and to each of the Members' Group Rooms. A public notice was also published in a local newspaper.

3.7 Response to the consultation process

At the conclusion of the consultation period, 3 responses had been received from:

- The British Beer & Pub Association (BBPA);
- Hampshire Fire and Rescue Service; and
- Director of Public Health.

A summary table of their comments are attached as **Appendix A** together with your reporting officer's recommendations in respect of the responses. Copies of the full responses are attached at **Appendix B**.

A copy of the proposed final statement of licensing policy is attached as **Appendix C**.

3.8 Administration, exercise and delegation of functions

The Act provides that the functions of the Licensing Authority (including its decisions) are to be taken or carried out by its licensing committee or sub-committees. However, in relation to the making of a statement of licensing policy, this matter must be determined and approved by Full Council.

4. Reasons for recommendations

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

5. Equality impact assessment (EIA)

A preliminary EIA was undertaken on the proposed policy prior to undertaking the consultation process and formed part of that report on 22 February 2017. A copy of that EIA is attached as **Appendix D**.

6. Legal Implications

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

7. Finance Comments

There are no financial implications in respect of this report.

.....
Signed by:

Appendices:

- Appendix A** Summary of responses to consultation and officer recommendations
- Appendix B** Full responses to consultation
- Appendix C** Proposed final statement of licensing policy
- Appendix D** Preliminary EIA

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:

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Summary of responses to consultation

Relevant Section of Policy	Response Received	Officer Recommendation
Respondent: The British Beer & Pub Association (BBPA)		
<p>Paragraph 22.32 (Public Health):</p> <p>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.</p>	<p>The BBPA have acknowledged the contents of this paragraph and urge the Licensing Authority only to consider public health representations when concerning specific premises and to the detriment of one of the licensing objectives, as the Licensing Act intends.</p> <p>Also highlights that it is often difficult to link health representations directly to an individual premises and suggest that well-run premises are penalised through inaccurate use of health data when an incident is linked to that premises but not necessarily caused by it.</p> <p>They recommend that the statement of licensing policy suggests that health representations are considered on an individual basis to determine whether there is a direct link with a particular premises.</p> <p>Further they submit that the policy fails to recognise that licensed premises contribute significantly to the creation of a more responsible drinking environment and that public health concerns may result from alcohol consumption outside of or before entering the responsible drinking environment of the premises.</p>	<p>Having regard to the proposal that health representations should be considered on an individual basis, it is accepted that the policy should make it clear that applications will be considered on their own merits. However, it is proposed that this information should be highlighted as a general principle and not restricted to health representations. Whilst reference to this principle is set out in paragraph 1.17 of the Statutory Guidance it is considered appropriate for it to be referenced within the Authority's own statement of licensing policy.</p> <p>Recommendation: Having regard to the comments of the BBPA it is recommended that an additional paragraph be added within Paragraph 4.0 (Fundamental principles) of the policy as follows:</p> <p><i>"4.9 Each application will be considered on its own merits and in accordance with this statement of licensing policy; for example, if the application falls within the scope of the cumulative impact policy. Conditions attached to licences and certificates will be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need</i></p>

		<p><i>for such conditions. Standardised conditions will be avoided and the licensing authority acknowledges it may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case".</i></p> <p>The respondent submits that the policy fails to recognise that licensed premises contribute significantly to the creation of a more responsible drinking environment. This comment is mirrored by the Director of Public Health (DPH) outlined later in this document.</p> <p>Recommendation: Having regard to the comments of the BBPA and DPH it is recommended that an additional paragraph be added within Paragraph 22.0 (Public Health) of the policy as follows:</p> <p><i>22.41 "The Licensing Authority recognises the value in well run and responsible Community pubs and those with an associated offer other than alcohol, like food or entertainment. A shift in drinking patterns and consumption gives rise to concerns that harm from alcohol may now be driven by low cost "off" sales, and not necessarily by sales in pubs. The Licensing Authority also recognises that the more visible harms created by drunk and disorderly behaviour in the night-time economy are also increasingly driven by pre-loading cheap alcohol from shops and supermarkets."</i></p>
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Paragraph 22.40 (Public health):

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).

The BBPA are particularly concerned with the suggestion to ban high strength beer and cider above 6.5% ABV to reduce alcohol related harms. They propose that it is not widely accepted that imposing bans on higher strength beers and ciders is "best practice" as is suggested in the policy. They suggest that encouraging licensees to consider such initiatives may create issues around competition law and will restrict certain products from entering the market. They advise that although the licensing policy suggests that premium products should not be included, it does not set out a definition of "premium" and state that there will be significant difficulty in defining such products. Premises may, therefore, choose not to stock any products over 6.5 ABV.

They state that there is also a lack of evidence to suggest that this policy is effective in tackling alcohol related crime and disorder or public health concerns and cite examples of research by the London School of Hygiene and Tropical Medicine, Camden/Islington Public Health, and Alcohol Research UK which indicates that bans on higher strength beer and cider prove ineffective as problem drinkers will simply purchase alcohol from alternative premises that are not restricted by the condition or switch to an alternative replacement such as spirits or drugs. They consider that licensees adopting this blanket approach to tackling public health issues is a perfect illustration of a type of measure that has proved to be ineffective and that a targeted approach based on partnership working which is specific to local issues has a more positive impact on alcohol related harm and disorder.

Whilst the respondent's concerns are noted as regards the use of voluntary initiatives relating to avoiding the sales of beers, lagers and ciders over 6.5% ABV, more commonly referred to as "Reducing the Strength" campaigns, the Licensing Authority is satisfied that there is scope within the policy to reference this approach to tackle the harmful effects of strong and low cost alcohol products.

Portsmouth have taken significant advice upon recognising such schemes when considering applications on an individual and evidential basis and are satisfied that the use of such voluntary initiatives do not breach competition law and also the Licensing Authority does not impose blanket licensing conditions on retailers.

The Local Government Association has produced guidance for Licensing Authorities who may be considering setting up such schemes and in fact Portsmouth's scheme is referred to in that guidance as a case study. The guidance can be viewed at this link:

<https://www.local.gov.uk/reducing-strength-guidance-councils-considering-setting-scheme-1>

Recommendation: Licensing Authority to note comments but no amendments needed to the statement of licensing policy.

Paragraph 24.1 (Late Night Levy)

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.¹

The BBPA note the contents of this paragraph and indicate that they are opposed to the late night levy as a licensing and taxation tool.

They urge the Licensing Authority not to implement a levy at any point and highlight references within the House of Lords committee report on the review of the Licensing Act 2003 and refer to its conclusion that *"given the weight of evidence criticising the late night levy in its current form, we believe on balance it has failed to achieve its objectives and should be abolished"*.

They consider that a late night levy is a direct tax on local businesses and has a number of fatal flaws, including the fact that it fails to achieve predicted revenues. Most importantly it does not include businesses as stakeholders in the safety of the local night-time economy when, in fact, the BBPA consider them to be vital in ensuring a safe and responsible environment. They would instead advocate for a local Business Improvement District, alongside a number of other local partnership initiatives that have proven effective, such as Pubwatch, Best Bar None, Street Pastors, Purple Flag and Community Alcohol Partnerships.

Recommendation: That the Licensing Authority note these comments but no amendments needed to the statement of licensing policy.

¹ Section 142 of The Policing and Crime Act 2017

Respondent: Hampshire Fire & Rescue Service (HF&RS)		
<p>Paragraph 5.4 (Licensable Activities) :</p> <p>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:</p> <ul style="list-style-type: none"> • 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. 	<p>HF&RS have queried whether the wording of this paragraph needs to be amended so as to remove the word "following" (on the first line of the paragraph).</p>	<p>Noted and acknowledged that this is a typographical error within the paragraph.</p> <p>Recommendation: Remove the word "following" from paragraph 5.4.</p>
<p>Paragraph 21.0 (Promotion of equality):</p> <p>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</p>	<p>HF&RS have commented that this area should fundamentally highlight the appropriate parts of the Human Rights Act first. There should also be an intention to go above and beyond legislative red tape to promote a fully inclusive community and society involvement.</p>	<p>The comments of HF&RS are duly noted in relation to the Licensing Authority's legal obligations under the Equality Act 2010.</p> <p>The statement of licensing policy recognises this obligation in the document as is recommended within the Statutory Guidance. The Council provides additional information on its website as to how it will undertake that function and paragraph 21.0 of the policy links to that information.</p> <p>Recommended: That the Licensing Authority note the comments of Hampshire Fire and Rescue Service but no changes are required to the statement of licensing policy as the paragraph accords with the Statutory Guidance and provides a link to additional information contained on the Council's website.</p>

<p>maternity, race, religion or belief, sex and sexual orientation.</p> <p>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.² Further guidance is available from Government Equalities Office and the Equality and Human Rights Commission.</p>		
<p>Paragraph 22.14 (The licensing objectives - public safety):</p> <p>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 alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also</p>	<p>HF&RS have commented that in relation to the bullet heading relating to fire safety that the policy should either have a separate section please or change to;</p> <p>Fire Safety Duties including the requirement for;</p> <ul style="list-style-type: none"> • Written fire safety arrangements (the organisations policy); • A fire risk assessment in writing; • An emergency plan that includes the evacuation procedure and management of capacity; • The provision of suitable fire warning and detection, fire-fighting equipment, emergency lighting, escape signs and fire exits; • The maintenance of the premises and facilities; • The appointment of competent persons; • information and training to staff, the self 	<p>Whilst the comments of HF&RS are duly noted the Statutory Guidance (paragraph 1.19) clearly advises that licence conditions should not duplicate other statutory provisions but states that Licensing Authorities and licence holders should be mindful of requirements and responsibilities placed on them by other legislation. Reference is included in this section to the Regulatory Reform (Fire Safety) Order 2005 which covers the matters that HF&RS refer to in their response.</p> <p>Paragraph 22.14 is as set out in paragraphs 2.7 and 2.8 of the statutory guidance.</p> <p>Recommended: That the Licensing Authority note the comments of Hampshire Fire and Rescue Service but no changes are required to the statement of licensing policy as the paragraph accords with the Statutory Guidance.</p>

² <https://www.portsmouth.gov.uk/ext/the-council/equalities/equality-law-and-its-significance-for-the-council.aspx>

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;**
.....

employed and those from outside undertakings;

- co-operation and co-ordination with other responsible persons where a premises is shared.

Paragraph 22.19 (Public Safety):

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 Act³, 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.

HRFS have commented that they should be advised of capacity and how this will be managed whilst the premises is occupied. This would be recorded primarily in the fire safety policy and emergency plan. The fire risk assessment would evaluate these to ensure that they remain appropriate. We do not recommend, we look to be advised and challenge if we do not agree.

The comments of HF&RS are duly noted but the reference to capacity outlined in paragraph 22.19 (Public Safety) is in accordance with the Statutory Guidance (paragraphs 2.12 and 2.13).

Recommended: That the Licensing Authority note the comments of Hampshire Fire and Rescue Service but no changes are required to the statement of licensing policy as the paragraph accords with the Statutory Guidance.

³ Section 177 of the Act now only applies to performances of dance.

Respondent: Director of Public Health		
<p>Paragraph 13.3 (Special policy relating to cumulative impact in Portsmouth)</p> <p>13.3 The headline trends from this report for the Guildhall Walk night time economy ("NTE") area in the last 3 years show:</p> <ul style="list-style-type: none"> • 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 	<p>The Director of Public Health (DPH) has requested that the following statement about Safe Space is added to the bullet points that support the Cumulative Impact Policy:</p> <p>"Safe Space has been running for over 5 years in the Cumulative Impact Area and was a recommendation of the Portsmouth Alcohol Strategy 2009-13. It is currently delivered by South Central Ambulance Service (SCAS). It was set up to provide a one stop shop in the City Centre to support vulnerable people and deflect any minor injuries away from the ambulance service, unnecessary attendances at the A&E department and subsequent admissions.</p> <p>The service is open from 22:00 until 03:00 hours Friday and Saturday nights and other key dates in the calendar year including New Year's Eve.</p> <p>In total a total of 473 people were seen by Safe Space, this number grew to 494 in 2016 and in the first quarter of 2017 (Jan - Mar) Safe Space treated 106 people for a wide range of injuries or conditions.</p> <p>During 2016, the most common recorded reason for attendance was "in drink" (152), this usually means that the individual is heavily intoxicated by drink and requires the most attention and management. The second highest complaint was injury (108) which was an accumulative of all types of injuries.</p> <p>The DPH strongly supports the continuation of the CIP in the City Centre".</p>	<p>Whilst the DPH has proposed that the reference should sit within Paragraph 13.3 it is respectfully suggested that as this information was not relied upon in relation to the gathering of evidence for cumulative impact it would not be appropriate for this information to sit within this section.</p> <p>However, it is considered appropriate to reference the work and success of this scheme within the statement of licensing policy.</p> <p>Recommendation: Having regard to the comments of the DPH it is recommended that an additional paragraph be added within Paragraph 14.0 (Other mechanisms for controlling cumulative impact) of the policy as follows:</p> <p>Insert at 14.2 (and subsequently amend other paragraph numbers) <i>"The Licensing Authority recognises that Safe Space has been running for over 5 years in the Cumulative Impact Area and was a recommendation of the Portsmouth Alcohol Strategy 2009-13. It is currently delivered by South Central Ambulance Service (SCAS). It was set up to provide a one stop shop in the City Centre to support vulnerable people and deflect any minor injuries away from the ambulance service, unnecessary attendances at the A&E department and subsequent admissions.</i></p> <p><i>The service is open from 22:00 until 03:00 hours Friday and Saturday nights and other key dates in the calendar year including New Year's Eve.</i></p> <p><i>In total a total of 473 people were seen by Safe Space, this number grew to 494 in 2016 and in the first quarter of 2017 (Jan - Mar) Safe Space</i></p>

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

treated 106 people for a wide range of injuries or conditions.

During 2016, the most common recorded reason for attendance was "in drink" (152), this usually means that the individual is heavily intoxicated by drink and requires the most attention and management. The second highest complaint was injury (108) which was an accumulative of all types of injuries.

<p>zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours;</p> <ul style="list-style-type: none"> 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. 		
<p>Paragraph 22.30 (The Licensing Objectives - Protection of children from harm)</p> <p>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:</p> <ul style="list-style-type: none"> 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 	<p>The DPH has requested consideration be given to adapting the bullet point relating to training to be more specific as he considers at the moment it is open to interpretation.</p> <p>It is suggested that this bullet point be amended to the following:</p> <p>"Applicants shall ensure all frontline staff undertake training with regard to age restricted sales and the Licensing Act 2003 and that this has been properly documented. It is also expected that licence holders will ensure that all frontline staff receive refresher training every six months or where there is an identified need to do so.</p> <p>No member of staff should be permitted to sell alcohol until such time as they have successfully</p>	<p>The proposals as put forward by the DPH are considered appropriate to include, subject to minor amendment in relation to the proposal that no member of staff should be permitted to sell alcohol until such time as they have successfully completed this training.</p> <p>Recommendation: Having regard to the comments of the DPH it is recommended that additional wording be added within Paragraph 22.30 (The Licensing Objectives - Protection of children from harm) of the policy as follows:</p> <ul style="list-style-type: none"> <i>Applicants shall ensure all frontline staff undertakes training with regard to age restricted sales and the Licensing Act 2003 and that this has been properly documented. It is also expected that licence holders will ensure that all</i>

<p>will ensure that all frontline staff receive refresher training, where there is an identified need to do so;</p> <ul style="list-style-type: none"> • 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. 	<p>completed this training.</p> <p>It is recommended that training should cover the topics below as a minimum:</p> <ul style="list-style-type: none"> • Sale of alcohol to persons under 18 (penalties); • Age verification policies and acceptable forms of identification; • Signs of drunkenness and intoxication; • Recording refusals; • The Licensing Objectives. 	<p><i>frontline staff receive refresher training every six months or where there is an identified need to do so.</i></p> <p><i>It is recommended that no member of staff should be permitted to sell alcohol until such time as they have successfully completed this training.</i></p> <p><i>It is further recommended that training should cover the topics below as a minimum:</i></p> <ul style="list-style-type: none"> • <i>Sale of alcohol to persons under 18 (penalties);</i> • <i>Age verification policies and acceptable forms of identification;</i> • <i>Signs of drunkenness and intoxication;</i> • <i>Recording refusals;</i> • <i>The Licensing Objectives.</i>
<p>Paragraph 22.39 (Public Health)</p> <p>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.</p>	<p>The DPH requests consideration to add a caveat to the current paragraph around "Health" as a licensing objective, stating that if legislation were to change and health becomes a licensing objective, then the DPH would seek to limit the amount of new licences granted to off-sales and seek Cumulative Impact areas most affected by alcohol related health harm.</p> <p>The DPH strongly supports the principles outlined in the existing paragraph 22.39.</p> <p>The DPH recognises the value in well run and responsible Community Pubs and those with an offer other than alcohol, like food or entertainment. A shift in drinking patterns and consumption means most of the harm from alcohol is now driven by low cost "off" sales, not necessarily by sales in pubs. Also, the more</p>	<p>The request in relation to an additional caveat within the existing policy at paragraph 22.39 (Public Health) is not supported by your reporting officer. The Act as it stands makes no provision for health as a licensing objective. It would therefore be extremely high risk and leave the Licensing Authority open for legal challenge if it were to "pre-empt" within its policy what the Government may do in future both in terms of legislative changes and any associated guidance.</p> <p>The Licensing Authority cannot pre-judge what statutory provisions may be made in the future in relation to a fifth licensing objective and if such a statement were to be included in the policy which conflicted with the law and statutory guidance then the Licensing Authority would undoubtedly face a successful legal challenge.</p>

	<p>visible harms created by drunk and disorderly behaviour in the night-time economy are also increasingly driven by pre-loading cheap alcohol from shops and supermarkets.</p>	<p>If and when the Government considers it appropriate to amend the primary legislation to include a further licensing objective then the Licensing Authority will be able to review its policy as set out in paragraph 3.0 of its statement and will then be able to instigate a formal consultation process on any proposals to amend the policy to reflect those changes.</p> <p>Recommendation: That no changes are made to paragraph 22.39 (Public Health) in respect of the proposed caveat.</p> <p>Noting the DPH comments in relation to recognition of the value of well run and responsible Community Pubs (as well as the those comments made above in a similar context by BBPA - See above for recommendation to insert a further paragraph at 22.41 of the policy to reflect these comments.</p> <p>Recommendation: Licensing Authority to note comments and the addition of a further paragraph at 22.41 as set out above in the BBPA recommendations.</p>
<p>Paragraph 22.40 (Public Health) Such initiatives may include:</p> <ul style="list-style-type: none"> • 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 	<p>In addition to the initiatives already mentioned, request that consideration be given to the following additions:</p> <ul style="list-style-type: none"> • The use of breathalysers as a means of determining intoxication and supporting door staff decisions not to admit, or serve customers who are already intoxicated; <p>(This is one of many potential ways to challenge a culture of "pre-drinking" in which a growing number of people consume excessive amounts of shop-bought alcohol at home before going out).</p>	<p>Recommended: That having regard to the comments of the DPH, a further initiative be added to paragraph 22.40 (Public Health) as follows:</p> <ul style="list-style-type: none"> • <i>The use of breathalysers as a means of determining intoxication and supporting door staff decisions not to admit, or serve customers who are already intoxicated;</i> <p>However, in relation to the second proposal for the adoption of a realistic local minimum unit price, your reporting officer does not support this addition to the policy.</p> <p>As the DPH mentions in his response, the issue of introducing local minimum unit pricing has been</p>

<p>encourage people to drink irresponsibly and equally limit the exposure children have to alcohol advertising;</p> <ul style="list-style-type: none"> 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). 	<ul style="list-style-type: none"> The adoption of a realistic local minimum unit price. <p>(The DPH would support minimum unit pricing (MUP) nationally as a means of tackling excessive alcohol consumption. Governments in the UK are still considering implementing a minimum unit price for the sale of alcohol, most likely 40-50p per unit. Scotland passed legislation to introduce a minimum unit price of 50p per unit, but the implementation of this has been held up by repeated legal delays from the alcohol industry.</p> <p>The DPH considers that the advantage of minimum pricing, and the reason some in the industry support it, as well as a vast array of health professionals, is that its impact is focused on high-risk drinkers and young people and has a very limited impact on "responsible" drinkers. Virtually all pub drinks and many shop-bought beers, wines and spirits would not be affected by a 50p threshold.</p> <p>The DPH states that Public Health would look more favourable on licence applications or businesses that pay cognisance to this potential development in responsible alcohol retailing, and recognises that businesses must act on their own to make these decisions and not collude on pricing.</p>	<p>introduced into licensing legislation in Scotland but since its inception, it has been continually challenged in the courts and to date still has not come into effect.</p> <p>The Government have, over the years since the Licensing Act came into effect, considered the possibility of such a parallel condition in England and Wales but have consistently decided against taking such action.</p> <p>Having regard to this background, it would be extremely unwise for the Licensing Authority to attempt to introduce any such local initiatives without the likely result of a successful, and expensive, legal challenge.</p> <p>There are in place existing controls in relation to pricing of alcohol by way of mandatory conditions on premises licences and club premises certificates both by way of irresponsible drinks promotions and alcohol minimum permitted price calculations.</p> <p>Those conditions are set out in Appendix D of the statement of licensing policy.</p> <p>Recommendation: That no changes are made to paragraph 22.40 (Public Health) in respect of the proposal for minimum unit pricing.</p>
<p>Paragraph 27.0 (Contact Details): Table of contact details for the Licensing Authority and other Responsible Authorities.</p>	<p>Updated contact details have been provided for inclusion in the table.</p>	<p>Recommendation: That those changes are noted.</p>

New Appendix linking to Paragraphs 22.4 and 22.5 (The licensing process and applications)

The DPH would also like the Licensing Authority to consider adding a further appendix to the policy of maps showing alcohol related harm and licensed premises and information about Portsmouth.

At the time of preparing this report this information was not available as part of the formal response by the DPH. However, after discussions with Public Health, it is suggested that this information can be made available by Public Health as a separate document on the Council's website and that the statement of licensing policy can direct applicants to this comprehensive information.

Recommended: That the Licensing Authority note the comments of DPH and amend paragraph 22.5 as follows:

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;*
- *On-line mapping tools; and*
- *Any information made publicly available by Public Health to identify key facts in relation to alcohol related harm.*

OMMISSIONS TO POLICY - Licensing Authority		
<p>Insertion of new paragraph (and renumbering of policy) (Entertainment Provision)</p>		<p>Whilst reviewing the draft policy your reporting officer identified an omission within the policy in respect of entertainment provision. The Statutory Guidance advises that reference to this topic should form part of the policy and therefore needs to be inserted.</p> <p>Recommended: That the following paragraph is inserted within the policy (together with appropriate renumbering of the statement):</p> <p><i>The Licensing Authority is committed to facilitating a broad range of entertainment provision within the city of Portsmouth for the enjoyment by a wide cross-section of the public. The Licensing Authority in wishing to offer such facilities recognises that a balance needs to be struck between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives. The Licensing Authority is conscious of the risk that a licensing policy may inadvertently deter live music by imposing indirect costs of a disproportionate nature, for example a blanket policy that any pub providing live music entertainment must have door supervisors, and will therefore only seek to impose conditions, when representations are received, that will be proportionate, justifiable, capable of being met and appropriate for the promotion of the four licensing objectives.</i></p>

BBPA Consultation Response

Portsmouth Draft Statement of Licensing Policy – BBPA Response

Introduction

The British Beer & Pub Association is the UK's leading organisation representing the brewing and pub sector. Its members account for 96 per cent of the beer brewed in the UK and own almost half of Britain's 50,000 pubs. The UK pub sector contributes over £19 billion to the economy and supports in the region of 900,000 jobs. Over 80% of pubs (i.e. nearly 40,000 outlets) are small businesses which are independently managed or run by self-employed licensees.

Our members' pubs operate across the UK and, as such, we have experience dealing with licensing issues throughout the country. We welcome the opportunity to respond to this consultation and agree that the draft document is generally well written. We do, however, have a number of concerns and these are outlined below.

22.32

The Draft Statement of Licensing Policy (SoLP) is correct to state that public health is not a licensing objective. This has been reinforced by the recent House of Lords Committee report¹ on the Licensing Act which stated that *'promotion of health and well-being is a necessary and desirable objective for an alcohol strategy, but... it is not appropriate as a licensing objective'*. We would urge the council only to consider public health representations when concerning specific premises and to the detriment of one of the licensing objectives, as the Licensing Act intends.

We would further highlight that it is often difficult to link health representations directly to an individual premises. Indeed, it is often the case that a well-run premises is penalised through inaccurate use of health data when an incident is linked to that premises but not necessarily caused by it. We would recommend the SoLP suggests that health representations are considered on an individual basis to determine whether there is a direct link with a particular premises. The SoLP, as it stands, also fails to recognise that licensed premises contribute significantly to the creation of a more responsible drinking environment and that public health concerns may result from alcohol consumption outside of or before entering the responsible drinking environment of the premises.

22.40

Within this section we are particularly concerned with the suggestion to ban high strength beer and cider above 6.5% ABV to reduce alcohol related harms. It is not widely accepted to suggest that imposing bans on higher strength beers and ciders is 'best practice', as suggested in the licensing policy. Encouraging licensees to consider such initiatives may create issues around competition law and will restrict certain products from entering the market. Although the SoLP suggests that premium products should not be included, it does not set out a definition of 'premium' and, indeed, there will be significant difficulty in defining such products. Premises may, therefore, choose not to stock any products over 6.5% ABV.

There is also a lack of evidence to suggest that this policy is effective in tackling alcohol related crime and disorder or public health concerns. For example, research conducted by the London School of

¹ <https://www.publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>

Hygiene and Tropical Medicine and Camden/Islington Public Health², as well as Alcohol Research UK³ has indicated that bans on higher strength beer and cider prove ineffective as problem drinkers will simply purchase alcohol from alternative premises that are not restricted by the condition or switch to an alternative replacement such as spirits or drugs.

To suggest that licensees adopt this as a blanket approach to tackle public health issues is a perfect illustration of type of measure that has proved to be ineffective. It is in contrast to the targeted and collaborative initiatives that are broadly considered by the majority of stakeholders as the preferred approach. Partnership working is specific to local issues and the targeted approach has a proven positive impact on alcohol related harm and disorder. The partnership approaches that we support are detailed further in the following section.

24.1

Whilst Portsmouth does not currently impose a Late Night Levy (LNL), the SoLP states that the Council will keep the option under review. The BBPA is opposed the LNL as a licensing and taxation tool. This is inclusive of the updated definition of the LNL, set out in the new Modern Crime Prevention Strategy⁴ and proposed in the current Policing and Crime bill⁵, which looks to increase levy flexibility.

We would urge Portsmouth Council not to implement a levy at any point. We would also highlight the recently published House of Lords committee report⁶ regarding the Licensing Act 2003, which looked at all aspects of licensing in detail, including LNLs. The independent committee heard extensive evidence from all parties involved in the licensing system and concluded that *'given the weight of evidence criticising the late night levy in its current form, we believe on balance it has failed to achieve its objectives and should be abolished.'*

A Late Night Levy is a direct tax on local businesses and has a number of fatal flaws, including the fact that it fails to achieve predicted revenues. Most importantly it does not include businesses as stakeholders in the safety of the local night-time economy when, in fact, they are vital in ensuring a safe and responsible environment. We would, instead advocate for a local Business Improvement District, alongside a number of other local partnership initiatives that have proven effective, such as Pubwatch, Best Bar None, Street Pastors, Purple Flag and Community Alcohol Partnerships.

Indeed, local councils are beginning to recognise that a LNL is not the way forward. Cheltenham has now repealed its levy in favour of a Business Improvement District and Gloucester has postponed its levy for similar reasons. The BBPA has produced a report⁷ outlining more effective alternatives to the LNL and we would urge Portsmouth Council to consider its evidence.

² Colin Sumpter et al. 2016. Reducing the strength: a mixed methods evaluation of alcohol retailers' willingness to voluntarily reduce the availability of low cost, high strength beers and ciders in two UK local authorities. BMC Public Health.

³ C. Hatworth, J. Hatworth. 2016. Evaluation of the Super Strength Free Scheme in East Newcastle Upon Tyne. Barefoot Research and Evaluation. Alcohol Research UK.

⁴ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/509831/6.1770_Modern_Crime_Prevention_Strategy_final_WEB_version.pdf


⁵ <http://services.parliament.uk/bills/2016-17/policingandcrime/documents.html>


⁶ <https://www.publications.parliament.uk/pa/ld201617/ldselect/ldlicact/146/146.pdf>


⁷ http://s3.amazonaws.com/bbpa-prod/attachments/documents/uploads/24046/original/Late%20Night%20Levy%20Report%20March%202016.pdf?1460975810?from_search=1


Summary of Comments on Draft Statement of Licensing Policy - 2017 - Version 4_KC_HFRS_240317 (2).pdf

Page: 6


 Author: firekc Subject: Highlight Date: 24/03/2017 15:48:49 Z

 Author: firekc Subject: Sticky Note Date: 24/03/2017 15:49:54 Z
Should this read '....one or more of the above activities....'

 Author: firekc Subject: Highlight Date: 24/03/2017 15:55:42 Z

 Author: firekc Subject: Sticky Note Date: 24/03/2017 15:57:09 Z


This area should fundamentally highlight the appropriate parts of the Human Rights Act first. There should also be a n intention to go above and beyond legislative red tape to promote a fully inclusive community and society environment.


 Author: firekc Subject: Sticky Note Date: 24/03/2017 16:10:29 Z

Either have a separate section please or change to;

Fire Safety Duties including the requirement for;

- Written fire safety arrangements (the organisations policy)
- A fire risk assessment in writing
- An emergency plan that includes the evacuation procedure and management of capacity
- The provision of suitable fire warning and detection, fire fighting equipment, emergency lighting, escape signs and fire exits
- The maintenance of the premises and facilities
- The appointment of competent persons
- information and training to staff, the self employed and those from outside undertakings
- co-operation and co-ordination with other responsible persons where a premises is shared

 Author: firekc Subject: Highlight Date: 24/03/2017 16:11:35 Z

 Author: firekc Subject: Sticky Note Date: 24/03/2017 16:13:50 Z

FRS's should be advised of capacity and how this will be managed whilst the premises is occupied. This would be recorded primarily in the fire safety policy and emergency plan. The fire risk assessment would evaluate these to ensure that they remain appropriate. We do not recommend, we look to be advised and challenge if we do not agree.

SLP consultation response by the Director of Public Health (DPH), Portsmouth City Council, Dr. Jason Horsley

Please find below comments and suggested additions to the draft Statement of Licensing Policy:

13.3 - Can we add the following statement about Safe Space to the information/bullets that support the CIP?

Safe Space has been running for over 5 years in the CIP and was a recommendation of the Portsmouth Alcohol Strategy 2009-13. It is currently delivered by South Central Ambulance Service (SCAS). It was set up to provide a one stop shop in the City Centre to support vulnerable people and deflect any minor injuries away from the ambulance service, unnecessary attendances at the A&E department and subsequent admissions.

The service is open from 10pm to 3am Friday and Saturday nights and other key dates in the calendar year including New Year's Eve

In 2015 a total of 473 people were seen by Safe Space, this number grew to 494 in 2016 and In the first quarter of 2017 (Jan - Mar) Safe Space treated 106 people for a wide range of injuries or conditions.

During 2016, the most common recorded reason for attendance was 'in drink' (152), this usually means that the individual is heavily intoxicated by drink and requires the most attention and management. The second highest complaint was injury (108) which was an accumulative of all types of injuries.

We strongly support the continuation of the CIP in the City Centre.

22.30 - Can we adapt the statement about training to be more specific? At present it is open to interpretation

Applicants shall ensure all frontline staff undertakes training with regard to age restricted sales and the Licensing Act, and that this has been properly documented. It is also expected that licence holders will ensure that all frontline staff receive refresher training every six months or where there is an identified need to do so.

No member of staff should be permitted to sell alcohol until such time as they have successfully completed this training.

We recommend training should cover the below topics as a minimum

- Sale of alcohol to persons under 18 (penalties)
- Age verification policies and acceptable forms of Identification
- Signs of drunkenness and intoxication
- Recording refusals
- The Licensing Objectives

22.39 - Can we add a caveat to the following statement around 'Health' as a Licensing objective, stating that if legislation were to change and health becomes an objective, then the DPH would

seek to limit the amount of new licenses granted to Off Sales and seek CIP's in the areas most affected by alcohol related health harm.

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, we strongly support this.

The DPH sees the value in well run and responsible Community Pubs and those with an offer other than alcohol: like food or entertainment. A shift in drinking patterns and consumption means most of the harm from alcohol is now driven by low cost 'off' sales, not necessarily by sales in pubs. Also, the more visible harms created by drunk and disorderly behaviour in the night-time economy are also increasingly driven by pre-loading cheap alcohol from shops and supermarkets

22.40 - In addition to the initiatives already mentioned, could we include the following?

Voluntary initiatives

- The use of breathalysers as a means of determining intoxication and supporting door staff decisions not to admit, or serve customers who are already intoxicated. This is one of many potential ways to challenge a culture of 'pre-drinking' in which a growing number of people consume excessive amounts of shop-bought alcohol at home before going out.
- The adoption of a realistic local minimum unit price. The DPH in Portsmouth would support minimum unit pricing (MUP) nationally as a means of tackling excessive alcohol consumption. Governments in the UK are still considering implementing a minimum unit price for the sale of alcohol, most likely 40-50p per unit. Scotland passed legislation to introduce a minimum unit price of 50p per unit, but the implementation of this has been held up by repeated legal delays from the alcohol industry.
The advantage of minimum pricing, and the reason some in the industry support it, as well as a vast array of health professionals, is that its impact is focused on high-risk drinkers and young people and has a very limited impact on 'responsible' drinkers. Virtually all pub drinks, and many shop-bought beers, wines and spirits would not be affected by a 50p threshold.

The Director of Public Health would look more favourably on license applications or businesses that pay cognisance to this potential development in responsible alcohol retailing, it is also understood that businesses must act on their own to make these decisions and not collude on pricing.

27.0 Can we amend the contact details for Public Health to:

Director of Public Health Tel: 023 9284 1779 Publichealth@portsmouthcc.gov.uk

Public Health: Floor 2 Core 4 Civic Offices, Guildhall Square, Portsmouth PO1 2AL

In addition to these points regarding Public Health, we would also like the licensing authority to include some or all of the previously provided Public Health Licensing Review Appendix - The maps of alcohol related harm and licensed premises and information about Portsmouth, these fit with 22.4 and 22.5 of the SLP.

The appendix created by Public Health and Community Safety researchers provides sufficient information to enable applicants to demonstrate the steps they propose to take to promote the licensing objectives.

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Licensing Act 2003

Section 5 - Statement of Licensing Policy - 2017/2022

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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"¹) 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 development sites identified in Tipner and Horsea Island 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.

¹ <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 **12 July 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)² 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.

² 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

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.³ 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.

4.9 Each application will be considered on its own merits and in accordance with this statement of licensing policy; for example, if the application falls within the scope of the cumulative impact policy. Conditions attached to licences and certificates will be tailored to the individual type, location and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions. Standardised conditions will be avoided and the licensing authority acknowledges it may be unlawful where they cannot be shown to be appropriate for the promotion of the licensing objectives in an individual case.

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.⁴

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 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.

⁴ 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.

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. 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 Entertainment provision

- 10.1** The Licensing Authority is committed to facilitating a broad range of entertainment provision within the city of Portsmouth for the enjoyment by a wide cross-section of the public. The Licensing Authority in wishing to offer such facilities recognises that a balance needs to be struck between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives. The Licensing Authority is conscious of the risk that a licensing policy may inadvertently deter live music by imposing indirect costs of a disproportionate nature, for example a blanket policy that any pub providing live music entertainment must have door supervisors, and will therefore only seek to impose conditions, when representations are received, that will be

proportionate, justifiable, capable of being met and appropriate for the promotion of the four licensing objectives.

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 so⁵. 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

⁵ See chapter 16 of the section 182 Statutory Guidance - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf

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;

- 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 recognises that Safe Space has been running for over 5 years in the Cumulative Impact Area and was a recommendation of the Portsmouth Alcohol Strategy 2009-13. It is currently delivered by South Central Ambulance Service (SCAS). It was set up to provide a one stop shop in the City Centre to support vulnerable people and deflect any minor injuries away from the ambulance service, unnecessary attendances at the A&E department and subsequent admissions.

The service is open from 22:00 until 03:00 hours Friday and Saturday nights and other key dates in the calendar year including New Year's Eve.

In total a total of 473 people were seen by Safe Space, this number grew to 494 in 2016 and in the first quarter of 2017 (Jan - Mar) Safe Space treated 106 people for a wide range of injuries or conditions.

During 2016, the most common recorded reason for attendance was "in drink" (152), this usually means that the individual is heavily intoxicated by drink and requires the most attention and management. The second highest complaint was injury (108) which was an accumulative of all types of injuries.

14.3 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 them⁶. 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.

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);

⁶ See Chapter 2 of the section 182 Statutory Guidance - https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/418114/182-Guidance2015.pdf

- 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.⁷ Further guidance is available from Government Equalities Office and the Equality and Human Rights Commission.

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

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

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;
- on-line mapping tools; and
- Any information made publicly available by Public Health to identify key facts in relation to alcohol related harm.

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 Partnership⁸.

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 alcohol consumption such as unconsciousness or alcohol poisoning.

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

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 Act⁹, 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

⁹ Section 177 of the Act now only applies to performances of dance.

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. 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:

- Applicants shall ensure all frontline staff undertakes training with regard to age restricted sales and the Licensing Act 2003 and that this has been properly documented. It is also expected that licence holders will ensure that all frontline staff receive refresher training every six months or where there is an identified need to do so;

- It is recommended that no member of staff should be permitted to sell alcohol until such time as they have successfully completed this training;
- It is further recommended that training should cover the topics below as a minimum:
 - Sale of alcohol to persons under 18 (penalties);
 - Age verification policies and acceptable forms of identification;
 - Signs of drunkenness and intoxication;
 - Recording refusals;
 - The Licensing Objectives.
- 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 evidence¹⁰

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.¹¹

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 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);
- **The use of breathalysers as a means of determining intoxication and supporting door staff decisions not to admit, or serve customers who are already intoxicated;**

22.41 The Licensing Authority recognises the value in well run and responsible community pubs and those with an associated offer other than alcohol, like food or entertainment. A shift in drinking patterns and consumption gives rise to concerns that harm from alcohol may now be driven by low cost "off" sales, and not necessarily by sales in pubs. The Licensing Authority also recognises that the more visible harms created by drunk and disorderly behaviour in the night-time economy are also increasingly driven by pre-loading cheap alcohol from shops and supermarkets.

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). 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.¹²

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.

¹² See additional amendments in Section 142 of the Crime and Policing Act 2017

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) ¹³	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

¹³ See para 124 of The Licensing Act 2003

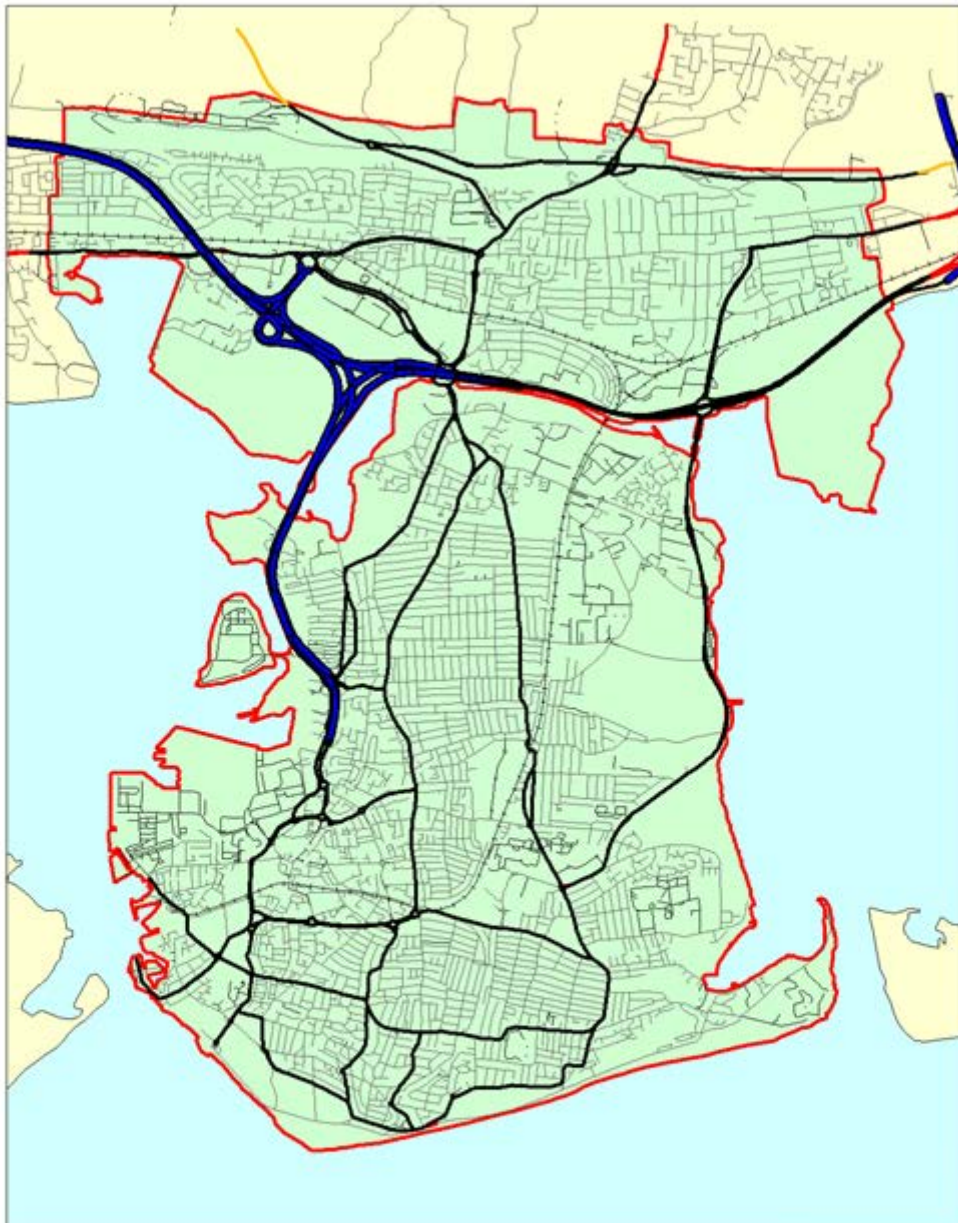
27.0 Contact Details

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: licensing@portsmouthcc.gov.uk</p>	<p>The Chief Officer of Police Hampshire Constabulary Portsmouth Licensing and Alcohol Harm Reduction Team Licensing Office Civic Offices Guildhall Square Portsmouth PO1 2AL</p> <p>Tel: 101 Direct Dial: 023 9268 8314 Email: force.licensing@hampshire.pnn.police.uk</p> <p>Please note that the Police will not accept electronic applications unless agreed in advance.</p>
<p>Regulatory Services (Pollution Control) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8366 Email: tradingstandards@portsmouthcc.gov.uk</p>	<p>Regulatory Services (Business Support) Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9268 8362 Email: pubprot@portsmouthcc.gov.uk</p>
<p>Trading Standards Service Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Tel: 023 9283 4689 Email: pubprot@portsmouthcc.gov.uk</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: safeguardingnotifications@portsmouthcc.gov.uk</p>

<p>The Chief Fire Officer Hampshire Fire and Rescue Service HQ Leigh Road Eastleigh Hants SO50 9SJ</p> <p>Tel: 023 9285 5180 Email: csprotection.admin@hantsfire.gov.uk</p>	<p>Head of Planning Service c/o Assistant Director of Culture & City Development Portsmouth City Council Civic Offices Guildhall Square Portsmouth Hants PO1 2AL</p> <p>Email: planning@portsmouthcc.gov.uk</p>
<p>Director of Public Health Portsmouth City Council Civic Offices Guildhall Square Portsmouth PO1 2BY</p> <p>Tel: 023 9284 1779 Email: publichealth@portsmouthcc.gov.uk</p>	<p>The Home Office (Immigration Enforcement) Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY</p> <p>Email: Alcohol@homeoffice.gsi.gov.uk</p>
	<p>In respect of vessels only:</p>
<p>Where relevant: Health and Safety Executive Priestley House Priestley Road Basingstoke Hants RG24 9NW</p> <p>Tel: 0203 028 1570 Email: advice@hse.gov.uk</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>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 Email: portsmouth@ghm.mod.uk</p>
<p>Maritime and Coastguard Agency Spring Place 105 Commercial Road Southampton Hants SO15 1EG</p> <p>Tel: 0203 817 2000 Email: infoline@mcga.gov.uk</p>	<p>Environment Agency Solent & Southdowns Office Guildbourne House Chatsworth Road Worthing West Sussex BN11 1LD</p> <p>Tel: National Call Centre 03708 506 506 (Mon - Fri 0800 until 1800) Email: enquiries@environment-agency.gov.uk</p>

APPENDIX A

Map of Portsmouth



 <p>Portsmouth CITY COUNCIL</p>	<p>Title: PORTSMOUTH CITY COUNCIL ADMINISTRATIVE AREA</p>		<p>Drawing No:</p>	
	<p>Prepared by: DIRECTORATE OF ENVIRONMENT & TRANSPORT</p>		<p>Scale: 1:54000</p>	
	<p>Section: INFORMATION SERVICES GROUP</p> <p>On behalf of: LICENSING OFFICE</p> <p>Workspace:</p>		<p>Date: 14/10/06</p> <p>Drawn by: 22/06/2006</p>	
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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, Oktoberfest 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	17.27% (4855 / 28108)
2015-16	3	3210	4118	7331	17.03% (7331 / 43047)
2016-17 (jan)	3	2910	4271	7184	17.36% (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 both DTE & NTE	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	21.50% (1544 / 7184)
Portsmouth Central Sector	0	428	496	924	12.86% (924 / 7184)
Portsmouth North Sector	0	23	26	49	0.68% (49 / 7184)
Portsmouth South Sector	0	260	311	571	7.94% (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	26.38% (1281 / 4855)
2015-2016	0	821	777	1598	21.80% (1598 / 7331)
2016-2017 (Jan)	0	711	833	1544	21.49% (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) NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	507	412	919	18.93% (919 / 4855)
2015-2016	0	655	478	1133	15.45% (1133 / 7331)
2016-2017 (Jan)	0	564	485	1047	14.57% (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%	8.65% (420 / 4855)
2015-2016	647	499	77.13%	148	22.87%	6.80% (499 / 7331)
2016-17 (Jan)	660	471	71.36%	187	28.33%	6.56% (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) NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	232	188	420	8.65% (420 / 4855)
2015-2016	0	295	204	499	6.80% (499 / 7331)
2016-2017 (Jan)	0	269	204	471	6.56% (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) NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	68	79	147	3.01% (147 / 4855)
2015-2016	0	75	73	148	2.01% (148 / 7331)
2016-2017 (Jan)	0	84	83	167	2.32% (167 / 7184)
Gunwharf NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	75	37	112	2.30% (112 / 4855)
2015-2016	0	141	70	211	2.88% (211 / 7331)
2016-2017 (Jan)	0	68	55	123	1.71% (123 / 7184)
North End / London Road NTE & residential violence	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	73	56	129	2.66% (129 / 4855)
2015-2016	0	72	79	151	2.06% (151 / 7331)
2016-2017 (Jan)	0	89	83	172	2.39% (172 / 7184)

Portsmouth South (Palmerston Road NTE) NTE violence only	Homicide	Violence (with injury)	Violence (w/out injury)	Total Violence	% of Portsmouth District 'Total Violence'
2014-2015	0	58	51	109	2.25% (109 / 4855)
2015-2016	0	71	49	120	1.64% (120 / 7331)
2016-2017 (Jan)	0	54	60	114	1.59% (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.

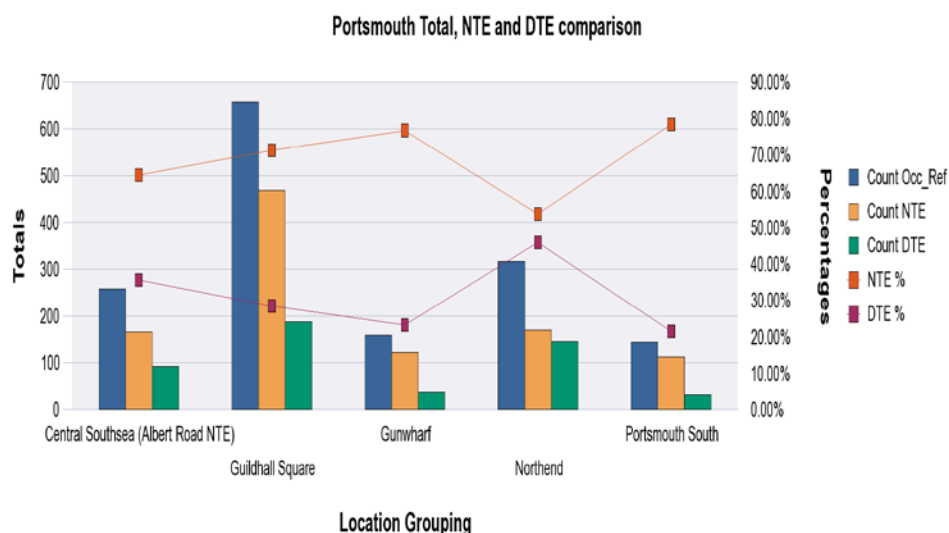
The Guildhall Walk NTE zone accounts for more NTE violence offences than the other 3 NTE zones (Albert Road, Palmerston Road and Gunwharf) combined, both in numerical terms and as a proportion of NTE violence in the NTE Zones.

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
Total	37	36	48	84	104	182	163	153	60	30	14	4	915

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
Total	49	51	70	82	146	221	170	174	101	38	13	11	1126

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
Total	50	69	64	96	115	185	163	129	100	41	13	13	1038

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

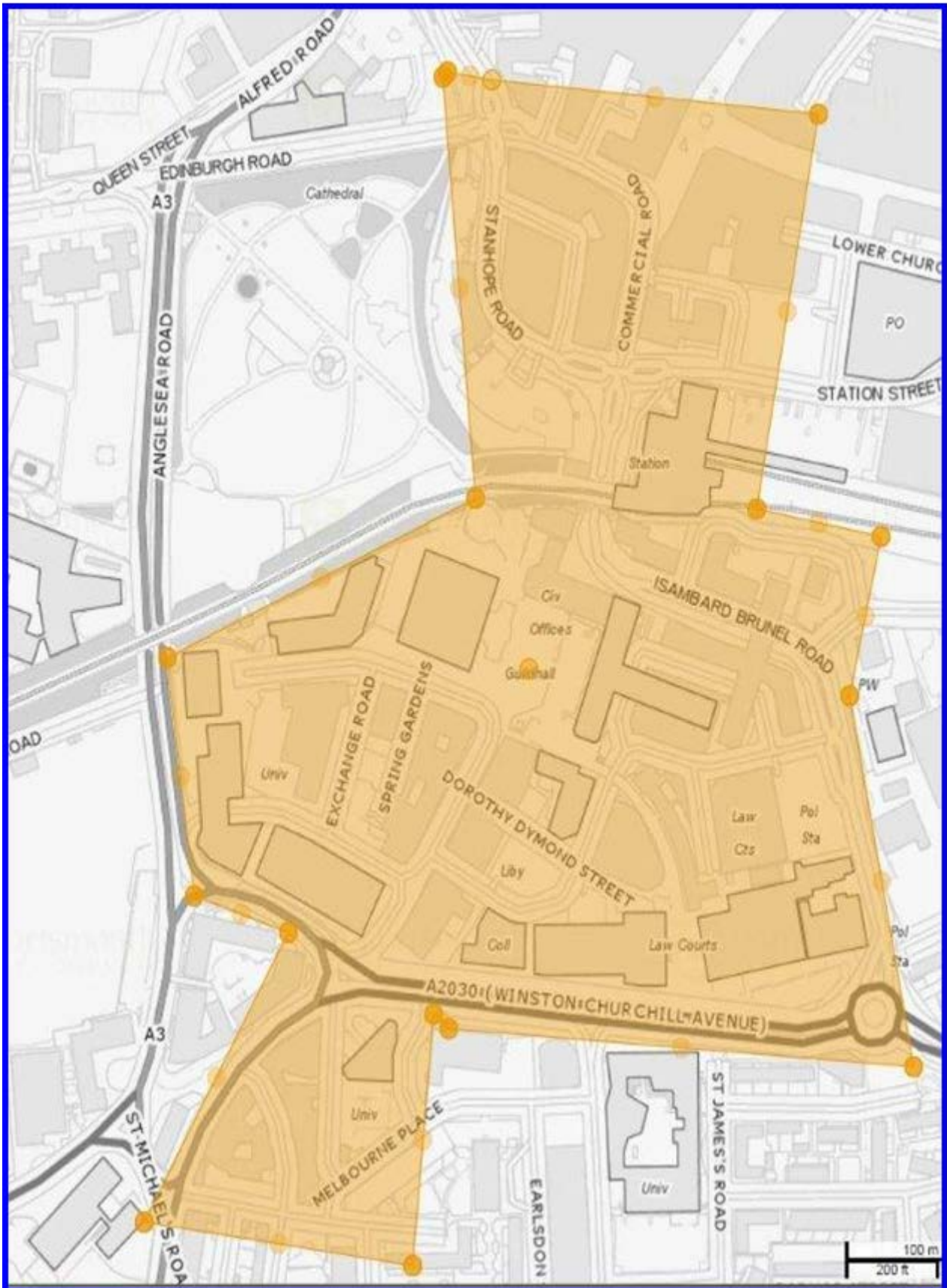
The proportion of NTE violence on Thursday, Friday and Saturday nights across all NTE zones accounts for 67-70% of all the NTE violence occurring within 1900 to 0700 hours

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 workplace¹⁴ 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;

- 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 consent¹⁵ 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

¹⁵ 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.

3rd 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 circus¹⁶ 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.

¹⁶ "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) "valued 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

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
Plain English Campaign
Committed to clearer communication.

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Equality Impact Assessment

Preliminary assessment form v5 / 2013

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="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="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

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

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