

# Public Document Pack

**Date of meeting** Thursday, 22nd October, 2015  
**Time** 7.00 pm  
**Venue** Civic Offices, Merrial Street, Newcastle Under  
Lyme, Staffordshire ST5 2AG  
**Contact** Geoff Durham

## Licensing Committee

### AGENDA

#### PART 1 – OPEN AGENDA

**1 Apologies**

**2 DECLARATIONS OF INTEREST**

To receive declarations of interest from Members on items contained within the agenda.

**3 MINUTES OF PREVIOUS MEETING**

**Resolved:** That the minutes of the previous meeting be agreed as a correct record.

**4 COLOURVILLE MUSIC FESTIVAL - APPLICATION FOR A PREMISE LICENCE**

Report will be sent to follow.

**5 Licensing Policy 2015 (Pages 3 - 98)**

**6 Gambling Policy 2015 (Pages 99 - 136)**

**7 Gambling Act Fees 2016/2017 (Pages 137 - 152)**

**8 Sexual Entertainment Venue Fees (Pages 153 - 156)**

**9 URGENT BUSINESS**

To consider any business which is urgent within the meaning of Section 100B (4) of the Local Government Act 1972

**Members:** Councillors Bailey, Eastwood, Frankish, Hambleton (Chair), Harper, Johnson, Mancey, Parker, Simpson, Tagg, Welsh, Wemyss, White (Vice-Chair), Williams and Winfield

**PLEASE NOTE:** The Council Chamber and Committee Room 1 are fitted with a loop system. In addition, there is a volume button on the base of the microphones. A portable loop system is available for all other rooms. Should you require this service, please contact Member Services during the afternoon prior to the meeting.

**Members of the Council: If you identify any personal training/development requirements from any of the items included in this agenda or through issues raised during the meeting, please bring them to the attention of the Democratic Services Officer at the close of the meeting.**

**Meeting Quorums :- 16+= 5 Members; 10-15=4 Members; 5-9=3 Members; 5 or less = 2 Members.**

**FIELD\_TITLE**

Officers will be in attendance prior to the meeting for informal discussions on agenda items.

## Licensing Act 2003 – STATEMENT OF LICENSING POLICY

Submitted by: Democratic Services Manager

Portfolio: Safer Communities

Ward(s) affected: All

### **Purpose of the Report**

To consider the responses received in relation to the consultation on the draft Licensing Policy and to agree upon a final version of the draft policy for submission to Full Council on 25<sup>th</sup> November 2015.

### **Recommendations**

1. That the Committee consider the responses received to the consultation exercise.
2. That the updated Policy be presented for approval to Full Council at its meeting on Wednesday 25th November 2015.

### **Reasons**

Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.

## 1. **Background**

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

- a) the chief officer of police for the area;
- b) the fire and rescue authority for the area;
- c) each local authority's Director of Public Health in England (DPH)11 or Local Health Board in Wales for an area any part of which is in the licensing authority's area,
- d) persons/bodies representative of local premises licence holders;
- e) persons/bodies representative of local club premises certificate holders;
- f) persons/bodies representative of local personal licence holders; and
- g) persons/bodies representative of businesses and residents in its area.

This consultation has now concluded and 2 responses have been received (attached).

## 2. **Issues**

Responses have been received from Trading Standards and Silverdale Parish Council, these responses are attached in full and summarised below:

Responses are also expected from Community Safety and Public Health and these will be sent to follow as soon as they have been received.

<b>Summary of Response</b>	<b>Officer Recommendation</b>
The response from Trading Standards refers to the fact that the Policy currently refers to a Challenge 21 Policy when the nationally recognised standard is now Challenge 25.	<b>That this be implemented</b>
Trading Standards also refer to the fact that Newcastle under Lyme takes applications for licences to the Sub Committee where conditions have already been negotiated by both parties.	As has previously been considered by this Committee this is the correct and only legal way to proceed where negotiations have taken place. A document from James Button is attached to this report regarding the legal background.  <b>That no further action be taken regarding this recommendation.</b>
<p>The Policy currently states:</p> <p><i>The Licensing Authority recognises that the Director of Children and Lifelong Learning for the County Council is the responsible authority for advising the licensing authority on all those matters in relation to the licensing objective to protect children from harm. Applicants are specifically required to forward copies of their operating schedule to Staffordshire Trading Standards so that the Licensing Authority may be advised on the suitability and the effectiveness of the applicant's proposals to meet the licensing objective of 'protecting children from harm'.</i></p> <p>Following discussions at the Responsible Bodies Group your Officers would recommend that the Responsible Body contact for the Protection of Children from harm be amended to:</p> <p>The Staffordshire Safeguarding Children's Board Staffs Safeguarding Children's Board Staffordshire County Council Wedgewood Building Tipping Street Staffs ST16 2DH sscb.admin@staffordshire.gov.uk</p>	<b>That this be implemented.</b>
Response from Silverdale Parish Council states that the Policy is very robust.	<b>That this be noted.</b>

### 3. Legal and Statutory Implications

Section 5 of the 2003 Act requires a licensing authority to determine and publish a statement of its licensing policy at least once every five years. The policy must be published before it carries out any licensing functions under the 2003 Act.

**4. List of Appendices**

Appendix A: Draft Licensing Policy

Appendix B: Response from Staffordshire Trading Standards.

Appendix C: Response from Silverdale Parish Council

Appendix D: James Button Bulletin July 2015

**5. Background Papers**

Newcastle under Lyme Licensing Policy 2011

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# STATEMENT OF LICENSING POLICY

## CONTENTS

1.	INTRODUCTION	
1.1	Introduction	4
1.2	Statement of Licensing Policy	4
1.3	Statutory consultees	4
1.4	Consultation with representatives of existing licensees	5
1.5	Other consultees	5
1.6	Regard to guidance	6
1.7	Period of Licensing Policy	6
1.8	Review of Licensing Policy	6
2.	AIMS AND OBJECTIVES	
2.1	Exercise of responsibilities	7
2.2	The Licensing Objectives	7
2.3	Other Local Strategies	7
2.4	Facilitation of well-run premises	7
2.5	Contribution to local economy	8
2.6	Promotion of cultural activities	8
2.7	Local Transport Policy	8
2.8	Protection of residential amenity	9
2.9	Trading hours	9
2.10	Protection of children from harm	9
2.11	Illegal sales of age restricted goods	10
2.12	The prevention of crime and disorder	11
2.13	Irresponsible drinks promotions	11
2.14	Drugs Policies	11
2.15	Public safety	12
2.16	Duty to promote good race relations	12
2.17	Duty towards people with a disability	12
2.18	Application Procedure	12
3.	THE APPLICATION PROCESS	
3.1	Applications to be made in prescribed form	13
3.2	Delegations	13
3.3	Operating schedules	14
3.4	Use of conditions	15
3.5	Indoor fireworks, hypnotism and laser shows	16
3.6	Limitation on conditions	16
3.7	Cumulative impact	16
3.8	Special policies relating to cumulative impact	17



3.9	Evidentiary basis	18
3.10	Other control mechanisms	18
3.11	Planning/Building Control	19
3.12	Operating hours conditions	20
3.13	Sales from general retail premises	20
3.14	Film exhibitions	20
3.15	Adult entertainment	21
3.16	Personal Licences	22
4.	MEASURES TO PROMOTE THE LICENSING OBJECTIVES	
4.1	Public safety	23
4.2	Prevention of public nuisance	23
4.3	The protection of children from harm	24
4.4	Prevention of crime and disorder	26
5.	SPECIAL POLICY RELATING TO CUMULATIVE IMPACT	28
6.	OBJECTIONS AND REVIEWS	
6.1	Determination of objections	29
6.2	Irrelevant, frivolous, or vexatious or repetitious objections	29
6.3	Procedure to be followed	29
6.4	Applications for review	29
6.5	Review of applications which are irrelevant, frivolous, or vexatious or repetitious	29
6.6	Determination following objection	29
6.7	Determination following review	30
6.8	Variation or cancellation	30
6.9	Right of appeal	30
7.	ENFORCEMENT	
7.1	Enforcement Concordat	31
7.2	Protocols with other agencies	31
7.3	Duty to promote the Licensing Objectives	31
8.	PERMITTED TEMPORARY ACTIVITIES	
8.1	Temporary Event Notices	32
8.2	Limitations	32
8.3	Public safety	32

9.	CONTACT DETAILS	33
10.	APPENDIX A – LICENCE CONDITIONS	36
11.	FEEDBACK QUESTIONNAIRE	68
12.	APPENDIX B – Map showing area included in the Special Policy for Cumulative Impact	69

# **STATEMENT OF LICENSING POLICY 2011 - 2015**

## **1. INTRODUCTION**

### **1.1 Introduction**

Under the provisions of the Licensing Act 2003, the Borough Council of Newcastle-under-Lyme (the Licensing Authority) is the licensing authority for the administration and enforcement of the above Act and associated orders and regulations within its area. The legislation regulates the operation of:

- The sale of alcohol by retail;
- 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;
- The provision of late night refreshment.

### **1.2 Statement of Licensing Policy**

Section 5 of the Act requires that the Licensing Authority prepares and publishes a Statement of its Licensing Policy every five years. The Statement of Licensing Policy must be published before the Licensing Authority carries out any function in respect of individual applications made under the terms of the Act.

### **1.3 Statutory Consultees**

Before determining its Policy for any five year period, the Licensing Authority is required to consult with the persons specified in Section 5(3) of the Act. These are:

- (a) The Chief Officer of Police for the area
- (b) The Fire Authority
- (c) Bodies representing local holders of premises licences
- (d) Bodies representing local holders of club premises certificates
- (e) Bodies representing local holders of personal licences
- (f) Bodies representing business and residents in its area.

#### 1.4 Consultation with Representatives of Existing Licensees

This Statement of Licensing Policy is the second such statement adopted under the provisions of the Licensing Act 2003 and the Licensing Authority will consult with organisations representative of current licence holders.

#### 1.5 Other Consultees

The Licensing Authority is empowered to consult with other bodies as it deems appropriate and this policy has been prepared after consultation with the following additional bodies:

The Local Strategic Partnership  
Town and Parish Councils  
Staffordshire Parish Councils Association  
North Staffs. Chamber of Trade  
North Staffs. Law Society  
The Private Hire Association  
The Hackney Carriage Association  
Newcastle Civic Society  
Stoke City Council  
Staffordshire Moorlands District Council  
North Staffordshire PCT  
Local businesses  
Hot food takeaways  
British Beer and Pub Association  
Bar Entertainment and Dancing Association  
Association of Licensed Multiple Retailers  
Campaign for Real Ale  
Staffordshire Probation Service  
Staffordshire Trading Standards  
Staffordshire Social Services  
Vulnerable Children Division, Lifelong Learning Directorate,  
Staffordshire County Council  
Solicitors acting for various licensed multiple retailers  
Solicitors acting for various brewery companies.  
National Pub Watch

## 1.6 Regard to Guidance

The Licensing Authority must have regard to the guidance issued by the Home Office in discharging its functions under the Act and this Statement of Licensing Policy has been prepared taking into account that guidance. The views of all consultees have been given proper weight in the preparation of this policy document.

## 1.7 Period of Licensing Policy

The Statement of Licensing Policy will be used by the Licensing Authority in the administration and enforcement of its duties under the Act. It will remain in force for a period of three years and will be reviewed and subject to further consultation before the end of the three year period. A new Statement of Licensing Policy will be adopted to come into operation at the expiry of the current Licensing Policy.

## 1.8 Review of Licensing Policy

During the currency of any Statement of Licensing Policy, the Licensing Authority will keep the operation of the Policy under review and make appropriate revisions to ensure the effectiveness of the Policy subject to appropriate consultation.

## **2. AIMS AND OBJECTIVES**

### **2.1 Exercise of Responsibilities**

In exercising its duties and responsibilities under the terms of the Licensing Act 2003, the Licensing Authority will have regard to this Statement of Licensing Policy and to the guidance issued by the Secretary of State. Subject to this, all applications will be treated on their merits and judged accordingly.

### **2.2 The Licensing Objectives**

The Licensing Authority will exercise its duties in such a way as to promote the licensing objectives set out below:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance; and
- The protection of children from harm.

The Licensing Authority confirms that each objective has equal importance and that the licensing objectives will be the only considerations to be taken into account in determining applications.

### **2.3 Other Local Strategies**

The administration and enforcement of the Act will also take into account other appropriate local strategies. The Licensing Authority has formulated its policies and procedures detailed in this Statement of Licensing Policy, taking into account the current policies incorporated into the locally adopted strategies on the following matters:

- Community Safety
- Planning
- Economic Regeneration
- Transportation
- Tourism and culture.

### **2.4 Facilitation of Well Run Premises**

The legislative powers provide for the carrying on of retail sales of alcohol, the supply of alcohol by qualifying clubs, the provision of

regulated entertainment and late night refreshment in a way which ensures public safety, the prevention of crime and disorder, the protection of children from harm and which is neither detrimental to members of the public in the vicinity nor gives rise to loss of amenity. It is the Licensing Authority's intention to ensure well run and managed premises and that licence holders take positive action with regard to their responsibility to promote the licensing objectives.

## 2.5 Contribution to Local Economy

The Licensing Committee will be informed of the local employment situation and the need for new investment and employment where appropriate. Additionally, they will also receive from time to time reports on the needs of the local tourist economy and the cultural strategy for the area and will take such information into account in determining the overall policies. The Licensing Authority recognises that the entertainment industry is a major contributor to the local economy. There are currently some 650 premises which will fall to be licensed under the Act and these premises provide valuable employment opportunities as well as supporting other sectors of the economy such as shops, cultural activities and tourist attractions. The industry attracts visitors from outside the area as well as local residents and helps to create vibrant towns and communities within the Borough. However, when considering the promotion of vibrant localities, the Licensing Authority must take account of its duty to safeguard all of the community. This duty will be a major consideration in the granting or reviewing of all licences as judged against the four licensing objectives.

## 2.6 Promotion of Cultural Activities

In relation to the promotion of cultural activities, the Licensing Authority recognises the need to encourage and promote live music, dancing and theatre, circus and street arts for the wider cultural benefit of the local community generally.

## 2.7 Local Transport Policy

In relation to local transport policy, there will be appropriate liaison between the licensing, Police and transport authorities on all matters in relation to dispersal of people from areas where there is a concentration of entertainment premises. Such liaison is intended to ensure that the local transport plan is informed of the current needs of

such areas so that the local transport strategy can be contemporaneously adapted to ensure that people are moved from such areas swiftly and safely to avoid concentrations of people which produce disorder and disturbance.

## 2.8 Protection of Residential Amenity

The Borough has a substantial residential population, whose amenity the Licensing Authority has a duty to protect. In some areas, local residents are adversely affected by entertainment activities. Commercial occupiers of premises also have a legitimate expectation of an environment that is attractive and sustainable for their businesses. The Licensing Authority also has wider considerations in relation to the amenity of the area including littering and the fouling of public places. The Licensing Authority will determine its policies and conditions in such a way as to ensure that the Licensing objectives are actively promoted.

## 2.9 Trading Hours

Licensed premises will be expected to conduct their business in such a manner as not to cause any nuisance or disturbance to those living or working in the vicinity. Trading hours will not be regulated by geographical areas or zones, but due regard will be given to the potential for any nuisance or disturbance to be caused to those living or working nearby. In particular, where appropriate, and following relevant representation, conditions may be attached to address issues of noise, litter and light pollution, or to restrict trading hours where the premises being licensed are in the vicinity of residential accommodation.

## 2.10 Protection of Children from Harm

Applicants will demonstrate through their operating schedules the measures they intend to take to keep children from harm. In particular, premises where the principal licensed activity is the sale or supply of alcohol will demonstrate how they will ensure that unaccompanied children are excluded from the premises (e.g. by the requirement of proof of age cards as a condition of entry).



## 2.11 Illegal Sales of Age Restricted Goods

The Licensing Authority takes a very serious view of the illegal sale of alcohol and other age-restricted goods to minors and will continue to work with Staffordshire Trading Standards to advise both the off-licence and on-licence trade on how to set up systems to avoid such sales taking place.

The Licensing Authority will expect applicants for licences to demonstrate how they will ensure that all their frontline staff have received adequate training on the law with regard to age restricted sales. They will also be expected to demonstrate in their operating schedules the measures they will take to ensure that illegal sales to children under 18 do not take place such as the checking of identification for proof of age through a secure system. (Ideally, identification should be a photo driving licence or passport, or a PASS approved 'proof of age' card. Other cards must be treated with caution because some have been shown to be insecure).

Additionally, the Licensing Authority encourages premises to include a Challenge 21 policy in their operating schedule, to ensure anyone who appears to be under the age of 21 provides a proof of age card (as above).

The Licensing Authority considers it good management practice that licensees keep registers of refused sales (refusals books) where sales of alcohol and any other age-restricted goods have been refused for any reason. Keeping such records helps to demonstrate that the responsibilities for checking the ages of purchasers are being taken seriously. Refusals books should be kept on the licensed premises and be made available for inspection by the Licensing Officer, Trading Standards or the Police.

In premises where alcohol is not the main product sold – for example, in food retailers and corner shops – the Licensing Authority will actively encourage the use of warning messages where an electronic point of sale system (EPOS) is in use. Such a warning system can help employees as it prompts them to check the age of purchasers of alcohol or other age restricted products when they are presented at the check-out.

In relation to pubs, restaurants and clubs, the Licensing Authority will actively encourage licensees to have due regard to the guidelines

issued by the National Association of Cigarette Machine Operators (NACMO). Cigarette machines should be sited in a position where they are clearly visible to members of staff so that attempted purchases by young people can be challenged.

## 2.12 The Prevention of Crime and Disorder

The Licensing Authority expects licensed premises to be managed in a manner so as not to contribute to problems of crime, disorder or anti-social behaviour in the vicinity. Licensees will be expected to actively co-operate with initiatives to enhance community safety particularly those promoted by the Newcastle Safer Communities Partnership.

## 2.13 Irresponsible Drinks Promotions

The Licensing Authority commends the Portman Group's Code of Practice on the naming, packaging and promotion of alcoholic drinks. The Code seeks to ensure that drinks are purchased and promoted in a socially responsible manner and only to those who are aged 18 or over.

## 2.14 Drugs Policies

The Licensing Authority has adopted the strategies set out in the Government's 'Safer Clubbing' initiative and considers it good practice for all applicants for premises and club licences to demonstrate through their operating schedules the measures they will take to address the incidence of illegal substances on their premises and to keep customers from harm.

The Licensing Authority considers it good practice for all applications for premises licences or club premises certificates for premises where alcohol will be consumed on the premises to be accompanied by a Drugs Policy which should address all the factors set out in Appendix A of this Policy and include provisions in relation to:

- Addressing the incidence, supply and consumption of drugs on the premises
- Arrangements, facilities and procedures to minimise the harmful effects of drugs

- Search procedures and procedures for detecting drugs on the premises
- Procedures for dealing with drugs found on the premises
- Procedures for dealing with those suspected of being in possession of illegal substances.

### 2.15 Public Safety

The Licensing Authority is concerned to protect the physical safety of people using licensed premises and will expect applicants to demonstrate in their operating schedules the measures they will take to promote the public safety licensing objective.

### 2.16 Duty to Promote Good Race Relations

The Licensing Authority is mindful of its duties under the Race Relations Act 1976 and the Race Relations (Amendment) Act 2000 and will exercise its functions under the Licensing Act 2003 in such a way as to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different racial groups.

### 2.17 Duty Towards People with a Disability

The Licensing Authority reminds those operating regulated businesses of their obligations under the Disability Discrimination Act 1995 and the need to ensure that their services are made fully accessible to people with a disability.

### 2.18 Application Procedure

The Licensing Authority points out that if no representations are received, the application will be granted in the terms sought and no additional conditions imposed other than those which are consistent with the operating schedule.

### 3. THE APPLICATION PROCESS

#### 3.1 Applications to be made in Prescribed Form

The Licensing Authority requires that all applications for the grant, variation or transfer of any premises licence, the grant of a club certificate or a personal licence detailed in the Act, are made in accordance with the statutory requirements and any guidance issued from time to time by the Licensing Authority.

All such applications must be made in the prescribed form and accompanied by the appropriate fee, where applicable, to be accepted as valid. Where such applications are statutorily required to be advertised or notified to other specified persons, the application must confirm that such advertisement or notification has been properly made and be accompanied by supporting evidence.

#### 3.2 Delegations

Upon receipt of a valid application, the Licensing Authority will consider the matter and determine it in accordance with this Licensing Policy, the statutory requirements and the guidance from the Secretary of State. To assist in the speed, efficiency and cost effectiveness of the administration of the licensing process, the application will be determined in accordance with the following delegation criteria:

<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a Police representation made	If no representation made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no representation made

Application for provisional statement		If a relevant representation made	If no representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no representation made
Application to vary designated personal licence holder		If a Police representation	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a Police representation	All other cases
Applications for Interim Authorities		If a Police representation	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc			All cases
Decision to object when local authority is a consultee and not the lead authority		All cases	
Determination of a police representation to a temporary event notice		All cases	

### 3.3 Operating Schedules

All applications for premises licences and club premises certificates must be accompanied by an operating schedule. This should be

drawn up following a full risk assessment of the activities to be undertaken and contain the information requested in the application form to include a floor plan, details of the licensable activities proposed, opening hours and operating arrangements. This could include for example:

- Drinks promotion proposals
- Seating arrangements
- Drugs policy
- Security arrangements
- Safety arrangements
- Maximum occupancy figure (based on risk assessment)
- CCTV arrangements inside and outside
- Staffing arrangements
- Staff training plan
- A fire risk assessment.

### 3.4 Use of Conditions

Where an application is received by the Licensing Authority it will be granted subject to any such conditions as are consistent with the operating schedule submitted by the applicant. This does not mean that the Authority will automatically reproduce the contents of the applicant's operating schedule. Certain conditions may be amended, if deemed appropriate by the Licensing Authority, following consultation with the applicant, so as to make the conditions meaningful and enforceable whilst at the same time ensuring the conditions are consistent with the operating schedule.

As an example the following condition, taken from an applicant's operating schedule, "CCTV at premises" may be amended to read:

- i) CCTV shall be installed at the premises;
- ii) The CCTV system shall be maintained and fully operational during the hours of licensable activity;
- iii) All recordings shall be available for inspection by an authorised officer.

In order to avoid such problems of interpretation it is expected that applicants will consult with Responsible Authorities prior to application or during the application process. This would also have the effect of minimising the necessity for hearings and allow for proper liaison.

An example of best practice is contained within the conditions (page 42) regarding CCTV provision at the Premises.

A list of conditions is attached at appendices A, B, C and D governing the four licensing objectives and specific situations. Applicants are encouraged to study these conditions and enter into consultation with Responsible Authorities with a view to reaching agreement on necessary and proportionate conditions.

### 3.5 Indoor Fireworks, Hypnotism and Laser Shows

There shall be no indoor fireworks, hypnotism or laser shows without prior notification to the local authority.

In granting the consent to such activity the consent may itself be subject to conditions regulating the entertainment provided under separate legislation.

Prior consent will be required for performance of stage hypnotism, fireworks and lasers. Applications should contain details prescribed by the local authority. Conditions may be applied to any consent.

### 3.6 Limitation on Conditions

Conditions will only be imposed to regulate matters which can be controlled by the licence holder. Such measures may be used to control the impact of the licensed activity on members of the public living, working or engaged in normal activities in the vicinity of the licensed premises. General anti-social behaviour of patrons in the vicinity of the licensed premises may not be able to be controlled by the licence holder.

However, there is an expectation that the licence holder will do all within their power and work with other agencies to address anti-social behaviour or other problems within the vicinity of the premises.

### 3.7 Cumulative Impact

'Cumulative impact' refers to the potential impact on the promotion of the licensing objectives of the concentration of a significant number of licensed premises on one area.

The Licensing Authority will not normally refuse applications simply because there are already a number of other licensed premises in the vicinity. Such regulatory action is not a matter for the Licensing Authority. However, the cumulative effect of the impact of licensed premises on an area is a matter for consideration by the Licensing Authority. It may be regulated by the adoption of a special policy for determining applications for new premises licences or club premises certificates because the area is already saturated.

Where a special policy as outlined in this document is adopted in any area there will be a presumption against the grant of new licences and material variations unless the applicant can satisfy the Authority that the application will not adversely affect the achievement of any of the licensing objectives.

### 3.8 Special Policies relating to Cumulative Impact

In deciding whether appropriate action to be taken in any area is the adoption of such a special policy, the Licensing Authority will take the following steps:

- (a) the identification of serious and chronic concern from a responsible authority or representatives of residents about crime and disorder or nuisance
- (b) an assessment of the causes
- (c) consideration of whether it can be demonstrated that crime and disorder and nuisance is caused by customers of licensed premises and, if so, identifying the area from which the problems are arising and the boundaries of that area
- (d) the adoption of a policy about future licence applications from that area within the terms of the guidance issued by the Secretary of State.

Notwithstanding the adoption of a special policy relating to cumulative impact, all applications for a premises licence or a club premises certificate within the designated area will be considered on merit and judged on their effect on the cumulative impact of premises in the area.



### 3.9 Evidentiary Basis

In relation to paragraph 3.8(a) above, the Licensing Authority would require that the objector provides an evidentiary basis for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The differing characteristics of different types of licensed premises have a different impact on the local community and these factors will be taken into account in judging whether or not to adopt a special policy relating to cumulative impact.

### 3.10 Other Control Mechanisms

In considering whether or not to adopt a special policy relating to cumulative impact, the Licensing Authority will take into account its responsibilities and duties under Section 17 of the Crime and Disorder Act 1998 and the licensing objectives of the Licensing Act 2003. However, the Licensing Authority recognises that there are other mechanisms available for addressing problems of disorder associated with customers in the vicinity of licensed premises. Such matters would include:

- Planning controls
- Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council
- The provision of CCTV surveillance in the town centre, taxi ranks, street cleaning and litter patrols
- Powers available to the Licensing Authority to designate parts of the area as places where alcohol may not be consumed publicly
- Police enforcement of general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- The prosecution of personal licence holders or members of staff at such premises who sell alcohol to people who are drunk
- The confiscation of alcohol from adults and children in designated areas

- The use of Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- The power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question
- Other local initiatives that similarly address these problems.

These matters may be supplemented by other local initiatives that similarly address these problems.

### 3.11 Planning /Building Control

The use of any licensed premises or places (including outside areas) are subject to planning controls. This would equally affect licensable activities held under a premises licence or temporary event notice. There are several key differences between licensing and planning control. The most significant is that planning is concerned with how land is used, whereas licensing is concerned with ensuring that public safety in its widest sense is protected.

It is recommended that issues concerning planning permission be resolved before a licence application is made. The Planning Authority may make representations in respect of licensing applications particularly where the activity to be authorised would amount to a contravention of the existing planning permissions and/or conditions imposed on planning permissions for the premises or the hours being sought exceed those authorised by any relevant planning permission.

Planning, Building Control and Licensing applications and conditions are separate. Licensing applications should not be a re-run of a planning application. Internal and external alterations to licensed premises must have building regulation approval where such approval is required under the Building Acts etc.

Where premises are being or are about to be constructed, extended or otherwise altered for the purpose of being used for licensable activities, an application may be made to the Licensing Authority for a provisional

statement. The Licensing Authority will determine the application in the same way as an application for a premises licence.

### 3.12 Operating Hours Conditions

Where relevant representations are received, the Licensing Authority will consider restricting the hours of the licensable activity on the individual merits of the application. The Licensing Authority will take into account the overall impact the licensed premises has on the local amenity and any proposals the applicant might submit to mitigate such impact. Uniform or standardised hours of operation for premises, areas or classes of activity will not be set so that the orderly departure of customers can be aided. However, the Licensing Authority would consider the imposition of appropriate conditions to require the holders of premises licences and club premises certificates to ensure the orderly departure of their customers, particularly in noise sensitive areas. Where it is likely that significant nuisance will be caused to local residents by late night activity, a restriction on operating hours must be considered.

### 3.13 Sales from General Retail Premises

In relation to premises selling alcohol for consumption off the premises as part of general retail sales, there will be a presumption that that activity will be licensed to operate at all the times that the premises are open for their normal business. However, where relevant representations are received, the Licensing Authority will consider the imposition of more restrictive hours for the sale of alcohol at those premises where, for example, that activity creates a focus for disorder and disturbance.

### 3.14 Film Exhibitions

Where premises are licensed for the giving of film exhibitions, the Licensing Authority will impose conditions requiring that children only be admitted to such exhibitions in accordance with the film classification as recommended by the British Board of Film Classification (BBFC). The conditions will include the requirement that the licence holder complies with the requirements of the BBFC in relation to the giving of information to the public and advertising that information. Where the Licensing Authority specifically determine that a specific film shall be granted a film classification different to that determined by the BBFC, the licence holder will be required to comply

with any additional conditions imposed by the Licensing Authority for the exhibition of that film.

### 3.15 Adult Entertainment

Normally adult entertainment will not be granted in proximity to residential accommodation, schools, places of worship or community facilities/public buildings.

The licensing authority will have regard to any cumulative effect of the number of such premises in proximity to each other and in the vicinity.

Where applications are granted they will normally be subject to appropriate conditions which promote the licensing objectives including:

- Control of access for children. There is no reason for proof of identity to be confined to those who appear to be under age 18. The Authority may require proof of identity, if necessary, for anyone appearing under 21
- Exterior advertising/visibility
- Contact, including a 'one metre' rule
- Performances confined to stage or other means of segregation
- Performances in place giving direct access to dressing room without passing through audience
- Style of dancing, e.g. no audience participation, physical contact between performers, simulated sex acts etc.
- Management standards, including CCTV inside and out, levels of door and floor supervision, waitress service only
- Rules of club conveyed to performers and audience
- Applicants should state clearly whether their application involves nudity, striptease, sex related or adult entertainment.

### 3.16 Personal Licences

Personal licences will be granted in accordance with the statutory provisions contained in Schedule 8 of the Act for current licence holders and the provisions contained in Part 6 of the Act for other applicants. All applications must be made in the prescribed form and be accompanied by:

- (a) two photographs duly endorsed as a true likeness by a solicitor, notary, teacher, lecturer or other professional person
- (b) a Basic Disclosure CRB disclosure form
- (c) copies of licensing qualifications
- (d) the prescribed fee.

## **4. MEASURES TO PROMOTE THE LICENSING OBJECTIVES**

### **4.1 Public Safety**

Conditions will be imposed in accordance with operating schedules and any relevant representations to protect public safety including where justified measures to address the following:

- Provision of escape routes and access for emergency vehicles to include adequate signage and emergency lighting
- Safety checks
- Provision of CCTV and panic buttons
- Use of shatterproof drinking vessels and bottles requiring use of toughened glass or plastic
- Use of security personnel, such as door supervisors, licensed by the Security Industry Authority
- Requirement of a minimum of a licensed door supervisor for every 100 customers in night clubs and large town centre pubs or as indicated by risk assessment
- Occupant capacity conditions will be applied where appropriate
- Provision of fire retardant hangings, decorations and upholstery
- Fire action notices and procedures to be followed in the event of fire
- The provision of First Aid equipment and suitably trained First Aiders.

### **4.2 Prevention of Public Nuisance**

In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, or as

a result of people entering or leaving the premises, or by reason of smell, vibration or light pollution.

Where relevant representations are received, a condition may be imposed on new licences that entertainment noise shall be inaudible in any residence.

Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

#### 4.3 The Protection of Children from Harm

Premises licences are granted to a wide variety of establishments for a wide variety of activities regulated under the Act. For the majority of these activities, the presence of children either on their own or accompanied by a responsible adult is not unlawful. The Licensing Authority will not therefore impose a condition requiring that children not be admitted to licensed premises. Such a matter will generally be at the discretion of the licence holder. However, in some instances the licence holder will need to restrict the access of children to the premises or parts of the premises at certain times when specific activities are taking place. The applicant is required to detail in the operating schedule the measures they intend to take to meet the licensing objective of 'protecting children from harm'.

Where relevant representations are received, the conditions that may be attached to a licence to protect children from harm include the following:

- Limitations on the hours when children may be present
- Limitations on or the exclusion of the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children may be given access
- Age restrictions (below 18)
- Requirements for children to be accompanied by an adult (including, for example, a combination of requirements which

provide that children under a particular age must be accompanied by an adult)

- Full exclusion of people under 18 from the premises when any licensable activities are taking place
- Provision of adult staff to supervise children and to ensure their safety
- Special requirements relating to children in performances
- The Challenge 21 policy
- To be an active member of “Off Licence Watch” where such a scheme exists
- Protection of children from access to cigarette vending machines.

#### Activities Giving Rise to Concern

The activities which would give rise to concern by the Licensing Authority in relation to potential harm for children include:

- Where entertainment or services of an adult or sexual nature are commonly provided
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for under-age drinking
- Where there is a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises (excluding a small number of cash prize gaming machines)
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.



## Role of the Director of Children and Lifelong Learning

The Licensing Authority recognises that the Director of Children and Lifelong Learning for the County Council is the responsible authority for advising the licensing authority on all those matters in relation to the licensing objective to protect children from harm. Applicants are specifically required to forward copies of their operating schedule to Staffordshire Trading Standards so that the Licensing Authority may be advised on the suitability and the effectiveness of the applicant's proposals to meet the licensing objective of 'protecting children from harm'.

### 4.4 Prevention of Crime and Disorder

Conditions will be imposed in accordance with operating schedules and any relevant representations to address the following:

- Text pagers/radio links
- Door supervision
- The provision of CCTV
- Adherence to Exclusion Orders
- Maximum permitted numbers
- Irresponsible drinks promotions
- Bottle bans and use of plastic containers/toughened glass
- Restriction of drinking areas/removal of open containers
- Proof of age cards
- Drugs policies
- Signage
- Crime prevention notices
- Adoption of a dispersal policy

- Search on entry
- Overcrowding
- Chill-out facilities
- Pub Watch/Off Licence Watch where such a scheme exists.

## **5. SPECIAL POLICY RELATING TO CUMULATIVE IMPACT**

### Newcastle Town Centre and adjacent areas

Having considered representations together with supporting evidence received from Staffordshire Police, the Council considers that within Newcastle Town Centre as defined by the inner ring road and areas adjacent to the Town Centre and to the east thereof bounded by lengths of the A52 Brunswick Street/George Street, York Street, Castle Street, Marsh Parade, Hassell Street, Hanover Street, West Street, Garden Street, Bankside, Grosvenor Road, London Road and Barracks Road as shown edged in black on the plan (Appendix B of this Policy).

There are currently a number of licensed premises concentrated together in one area that together have a detrimental impact on levels of crime and disorder and public nuisance and in particular violent crime in the Town Centre. This being the case, the Council is satisfied that it is appropriate and necessary to include in this Licensing Policy a special policy. The Council is therefore adopting a special policy of refusing new licences whenever it receives relevant representations about the cumulative impact on the licensing objectives which can be substantiated by evidence. Where such representations are received, applications for new premises licences or club premises certificates or variations that are likely to add to the existing cumulative impact, including applications for later hours, will normally be refused unless it can be demonstrated that the operation of the premises involved will not add to the cumulative impact already being experienced. Where representations are supported by evidence, applicants will need to clearly demonstrate in their operating schedule measures to address the identified problem of drink-related violence in the Town Centre and in particular will need to demonstrate measures to prevent binge drinking on the premises. Where no relevant representations are received, the application will be granted.

## **6. OBJECTIONS AND REVIEWS**

### **6.1 Determination of Objections**

Where an objection is received in relation to the grant or renewal of a licence for any purpose regulated by the Act, the matter will be determined in accordance with the terms of this Statement of Licensing Policy. The objection will normally be considered in accordance with the delegation criteria.

### **6.2 Irrelevant, Frivolous, or Vexatious or Repetitious Objections**

Where the complaint or objection has been judged to be irrelevant, frivolous, or vexatious or repetitious, the matter will not proceed any further and the complainant will be advised in writing of this fact.

### **6.3 Procedure to be Followed**

Where there is a prima facie case for an objection to the grant of a licence to be progressed, the application will be referred to a Licensing Sub-Committee.

### **6.4 Application for Review**

Where an application is made for the review of a premises licence or club premises certificate, the matter will be determined in accordance with the terms of this Statement of Licensing Policy. The application for review will normally be considered in accordance with the delegation criteria.

### **6.5 Review of Applications which are Irrelevant, Frivolous, or Vexatious or Repetitious**

Where an application for review has been judged to be irrelevant, frivolous, or vexatious or repetitious, the matter will not proceed any further and the complainant will be advised in writing of this fact.

### **6.6 Determination following Objection**

When an objection to the grant of a licence or club premises certificate has been determined in accordance with the procedures mentioned above, the licence or certificate will be refused or granted with or without conditions and the applicant and objector advised accordingly.

In relation to a refusal to grant a licence or club premises certificate, the notification will detail the grounds for the refusal and specify the process for the applicant to appeal against the Licensing Authority's decision.

#### 6.7 Determination following Review

When an application to review a premises licence or club premises certificate has been determined in accordance with the procedures mentioned above, the licence or certificate will either continue in operation unaltered, be modified and the terms and conditions changed in accordance with the Licensing Authority's decision, or be cancelled. The Licensing Authority will determine the date upon which the decision will take effect and the licence holder and applicant for review will be advised accordingly. The notification will set out the reasons for the decision and specify the process for an appeal.

#### 6.8 Variation or Cancellation

In relation to a variation or the cancellation of a licence or club premises certificate, the notification will detail the grounds for the variation or cancellation and specify the process for the applicant to appeal against the Licensing Authority's decision.

#### 6.9 Right of Appeal

There is a statutory right of appeal within 21 days to the Magistrates' Court from any decision of the Licensing Authority:

- (a) to impose conditions
- (b) to refuse a premises licence, club premises certificate or personal licence
- (c) to refuse to vary a licence
- (d) to refuse the transfer of a licence
- (e) to suspend or revoke a licence following a review.

A person who has made a relevant representation or objection has a statutory right of appeal within 21 days to the Magistrates' Court against a decision of the Licensing Authority to:

- (a) grant a licence or certificate
- (b) not impose requested conditions
- (c) not to suspend or revoke a licence following a review.

## **7. ENFORCEMENT**

### **7.1 Enforcement Concordat**

The Licensing Authority recognises that efficient and effective enforcement is of paramount importance in ensuring that the objectives of the Act are met. The Licensing Authority is a signatory to the Enforcement Concordat and the enforcement of the provisions of the Act will follow the existing principles specified in that agreement.

### **7.2 Protocols with other Agencies**

The Licensing Authority also recognises that there are other enforcement and regulatory agencies who have a direct involvement with the matters detailed in the Act. Protocols and understandings have been agreed with those agencies and they will be reviewed in the light of experience to ensure that transparent and effective enforcement procedures are operated in relation to the legislative requirements.

### **7.3 Duty to Promote the Licensing Objectives**

Where anti-social behaviour or other public disturbance occurs in connection with or in the vicinity of licensed premises, the Licensing Authority will work with other enforcement agencies and other bodies to identify the causes of such events and identify any possible remedies. It is recognised that it is the Licensing Authority's duty to promote the licensing objectives in the interests of the wider community, and to work with the Police and other law enforcement agencies to deter criminal activities and to take appropriate enforcement action. There will therefore be a sharp and proactive focus on premises failing in terms of the licensing objectives.

## **8. PERMITTED TEMPORARY ACTIVITIES**

### **8.1 Temporary Event Notices**

Anyone wishing to hold an event at which any licensable activity will take place may give notice of the event (a temporary event notice) to the Licensing Authority not less than 10 working days before the holding of the event. A copy of the notice must also be given to the Police at the same time.

A “working day” is any day other than a Saturday, Sunday, Christmas Day, Good Friday or a bank holiday.

### **8.2 Limitations**

The following limitations apply:

- An individual (other than a personal licence holder) may give a temporary event notice 5 times a year
- A personal licence holder may give a temporary event notice 50 times a year
- A notice may be given 12 times per year in relation to any premises
- A temporary event may last up to 96 hours
- There must be a minimum of 24 hours between events
- The maximum duration of all temporary events at any individual premises in one year is 15 days
- The maximum number of people attending a temporary event at any one time is 499.

In any other circumstances, premises licence or club premises certificate will be required.

Where a temporary event notice has been given, no authorisation is required for the temporary carrying on of the sale or supply of alcohol, the provision of regulated entertainment or the provision of late night

refreshment at premises where there is no premises licence or club premises certificate.

The Police have the right to object to a temporary event notice within 2 working days of receiving the notice. Where the premises user gives a counter notice the Licensing Authority will hold a hearing to consider the Police objection and decide whether or not to issue a counter notice setting out conditions which must be met if the event is to be held, at least 24 hours before the beginning of the event.

### 8.3 Public Safety

Those holding permitted temporary activities are reminded of the need to have proper regard for the safety of those attending the event, to have respect for the concerns of local residents and the need to prevent crime and disorder and anti-social behaviour by those attending.

## **9. CONTACT DETAILS**

Further details for applicants about the licensing and application process, including application forms, can be found by contacting the Licensing Section at Civic Offices, Merrial Street, Newcastle, Staffordshire, ST5 2AG.

Telephone: 01782 742227

Fax: 01782 711032

Email: [licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk)

Advice and guidance to applicants may also be sought from the Police and Fire Authority at:

North Staffs Licensing (Police),  
Licensing Unit,  
Hanley Police Station,  
Bethesda Street,  
Hanley,  
Stoke-on-Trent,  
Staffs,



ST1 3DR  
E-Mail: [northstaffs.licensing@staffordshire.pnn.police.uk](mailto:northstaffs.licensing@staffordshire.pnn.police.uk)  
Tel: 01785 233422

Mr K Chell,  
Staffs Fire & Rescue Service,  
Safety Office 1,  
Fire Station,  
Knutton Lane,  
Newcastle-under-Lyme, Staffs  
E-Mail: [k.chell@staffordshirefire.gov.uk](mailto:k.chell@staffordshirefire.gov.uk)  
Tel: 01785 898546

Also the following responsible authorities:

Environmental Health Services,  
Community Services Department,  
Civic Offices,  
Merrrial Street,  
Newcastle,  
Staffs,  
ST5 2AG.  
Telephone 01782 742520/742521  
Email: [keith.lawton@newcastle-staffs.gov.uk](mailto:keith.lawton@newcastle-staffs.gov.uk)

Regeneration and Development  
Civic Offices,  
Merrrial Street,  
Newcastle,  
Staffs,  
ST5 2AG.  
Telephone 01782 717717  
Email: [planningapplications@newcastle-staffs.gov.uk](mailto:planningapplications@newcastle-staffs.gov.uk)

Children and Lifelong Learning Community Services (Trading  
Standards),  
14 Martin Street,  
Stafford,  
ST16 2LG.  
Telephone 01785 277888

Further information in relation to the Licensing Act 2003 can also be obtained from the Home Office

Other useful information sources:

Institute of Licensing – [www.instituteoflicensing.org](http://www.instituteoflicensing.org)

## APPENDIX A

### **Licence Conditions**

The Licensing Authority notes that where "relevant representation" is made by responsible authorities or interested parties, the Act makes provision for the attachment of conditions to licences granted under its scope. Conditions may include limitations or restrictions to be applied to the use of the licence, or licensed premises.

It is not, however, intended that conditions should be used to restrict licences unnecessarily and conditions will only therefore be imposed where it is considered necessary in the public interest to promote the licensing objectives.

Conditions will be tailored to fit the individual application having regard to any representations received. To this end, the Licensing Authority will work closely with other agencies to focus licence conditions to ensure that expected standards are met and that risks to amenity and public order are kept to a minimum.

This will ensure that those voluntarily exercising the highest levels of management over licensable activities will be afforded sufficient flexibility to maximise business interest and provide a lead on standards of excellence within the industry with the prospect of increasing public access to well regulated entertainment.

A pool of conditions and the circumstances in which these may be used are listed below. Specific conditions may be drawn from these and tailored to the circumstances of a licence. This is not an exhaustive list and the Licensing Authority may apply other conditions not included in this pool if it is considered that these would be more appropriate in the granting of a licence.

## **POOL OF CONDITIONS FOR LICENCES**

### **Conditions Relating to the Prevention of Crime and Disorder:**

It should be noted in particular that it is unlawful under the 2003 Act:

- to sell or supply alcohol to a person who is drunk
- to knowingly allow disorderly conduct on licensed premises
- for the holder of a premises licence or a designated premises supervisor to knowingly keep or to allow to be kept on licensed premises any goods that have been imported without payment of duty or which have otherwise been unlawfully imported
- to allow the presence of children under 16 who are not accompanied by an adult between midnight and 5am at any premises licensed for the sale of alcohol for consumption on the premises, and at any time in premises used exclusively or primarily for the sale and consumption of alcohol.

Conditions enforcing these arrangements are therefore unnecessary.

#### **General:**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, when responsible authorities are considering such applications and when licensing authorities are considering applications following the receipt of any relevant representations from a responsible authority or interested party, the following options should be considered as measures which, if necessary, would promote the prevention of crime and disorder.

Whether or not conditions are necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved. It should also be borne in mind that

club premises are expected to operate under codes of discipline to ensure the good order and behaviour of members.

Necessary conditions for the licence or certificate will also depend on local knowledge of the premises.

Any individual preparing an operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

**Text Pagers/Radio Links:**

Text pagers and radio links connecting premises licence holders, designated premises supervisors and managers of premises/clubs to the local Police can provide for rapid response by the Police to situations of disorder which may be endangering the customers and staff on the premises.

Such systems can provide two-way communication, both enabling licence holders, managers, designated premises supervisors and clubs to report incidents to the police, and enabling the police to warn those operating a large number of other premises of potential trouble-makers or individuals suspected of criminal behaviour who are about in a particular area. These systems can also be used by licence holders, door supervisors, managers, designated premises supervisors and clubs to warn each other of the presence in an area of such people.

An example of conditions that may be applied include:

Designated premises will install and use appropriate radio links and shall ensure:

- that systems are fully operational and switched on
- that two way radios are monitored by a responsible member of staff
- that all instances of crime and disorder are reported without delay via the 999 system if applicable and the nite-net radio system and Police instructions acted upon

- that text pagers and radio links are maintained between premises and to the Police or other agencies as appropriate.

Where appropriate, conditions requiring the use of text pagers/radio links may be applied.

**Door Supervisors:**

Conditions relating to the provision of door supervisors and security teams are valuable in:

- preventing the admission and ensuring the departure from the premises of the drunk and disorderly, without causing further disorder;
- keeping out excluded individuals (subject to court bans or imposed by the licence holder);
- searching and excluding those suspected of carrying illegal drugs, or carrying offensive weapons; and
- maintaining orderly queuing outside of venues prone to such queuing.

Where door supervisors conducting security activities are to be a condition of a licence, which means that they would have to be registered with the Security Industry Authority, conditions may also need to deal with the number of such supervisors, the displaying of name badges, the carrying of proof of registration, where and at what times they should be stationed on the premises, and whether at least one female supervisor should be available (for example, if female customers are to be the subject of body searches).

Door supervisors also have a role to play in ensuring public safety. Examples of the type of conditions that may be applied include:

The Licensee must ensure that a written log is kept that:

- details persons working as door supervisors
- details dates, times when supervisors are on/off duty
- records the full name and SIA registration of the supervisor

- records the address and telephone number of the supervisors working at the premises
- covers a period of a minimum of two years and is available for inspection by the Police or relevant enforcement agency.

In respect of commercial premises with a capacity of 200 or more:

- there must be at least two door staff at each point of entry into the premises and one on each exit point (except emergency exits)
- staff must be in place by 8pm at the latest
- all door supervisors must display their SIA ID card
- all door staff must have ready access to details of local hackney carriage/private hire companies, including telephone numbers, on a leaflet/card or similar that is available to customers on request
- consideration be given whether at least one female door supervisor should be available (for example if female customers are to be the subject of body searches).

Where appropriate, conditions relating to the use of door supervisors may be applied.

Any person employed as a door supervisor or engaged as a door supervisor must be registered and licensed by the Security Industry Authority.

### **Bottle bans:**

Bottles may be used as weapons inflicting serious harm during incidents of disorder. A condition can prevent sales of drinks in their bottles for consumption on the premises. However, many women consider drinking from bottles to be safer as it is easier for them to prevent the spiking of drinks with drugs in bottles, the openings of which may be readily covered. It should also be noted that it is perfectly legitimate for couples, etc. to order a bottle of wine as their drink of choice without food being ordered with this. These issues therefore need to be carefully balanced, and will be considered in

assessment of whether and what conditions relating to bottles should be applied.

Examples of conditions that may be applied include:

- No person carrying open bottles or other drinking vessels will be allowed admission to the premises
- No persons carrying closed bottles will be allowed access to the premises where there is a realistic likelihood of the contents being consumed on the premises
- To utilise glass collectors within the premises on a timed rota, eg glasses and bottles to be collected routinely at 30 minute intervals
- No drink will be supplied in a glass bottle for consumption on the premises
- No person shall be allowed to leave the licensed area of the premises with open containers of alcohol.

Separate conditions may be applied to differing parts of premises e.g. where food is served.

In particular areas during specific events, for example live sporting events being broadcast from a premises, or where intelligence exists with regard to the likelihood of crime and disorder within an area, then bottle bans will be imposed and the use of plastic or toughened glass containers required.

Where appropriate, conditions relating to the use of bottle bans may be applied.

**Plastic containers and toughened glass:**

Glasses containing drinks may be used as weapons during incidents of disorder and in normal form can cause very serious injuries. Consideration will therefore be given to conditions requiring either the use of plastic containers or toughened glass that inflicts less severe injuries. Location and style of the venue and the activities carried on there would be particularly important in assessing whether a condition is necessary. For example, the use of glass containers on the terraces of outdoor sports grounds may obviously be of concern, but similar concerns may also apply to indoor sports events such as boxing



matches. Similarly, the use of such plastic containers or toughened glass during the televising of live sporting events, such as international football matches, when high states of excitement and emotion fuelled by alcohol might arise, may be a necessary condition.

An example of such a condition would be:

- For the period a premises is open to the public on a day that a live sporting event is broadcast in the premises, all drinking vessels supplied for use must be plastic or of toughened glass composition

In particular areas during specific events, for example live sporting events being broadcast from a premises, or where intelligence exists with regard to the likelihood of crime and disorder within an area, then bottle bans will be imposed and the use of plastic or toughened glass containers required.

It should be noted that the use of plastic or paper drinks containers and toughened glass might also be relevant as measures to promote public safety.

Where appropriate, conditions relating to plastic containers and toughened glass may be applied.

### **CCTV:**

The presence of CCTV cameras can be an important means of deterring and detecting crime at and immediately outside licensed premises. Conditions should not just consider a requirement to have CCTV on the premises, but also the precise siting of each camera, the requirement to maintain cameras in working order, and to retain recordings for an appropriate period of time.

The Police should provide individuals conducting risk assessments when preparing operating schedules with advice on the use of CCTV to prevent crime.

Where CCTV is required as a necessity on one of the four licensing objectives, following a relevant representation made by a relevant body, then an example of the protocol conditions that may be applied include:

- i. There shall be CCTV installed at the premises

- ii. The CCTV system shall be maintained and fully operational during the hours of licensable activity and when premises are open to the public
- iii. There shall be at least one camera situated internally at the premises and at least one camera situated externally showing the main entrance/exit of the premises.
- iv. The premises licence holder shall liaise with Staffordshire Police Service's Architectural Liaison Officer concerning any changes to the siting and viewable areas of the CCTV cameras
- v. Where this premises licence authorises the sale of alcohol after 00.00 hours, the external camera shall be in operation during the hours of licensable activity and for the period when the premises are open to the public
- vi. The CCTV system shall be capable of producing and storing recordings for a minimum period of 31 days on a rolling basis
- vii. The recordings produced shall be made available in a removable format for inspection/retention by any police constable and Authorised Officers of the local authority
- viii. Upon written request for such recordings, the licensee and Licensing Authority shall keep a copy of the recording for a period of 6 months
- ix. The premises licence holder shall ensure that any CCTV system installed at the premises meets the required standards as advised by Staffordshire Police's Architectural Liaison Officer ("the Officer"). Such standards shall include:
  - a. That colour images are produced
  - b. That stills can be taken from the footage and stored for inspection by authorised officers
  - c. That the resolution of the images record/produced meets the minimum standard as set by the Officer from time to time.

Home Office approved CCTV systems to be installed and registered in accordance with guidelines laid down by the Information Commissioner.

**Open containers not to be taken from the premises:**

Drinks purchased in licensed premises or clubs may be taken from those premises for consumption elsewhere. Where premises are licensed for the sale of alcohol for consumption off the premises then this is entirely lawful. However, consideration should be given to a condition preventing the taking of alcoholic and other drinks from the premises in open containers (e.g. glasses and opened bottles). This may again be necessary to prevent the use of these containers as offensive weapons in surrounding streets after individuals have left the premises.

Where appropriate, conditions relating to these matters may be applied.

**Restrictions on drinking areas:**

It may be necessary to restrict the areas where alcoholic drinks may be consumed in premises after they have been purchased from the bar. An example would be at a sports ground where the Police consider it necessary to prevent the consumption of alcohol on the terracing of sports grounds during particular sports events. Such conditions should not only specify these areas, but also indicate the circumstances in which the ban would apply and times at which it should be enforced.

Where appropriate, conditions relating to these matters may be applied.

**Capacity limits:**

It is expected that a safe capacity limit for each licensed premises will be submitted by the applicant as part of their operating schedule and licence application. It will be the responsibility of the applicant to state how they have arrived at this number, and how they will satisfy the licensing objectives at this limit.

In determining the extent to which capacity limits are appropriate to a premises the Licensing Authority will have reference to appropriate partner agencies, particularly the Police, Fire Service and Environmental Health Services.

A suggested condition is:

The maximum number of persons permitted within the premises shall be determined by reference to the lower figure of surface area of the premises, CCTV provision and size of escape routes as notified by the Fire Safety Officer.

**Surface Area**

The surface area of the premises shall be taken to **exclude** the following areas:

- i. Escape routes
- ii. Circulation spaces not used for general entertainment (eg stairs, foyers and exits)
- iii. Staff areas including the area behind the bar, any staff rooms or staff sanitary accommodation.

In determining the maximum number of persons allowed at a premises, the premises shall use the following table taken from the District Surveyors’ Association Model “Technical Standards for Places of Public Entertainment”

<b>Type of Accommodation</b>	<b>Area allowed per person</b>
Individual Seating	Where the layout is known, count the number of seats
Bench Seating	Divide the total length of the bench by 450mm
Standing Area for Spectators	0.3m <sup>2</sup>
Dance Area	0.5m <sup>2</sup>
Restaurant Table and Chair Seating	1.0 – 1.5m <sup>2</sup>
Bar Area 1m distance from Frontage	0.3m <sup>2</sup>

Where there is no CCTV provision there shall be a capacity of no more than 200 persons.

To facilitate the monitoring of compliance with this and linked requirements e.g. conditions relating to door supervisors, premises will be expected to display clearly its capacity limit, and where this is not observed conditions requiring this may be applied.

**Proof of age cards:**

It is unlawful for children under 18 to attempt to buy alcohol just as it is unlawful to sell or supply alcohol to them. To prevent such crimes, it may be necessary to require a policy to be applied at certain licensed

premises requiring the production of "proof of age" before such sales are made. This should not be limited to recognised "proof of age" cards, but allow for the production of other proof, such as photo-driving licences or passports.

To assist in ensuring that only persons over the age of 18 are able to purchase alcohol, then the Challenge 21 Scheme may be applied.

An example of such conditions would be:

- Where any person appears to be under 21 they must be asked to prove they are 18 or over
- The premises will make available leaflets/application forms explaining how appropriate proof of age ID may be obtained.

Where appropriate, conditions relating to proof of age may be applied.

**Crime prevention notices:**

It may be necessary at some premises for notices to be displayed which warn customers of the prevalence of crime, which may target them. Some premises may be reluctant to volunteer the display of such notices for commercial reasons. For example, in certain areas, a condition attached to a premises licence or club premises certificate may require the displaying of notices at the premises which warn customers about the need to be aware of pickpockets or bag snatchers, and to guard their property. Similarly, it may be necessary for notices to be displayed which advise customers not to leave bags unattended because of concerns about terrorism. Consideration could be given to a condition requiring a notice to display the name of a contact for customers if they wish to report concerns. Similarly, notices requesting that customers leave quietly and in an orderly manner may be appropriate.

Where appropriate, conditions relating to these matters may be applied.

**Signage:**

In order to assist in appropriate enforcement and regulation of the Act the Licensing Authority will expect the signage at all licensed premises to prominently display licence details, licensable activity, hours of licensable operation, the names of the licence holder and designated premises supervisor for the premises, capacity limits and other

relevant matters such as the policy relating to the admission of children. Such signage should also be visible to the public before they enter the premises.

Conditions may be applied requiring observation of this expectation.

**Drinks promotions:**

Standardised conditions will not be attached to premises licences or club premises certificates that promote fixed prices for alcoholic drinks. Conditions tailored to the individual circumstances of particular premises that address irresponsible drinks promotions may be appropriate and necessary for the promotion of the licensing objectives. Similarly it may be appropriate to require that adequate notice of the nature and duration of drinks promotions is made available to the Police in advance of the promotions being run.

Such matters will be considered objectively in the context of the licensing objectives and with the benefit of expert legal advice.

Where appropriate, conditions relating to these matters may be applied.

**Drugs Policy:**

The control of the use of illegal drugs by persons attending licensed premises is an important factor in the prevention of crime and disorder. It would be desirable for applicants to demonstrate in their operating schedules how they will address the incidence of drugs on their premises by the inclusion of a drugs policy which should include:

- Search as a condition of entry
- Search on entry policy
- Arrangements for detecting drugs on the premises
- The provision of drugs awareness information
- The provision of free drinking water
- Measures to prevent overcrowding
- Measures to create a safe environment, e.g. chill-out facilities

- Drugs awareness training for staff
- First Aid training for staff in dealing with those suffering from the ill-effects of drug use
- Door supervision.

Drugs policies will be expected to be tailored to the nature of the premises and the types of activities undertaken.

## **Conditions Relating to Public Safety (including Fire Safety)**

It should be noted that conditions relating to public safety should be those which are necessary, in the particular circumstances of any individual premises or club premises, and should not duplicate other requirements of the law. Equally, the attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform (Fire Safety) Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks.

Conditions enforcing those requirements will therefore be unnecessary.

### **General:**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and the Licensing Authority is considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options will be considered as measures that, if necessary, would promote public safety. It should also be recognised that special issues may arise in connection with outdoor and large scale events.

Whether or not any risk assessment shows any of the measures to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Those preparing operating schedules or club operating schedules, Licensing Authorities and responsible authorities should consider:

- Model National and Standard Conditions for Places of Public Entertainment and Associated Guidance ISBN 1 904031 11 0 (Entertainment Technology Press – ABTT Publications)



- Small and Medium Places of Assembly ISBN 13-9781851128204
- Large Places of Assembly ISBN 1397818511282211
- Theatres, Cinemas and Similar Premises ISBN 139781851128228
- Open Air Events and Venues ISBN 1397818511282235
- The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999)("The Purple Book") ISBN 0 7176 2453 6
- Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X
- Five Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 07176 15804
- The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ("The Green Guide") ISBN 0 11 300095 2
- Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network.

However, in consulting these texts, which were prepared prior to the coming into force of the Licensing Act 2003, those creating operating schedules or club operating schedules, the Licensing Authority and responsible authorities should again note that under no circumstances should any conditions be regarded as standard for all premises. Any individual preparing an operating schedule or club operating schedule is at liberty to volunteer any measure, such as those described below, as a step he or she intends to take to promote the licensing objectives. When incorporated into the licence or certificate as a condition, they become enforceable under the law and a breach of such a condition could give rise to prosecution.

The following are examples of conditions that may be applied:

**Disabled people:**

In certain premises where existing legislation does not provide adequately for the safety of the public, consideration may be given to conditions that ensure that:

- When disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency; and
- Disabled people on the premises are made aware of those arrangements.

**Safety checks:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Safety checks are carried out before the admission of the public; and
- Details of such checks are kept in a logbook.

**Accommodation limits:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Arrangements are made to ensure that any capacity limit imposed under the premises licence or club premises certificate are not exceeded; and
- The licence holder, a club official, manager or designated premises supervisor should be aware of the number of people on the premises and required to inform any authorised person on request.

**First Aid:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Adequate and appropriate supply of First Aid equipment and materials is available on the premises

- If necessary, at least one suitably trained First-Aider shall be on duty when the public are present, and if more than one suitably trained First-Aider that their respective duties are clearly defined.

### **Lighting:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- In the absence of adequate daylight, the lighting in any area accessible to the public, members or guests shall be fully in operation when they are present
- Emergency lighting is not to be altered without the consent of the Licensing Authority
- Emergency lighting batteries are fully charged before the admission of the public, members or guests
- In the event of the failure of normal lighting, where the emergency lighting battery has a capacity of one hour, arrangements are in place to ensure that the public, members or guests leave the premises within 20 minutes unless within that time normal lighting has been restored and the battery is being re-charged; and, if the emergency lighting battery has a capacity of three hours, the appropriate period by the end of which the public should have left the premises is one hour.

### **Temporary electrical installations:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- Temporary electrical wiring and distribution systems are not provided without notification to the Licensing Authority at least ten days before commencement of the work
- Temporary electrical wiring and distribution systems shall comply with the recommendations of BS 7671 or where applicable BS 7909

- Temporary electrical wiring and distribution systems are inspected and certified by a competent qualified person before they are put to use.

### **Ventilation:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might also be given to conditions that ensure that:

- The premises are effectively ventilated
- Where the ventilation system is designed to maintain positive air pressure within part of the premises, that pressure is maintained whenever the public, member or guests are present in that part of the premises
- Ventilation ducts are kept clean
- Air filters are periodically cleaned and replaced to maintain a satisfactory air supply.

### **Indoor sports entertainments:**

In certain premises where existing legislation does not provide adequately for the safety of the public or club members and guests, consideration might be given to conditions that ensure:

- If necessary, an appropriately qualified medical practitioner is present throughout a sports entertainment involving boxing, wrestling, judo, karate or other sports entertainment of a similar nature
- Where a ring is involved, it is constructed and supported to the satisfaction of the Licensing Authority and any material used to form the skirt around the ring is flame-retardant
- At any wrestling or other entertainments of a similar nature members of the public do not occupy any seat within 2.5 metres of the ring
- At water sports entertainments, staff adequately trained in rescue and life safety procedures are stationed and remain within the vicinity of the water at all material times (see also 'Managing

Health and Safety in Swimming Pools' issued jointly by the Health and Safety Commission and Sport England).

**Theatres and Cinemas (Promotion of Public Safety):**

In addition to the points made in Conditions relating to Public Safety there are particular matters in the context of public safety and fire safety which should be considered in connection with theatres and cinemas. The principle remains that conditions must be necessary and should be established through risk assessment and standardised conditions should be avoided. The points that follow are for consideration and do not represent a mandatory list.

**Premises used for closely seated audiences attendants:**

(a) The number of attendants on each floor in a closely seated auditorium should be as set out on the tables below. Table 2 sets out the requirements where the audience is comprised mainly of children.

TABLE 1

<b>FLOOR</b>	<b>NUMBER OF PEOPLE</b>	<b>NUMBER OF ATTENDANTS</b>
Ground	Every 250 or part of 250	One
Any floor above or below ground level	Every 100 or part of 100	Two

TABLE 2

<b>FLOOR</b>	<b>NUMBER OF CHILDREN/ADULTS</b>	<b>NUMBER OF ATTENDANTS</b>
Ground	Every 100 or part of 100	One
<b>PLUS:</b>		
Any floor above or below ground level	Every 50 or part of 50	One

(b) Attendants shall not be engaged in any duties that would hinder the prompt discharge of their duties in the event of an emergency or entail their absence from that floor or auditorium where they are on duty

(c) Any attendant shall be readily identifiable to the audience (but this need not entail the wearing of a uniform)

(d) The premises shall not be used for a closely seated audience except in accordance with seating plan(s), a copy of which is available at the premises and shall be shown to any authorised person on request.

(e) No article shall be attached to the back of any seat that would reduce the clear width of seatways or cause a tripping hazard or obstruction.

(f) A copy of any certificate relating to the design, construction and loading of any temporary seating shall be kept available at the premises and shall be shown to any authorised person on request.

**Standing and sitting in gangways etc:**

(a) Sitting on floors shall not be permitted except where authorised in the premises licence or club premises certificate

(b) Waiting or standing shall not be permitted except in areas designated in the premises licence or club premises certificate

(c) In no circumstances shall anyone be permitted to:

- i. sit in any gangway
- ii. stand or sit in front of any exit; or
- iii. stand or sit on any staircase including any landings.

**Drinks:**

Except as authorised by the premises licence or club premises certificate, no drinks shall be sold to or be consumed by a closely seated audience except in plastic and paper containers.

**Balcony Fronts:**

Clothing or other objects shall not be placed over balcony rails or upon balcony fronts.

**Special effects:**

Any special effects or mechanical installation should be arranged and stored so as to minimise any risk to the safety of the audience, the

performers

and

staff.

Special effects include:

- Dry ice machines and cryogenic fog
- Smoke machines and fog generators
- Pyrotechnics, including fireworks
- Real flame
- Firearms
- Motor vehicles
- Strobe lighting
- Lasers (see HSE Guide The Radiation Safety of Lasers used for Display Purposes [HS(G)95] and BS EN 60825: Safety of laser products)
- Explosives and highly flammable substances.

In certain circumstances, it may be necessary to require that certain special effects are only used with the prior consent of the Licensing Authority.

Any scenery should be maintained flame-retardant.

#### **Safety curtain:**

Where a safety curtain is necessary, it should be arranged so as to protect the audience from the effects of a fire or smoke on stage for sufficient time to enable the safe evacuation of the auditorium.

Where a stage with a proscenium arch is not equipped with a safety curtain, any curtains provided between the stage and the auditorium should be heavyweight and be made of non-combustible material or inherently or durably treated flame-retarded fabric.

#### **Ceilings:**

All ceilings in those parts of the premises to which the audience are admitted should be inspected by a suitably qualified person every five years and a certificate concerning the condition of the ceilings forwarded to the Licensing Authority.

#### **Seating:**

Where the potential audience exceeds 250 all seats in the auditorium should, except in boxes accommodating not more than eight persons, be either securely fixed to the floor or battened together in lengths of not fewer than four or more than twelve.

**Minimum lighting:**

The level of lighting in the auditorium should be as great as possible consistent with the effective presentation of the film. The level of illumination maintained in the auditorium during the showing of films would normally be regarded as satisfactory if it complies with the standards specified in BS CP 1007 (Maintained Lighting for Cinemas).

**Flammable films:**

No flammable films should be allowed on the premises without the consent of the Licensing Authority.

**Smoking:**

Licensees should consider the risks from second-hand smoke to users of permitted smoking areas when drawing up operating schedules.



## **Conditions Relating to the Prevention of Public Nuisance**

It should be noted that provisions of the Environmental Protection Act 1990 and the Noise Act 1996 provide some protection to the general public from the effects of noise nuisance. In addition, the provisions in Part 8 of the Licensing Act 2003 enable a senior Police officer to close down instantly for up to 24 hours licensed premises and premises carrying on temporary permitted activities that are causing nuisance resulting from noise emanating from the premises. These matters should be considered before deciding whether or not conditions are necessary for the prevention of public nuisance.

### **General:**

When applicants for premises licences or club premises certificates are preparing their operating schedules or club operating schedules, responsible authorities are considering such applications and the Licensing Authority are considering applications following the receipt of relevant representations from a responsible authority or interested party, the following options will be considered as measures that, if necessary, would promote the prevention of public nuisance.

Whether or not any risk assessment shows them to be necessary in the individual circumstances of any premises will depend on a range of factors including the nature and style of the venue, the activities being conducted there, the location of the premises and the anticipated clientele of the business involved.

Necessary conditions for licences and certificates will also depend on local knowledge of the premises.

### **Hours:**

The hours during which the premises are permitted to be open to the public or to members and their guests can be restricted (other than where they are protected by the transitional provisions of the Licensing Act 2003) by the conditions of a premises licence or a club premises certificate for the prevention of public nuisance. But this must be balanced by the potential impact on disorder that results from artificially early fixed closing times.

Restrictions could be necessary on the times when certain licensable activities take place even though the premises may be open to the

public as such times. For example, the playing of recorded music after a certain time might be prohibited, even though other licensable activities are permitted to continue.

Restrictions might be necessary on the parts of premises that might be used for certain licensable activities at certain times. For example, while the provision of regulated entertainment might be permitted while the premises is open to the public or members and their guests, regulated entertainment might not be permitted in garden areas of the premises after a certain time.

Where appropriate, conditions relating to these matters may be applied.

**Noise and vibration:**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Noise or vibration does not emanate from the premises so as to cause a nuisance to nearby properties. This might be achieved by a simple requirement to keep doors and windows at the premises closed, or to use noise limiters on amplification equipment used at the premises
- Prominent, clear and legible notices are displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly
- The use of explosives, pyrotechnics and fireworks of a similar nature which could cause disturbance in surrounding areas are restricted
- The placing of refuse – such as bottles - into receptacles outside the premises takes place at times that will minimise the disturbance to nearby properties.

**Noxious smells:**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Noxious smells from licensed premises are not permitted so as to cause a nuisance to nearby properties and the premises are properly vented.

### **Light pollution:**

In certain premises where existing legislation does not provide adequately for the prevention of public nuisance, consideration might be given to conditions that ensure that:

- Flashing or particularly bright lights on or outside licensed premises do not cause a nuisance to nearby properties. Any such condition needs to be balanced against the benefits to the prevention of crime and disorder of bright lighting in certain places.

### **External Areas**

Where areas are provided for external drinking or smoking, applicants need to consider how they will promote the public nuisance licensing objective in these areas. Mechanisms for achieving this could include:

- appropriate signage
- door supervisors (numbers as stated elsewhere in this policy)
- adequate facilities for disposal of smoking and other refuse.

Where appropriate, conditions relating to the above may be applied.

## **Conditions Relating to the Protection of Children from Harm**

It should be noted that it is unlawful under the 2003 Act to permit unaccompanied children under the age of 16 to be present on premises exclusively or primarily used for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or a temporary event notice when open for the purposes of being used for the supply of alcohol for consumption there. In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at all premises supplying alcohol for consumption on those premises under the authorisation of any premises licence, club premises certificate or temporary event notice. Conditions duplicating these provisions are, therefore, unnecessary.

### **Access for children to licensed premises - in general:**

Restrictions on the access of children under 18 to premises where licensable activities are being carried on will be made where it is necessary to protect children from harm.

Conditions attached to premises licences and club premises certificates may reflect the concerns of responsible authorities and interested parties who have made representations but only where the licensing authority considers it necessary to protect children from harm.

While the application of conditions will depend on the specific circumstances of an application, the Licensing Authority will, (unless there are circumstances justifying the contrary), adhere to the following recommendations as put forward by the Secretary of State:

- for any premises having known associations (having been presented with evidence) with or likely to give rise to heavy or binge or underage drinking, drugs, significant gambling, or any activity or entertainment (whether regulated entertainment or not) of a clearly adult or sexual nature, there should be a strong presumption against permitting any access at all for children under 18 years.

Applicants wishing to allow access for children to premises where these associations may be relevant, when preparing operating schedules or club operating schedules or variations of those schedules

for the purposes of obtaining or varying a premises licence or club premises certificate should:

- explain their reasons; and
- outline in detail the steps that they intend to take to protect children from harm on such premises.

For any premises not serving alcohol for consumption on the premises, but where the public are allowed on the premises after 11.00pm in the evening, there should be a presumption against the presence of children under the age of 12 unaccompanied by adults after that time.

Applicants wishing to allow access when preparing operating schedules or variations of those schedules or club operating schedules for the purposes of obtaining or varying a premises licence or club premises certificate should explain their reasons and outline in detail the steps that they intend to take to protect children from harm on such premises.

In any other case, subject to the premises licence holder's or club's discretion, the expectation would be for unrestricted access for children subject to the terms of the 2003 Act. An operating schedule or club operating schedule should indicate any decision for the premises to exclude children completely, which would mean there would be no need to detail in the operating schedule steps that the applicant proposes to take to promote the protection of children from harm.

Otherwise, where entry is to be permitted, the operating schedule should outline the steps to be taken to promote the protection of children from harm whilst on the premises.

**Age restrictions – specific:**

Under the 2003 Act, a wide variety of licensable activities could take place at various types of premises and at different times of the day and night. Whilst it may be appropriate to allow children unrestricted access at particular times and when certain activities are not taking place, the Licensing Authority, following relevant representations made by responsible authorities and interested parties, will consider a range of conditions that will be tailored to the particular premises and their activities where these are necessary.

The Licensing Authority will consider:

- the hours of the day during which age restrictions should and should not apply. For example, the fact that adult entertainment may be presented at premises after 8.00pm does not mean that it would be necessary to impose age restrictions for earlier parts of the day;
- types of event or activity in respect of which no age restrictions may be needed, for example family entertainment; or non-alcohol events for young age groups, such as under 18s dances.

Similarly, types of event or activity which give rise to a more acute need for age restrictions than normal, for example:

- during “Happy Hours” or on drinks promotion nights;
- during activities outlined above.

#### **Age restrictions – cinemas:**

The Secretary of State considers that, in addition to the mandatory condition imposed by virtue of section 20 which requires the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 or by the Licensing Authority itself, conditions restricting the admission of children to film exhibitions should include:

- a condition that where the Licensing Authority itself is to make recommendations on the admission of children to films, the cinema or venue operator must submit any film to the Licensing Authority that it intends to exhibit 28 days before it is proposed to show it. This is to allow the Licensing Authority time to classify it so that the premises licence holder is able to adhere to any age restrictions then imposed;
- a condition that when films are classified, by either the film classification body as specified in the licence or the Licensing Authority, they should be classified in the following way:
  - U Universal – suitable for audiences aged four years and over

- PG – Parental Guidance. Some scenes may be unsuitable for young children
  - 12A – Passed only for viewing by persons aged 12 years or older or persons younger than 12 when accompanied by an adult
  - 15 – Passed only for viewing by persons aged 15 years and over
  - 18 – Passed only for viewing by persons aged 18 years and over
- that conditions specify that 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 or, as regards a trailer advertising a film, of the statement approved by the Board indicating the classification of the film;
  - a condition that when a licensing authority has made a recommendation on the restriction of admission of children to a film, notices are required to be displayed both inside and outside the premises so that persons entering can readily be made aware of the classification attached to any film or trailer. Such a condition might be expressed in the following terms:

“Where a programme includes a film recommended by the licensing authority as falling into the 12A, 15 or 18 category no person appearing to be under the age of 12 and unaccompanied, or under 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 parent or legal guardian has first been obtained.”

**Theatres:**

The admission of children to theatres, as with other licensed premises, is not expected to normally be restricted unless it is necessary to promote the licensing objective of the protection of children from harm. However, theatres may be the venue for a wide range of activities. The admission of children to the performance of a play is expected to normally be left to the discretion of the licence holder and no condition restricting the access of children to plays should be attached. However, theatres may also present entertainment including, for example, variety shows, incorporating adult entertainment.

A condition restricting the admission of children in such circumstances may be necessary. Entertainment may also be presented at theatres specifically for children (see below).

The Licensing Authority will consider whether a condition should be attached to a premises licence, which requires the presence of a sufficient number of adult staff on the premises to ensure the well being of children present on the premises during any emergency.

**Performances especially for children:**

Where performances are presented especially for unaccompanied children in theatres and cinemas, conditions are anticipated to be needed which require an attendant to be stationed in the area(s) occupied by the children, in the vicinity of each exit, provided that on each level occupied by children the minimum number of attendants on duty should be one attendant per 50 children or part thereof.

Regard will be had to any representations made by responsible authorities on the issue, to also consider whether or not standing should be allowed. For example, there may be reduced risk for children in the stalls than at other levels or areas in the building.

**Children in performances:**

There are many productions each year that are one-off shows where the cast is made up almost entirely of children. They may be taking part as individuals or as part of a drama club, stage school or school group. The age of those involved may range from 5 to 18.

The Children (Performances) Regulations 1968 as amended set out requirements for children performing in a show.

However, if it is necessary to consider imposing conditions, in addition to these requirements, for the promotion of the protection of children



from harm then the Licensing Authority will consider the matters outlined below.

- **Venue** – the backstage facilities should be large enough to accommodate safely the number of children taking part in any performance
- **Fire safety** – all chaperones and production crew on the show should receive instruction on the fire procedures applicable to the venue prior to the arrival of the children
- **Special effects** – it may be inappropriate to use certain special effects, including smoke, dry ice, rapid pulsating or flashing lights, which may trigger adverse reactions especially with regard to children
- **Care of children** – theatres, concert halls and similar places are places of work and may contain a lot of potentially dangerous equipment. It is therefore important that children performing at such premises are kept under adult supervision at all times including transfer from stage to dressing room and anywhere else on the premises. It is also important that the children can be accounted for at all times in case of an evacuation or emergency.

#### **Proof of age cards:**

Where necessary and appropriate, a requirement for the production of PASS accredited proof of age cards before any sale of alcohol is made may be attached to any premises licence or club premises certificate for the protection of children from harm. Any such requirement should not be limited to recognised “proof of age” cards, but allow for the production of other proof, such as photo-driving licences and passports. It should be noted that many adults in England and Wales do not currently carry any proof of age. To assist in ensuring that only persons over the age of 18 are able to purchase alcohol, then the Challenge 21 Scheme may be applied. This will ensure that most minors – even those looking older – would need to produce proof of age appropriately before making such a purchase. Under such an arrangement only a minority of adults might be affected, but for the majority there would be no disruption to their normal activity, for example, when shopping in a supermarket.

Proof of age cards can also ensure that appropriate checks are made where the presence of children is restricted by age at certain times, such as 16.

**Access to cigarette vending machines:**

Where children under the age of 18 have access to premises, consideration may need to be given to the siting of cigarette machines in supervised areas away from entrances.

**Smoking areas:**

The risks to children from second-hand smoke should be considered when submitting operating schedules. Appropriate measures to protect children from exposure should be documented and put in place in those areas to which children are admitted or to which they have access.

**YOUR VIEWS – LICENSING POLICY  
FEEDBACK QUESTIONNAIRE**

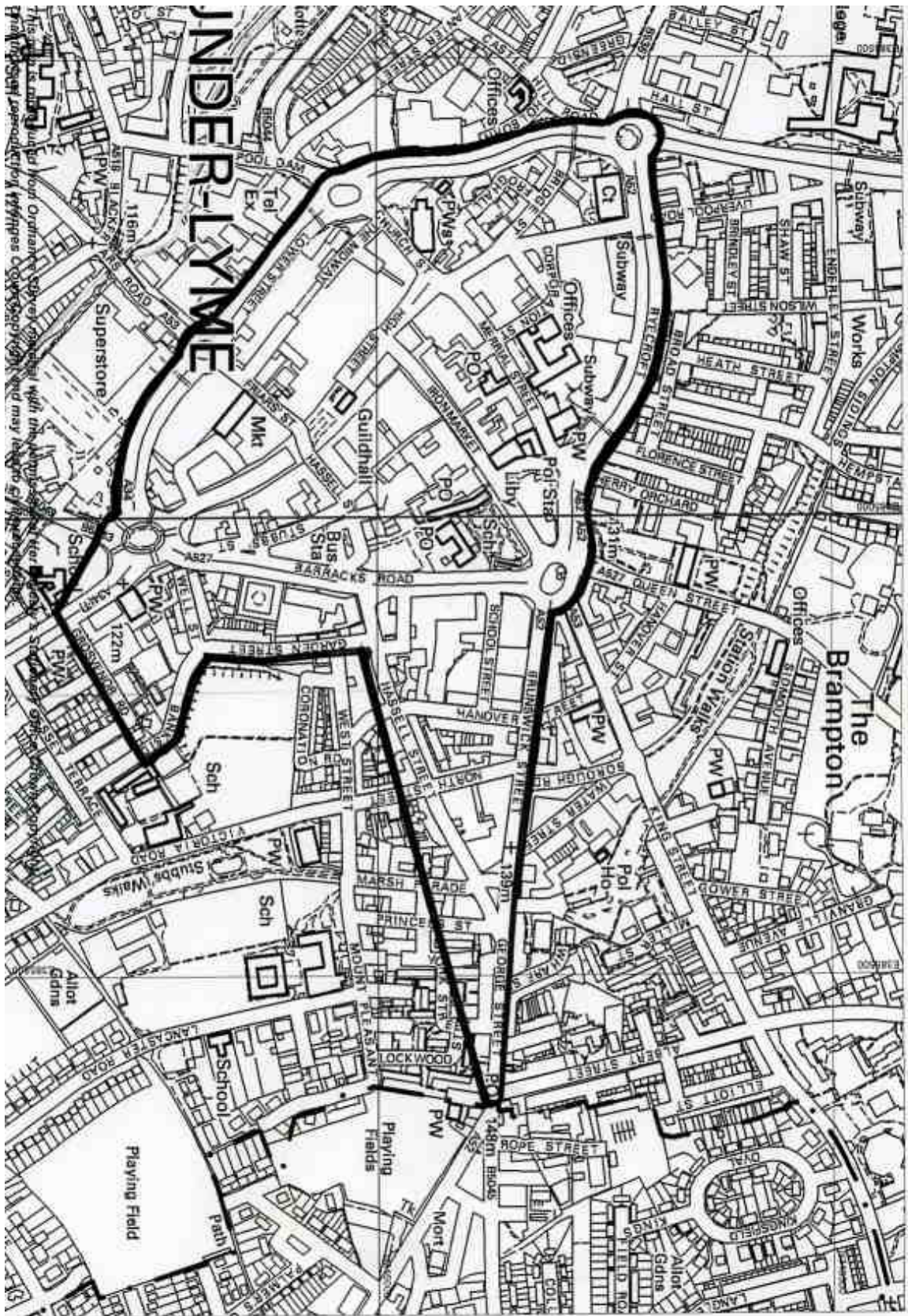
YOUR NAME	
ADDRESS	
TELEPHONE NUMBER	
E-MAIL ADDRESS	

Your views are requested in relation to the following:

1.	The policies in relation to crime and disorder	
2.	The policies in relation to public nuisance	
3.	The policies in relation to public safety	
4.	The policies in relation to the safety of children	
5.	The proposed conditions	
6.	On the Policy generally	

**THANK YOU FOR COMPLETING THIS QUESTIONNAIRE**

Please send your completed questionnaire and any other comments to: Licensing, Newcastle Borough Council, Civic Offices, Merrial Street, Newcastle, Staffs, ST5 2AG or by e-mail to [licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk)



*Trading Standards*



# **STATEMENT OF LICENSING POLICY CONSULTATION QUESTIONNAIRE**

## **Section 1**

### **Q.1. PUBLIC SAFETY**

Conditions will be imposed in accordance with operating schedules and any relevant representations to protect public safety including where justified measures to address the following:

- Provision of escape routes and access for emergency vehicles to include adequate signage and emergency lighting
- Safety checks
- Provision of CCTV and panic buttons
- Use of shatterproof drinking vessels and bottles requiring use of toughened glass or plastic
- Use of security personnel, such as door supervisors, licensed by the Security Industry Authority
- Requirement of a minimum of a licensed door supervisor for every 100 customers in night clubs and large town centre pubs or as indicated by risk assessment
- Occupant capacity conditions will be applied where appropriate
- Provision of fire retardant hangings, decorations and upholstery
- Fire action notices and procedures to be followed in the event of fire
- The provision of First Aid equipment and suitably trained First Aiders.

**Do you feel the Policy does enough to promote this area?    YES                    NO**

**If no, what changes do you think we should consider?**

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### **Q.2. PREVENTION OF PUBLIC NUISANCE**

In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, or as a result of people entering or leaving the premises, or by reason of smell, vibration or light pollution.

Where relevant representations are received, a condition may be imposed on new licences that entertainment noise shall be inaudible in any residence.

Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

**Do you feel the Policy does enough to promote this area?    YES                    NO**

**If no, what changes do you think we should consider?**

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### **Q.3. THE PROTECTION OF CHILDREN FROM HARM**

Premises licences are granted to a wide variety of establishments for a wide variety of activities regulated under the Act. For the majority of these activities, the presence of children either on their own or accompanied by a responsible adult is not unlawful. The Licensing Authority will not therefore impose a condition requiring that children not be admitted to licensed premises. Such a matter will generally be at the discretion of the licence holder. However, in some instances the licence holder will need to restrict the access of children to the premises or parts of the premises at certain times when specific activities are taking place. The applicant is required to detail in the operating schedule the measures they intend to take to meet the licensing objective of 'protecting children from harm'.

Where relevant representations are received, the conditions that may be attached to a licence to protect children from harm include the following:

- Limitations on the hours when children may be present
- Limitations on or the exclusion of the presence of children under certain ages when particular specified activities are taking place
- Limitations on the parts of premises to which children may be given access
- Age restrictions (below 18)
- Requirements for children to be accompanied by an adult (including, for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult)
- Full exclusion of people under 18 from the premises when any licensable activities are taking place
- Provision of adult staff to supervise children and to ensure their safety
- Special requirements relating to children in performances
- The Challenge 21 policy
- To be an active member of "Off Licence Watch" where such a scheme exists
- Protection of children from passive smoking and access to cigarette vending machines.
- Steps to mitigate against possible child sexual exploitation issues.

#### **Activities Giving Rise to Concern**

The activities which would give rise to concern by the Licensing Authority in relation to potential harm for children include:

- Where entertainment or services of an adult or sexual nature are commonly provided

- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for under-age drinking
- Where there is a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises (excluding a small number of cash prize gaming machines)
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

**Role of the Director of Children and Lifelong Learning**

The Licensing Authority recognises that the Director of Children and Lifelong Learning for the County Council is the responsible authority for advising the licensing authority on all those matters in relation to the licensing objective to protect children from harm. Applicants are specifically required to forward copies of their operating schedule to Staffordshire Trading Standards so that the Licensing Authority may be advised on the suitability and the effectiveness of the applicant’s proposals to meet the licensing objective of ‘protecting children from harm’.

**Do you feel the Policy does enough to promote this area?    YES                    NO**

**If no, what changes do you think we should consider?**

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\_Throughout the document it pays reference to chll 21. The nationally recognised standard at present is in fact chll 25. I feel that the current policy should be amended to reflect this. Additionally at present when Trading Standards advocate best practise, or negotiate conditions with an applicant, chll 25 is what we would be looking towards. Chll 25 affords more protection to licensed trade as well as protecting young people’s health and limiting the associated negative anti-social behaviour felt by communities when young people underage are able to access alcohol.

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**Q.4. THE PREVENTION OF CRIME AND DISORDER**

Conditions will be imposed in accordance with operating schedules and any relevant representations to address the following:

- Text pagers/radio links
- Door supervision
- The provision of CCTV
- Adherence to Exclusion Orders
- Maximum permitted numbers
- Irresponsible drinks promotions
- Bottle bans and use of plastic containers/toughened glass
- Restriction of drinking areas/removal of open containers
- Proof of age cards
- Drugs policies
- Signage
- Crime prevention notices
- Adoption of a dispersal policy

- Search on entry
  - Overcrowding
  - Chill-out facilities
  - Pub Watch/Off Licence Watch where such a scheme exists.
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Do you feel the Policy does enough to promote this area?    YES                    NO

If no, what changes do you think we should consider?

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## SECTION 2

Please add any other comments you wish to make on the current Licensing Policy

\_\_ Following a review hearing it would be helpful if there was a set period of time stipulated in the licensing policy regarding when the notification of the decision will be sent out to all parties. This is extremely important as until the notice has been sent the appeal period cannot commence. A time stipulation would set a realistic expectation around this.

\_\_ Additionally at present when a new licence application is received if conditions are negotiated and agreed by both parties In the Borough of Newcastle they are treated as representations and have to go in front of a committee to make the determination. The spirit of the licensing Act and the section 182 guidance is very much around a time period of negotiation between the applicant and the RA; this gives both parties the opportunity to engage in a meaningful dialogue around bespoke conditions for their particular business to promote the licensing objectives. At present Newcastle Borough is the only Local Authority in the county that hold a hearing to make a determination on the conditions being negotiated on. In all other areas the conditions are negotiated and if both parties are in agreement then this is provided to the LA where they endorse the newly agreed conditions onto the licence. The only time that reps are submitted are if there can't be agreement reached and the committee need to make a determination. Hence the committee are only sitting in circumstances where there is two opposing opinions and a lack of agreement, not where there is full agreement of all parties concerned.

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**Civic Offices,  
Merrial Street,  
Newcastle, Staffs, ST5 2AG**

**Or by email to [licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk)**



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**BOROUGH COUNCIL**



**STATEMENT OF LICENSING POLICY**  
**CONSULTATION QUESTIONNAIRE**

**Section 1**

**Q.1. PUBLIC SAFETY**

Conditions will be imposed in accordance with operating schedules and any relevant representations to protect public safety including where justified measures to address the following:

- Provision of escape routes and access for emergency vehicles to include adequate signage and emergency lighting
- Safety checks
- Provision of CCTV and panic buttons
- Use of shatterproof drinking vessels and bottles requiring use of toughened glass or plastic
- Use of security personnel, such as door supervisors, licensed by the Security Industry Authority
- Requirement of a minimum of a licensed door supervisor for every 100 customers in night clubs and large town centre pubs or as indicated by risk assessment
- Occupant capacity conditions will be applied where appropriate
- Provision of fire retardant hangings, decorations and upholstery
- Fire action notices and procedures to be followed in the event of fire
- The provision of First Aid equipment and suitably trained First Aiders.

Do you feel the Policy does enough to promote this area?

**YES**

**NO**

If no, what changes do you think we should consider?

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**Q.2. PREVENTION OF PUBLIC NUISANCE**

In determining applications for new and varied licences, regard will be had to the location of premises, the type and construction of the building and the likelihood of nuisance and disturbance to the amenity of nearby residents by reason of noise from within the premises, or as a result of people entering or leaving the premises, or by reason of smell, vibration or light pollution.

Where relevant representations are received, a condition may be imposed on new licences that entertainment noise shall be inaudible in any residence.

Installation of sound limiting equipment and sound insulation may be required to minimise disturbance to the amenity of nearby residents by reason of noise from the licensed premises.

Do you feel the Policy does enough to promote this area? **YES** **NO**

If no, what changes do you think we should consider?

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### Q.3. THE PROTECTION OF CHILDREN FROM HARM

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Where relevant representations are received, the conditions that may be attached to a licence to protect children from harm include the following:

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- Steps to mitigate against possible child sexual exploitation issues.

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- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for under-age drinking
- Where there is a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises (excluding a small number of cash prize gaming machines)
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

**Role of the Director of Children and Lifelong Learning**

The Licensing Authority recognises that the Director of Children and Lifelong Learning for the County Council is the responsible authority for advising the licensing authority on all those matters in relation to the licensing objective to protect children from harm. Applicants are specifically required to forward copies of their operating schedule to Staffordshire Trading Standards so that the Licensing Authority may be advised on the suitability and the effectiveness of the applicant's proposals to meet the licensing objective of 'protecting children from harm'.

Do you feel the Policy does enough to promote this area?

**YES**

**NO**

If no, what changes do you think we should consider?

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**Q.4. THE PREVENTION OF CRIME AND DISORDER**

Conditions will be imposed in accordance with operating schedules and any relevant representations to address the following:

- Text pagers/radio links
- Door supervision
- The provision of CCTV
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- Irresponsible drinks promotions
- Bottle bans and use of plastic containers/toughened glass
- Restriction of drinking areas/removal of open containers
- Proof of age cards
- Drugs policies
- Signage
- Crime prevention notices
- Adoption of a dispersal policy
- Search on entry
- Overcrowding
- Chill-out facilities
- Pub Watch/Off Licence Watch where such a scheme exists.





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**SECTION 3**

**ABOUT YOU:**

Where did you see a copy of the draft Policy?

Civic Offices \_\_\_\_\_ The Internet \_\_\_\_\_

Library \_\_\_\_\_

Other (please state) Posted copy to clerk.

Please indicate if you are responding as:

Member of the public \_\_\_\_\_ Community Group representative \_\_\_\_\_

Licensed business \_\_\_\_\_ Other business owner \_\_\_\_\_

Trade Association \_\_\_\_\_ Town/Parish Councillor

Other (please state) \_\_\_\_\_

*Silverdale  
Parish  
Council*

**THANK YOU FOR TAKING THE TIME TO COMPLETE THIS QUESTIONNAIRE**

Please return to:

**Julia Cleary,  
Licensing Section,  
Newcastle-under-Lyme Borough Council,  
Civic Offices,  
Merrial Street,  
Newcastle, Staffs, ST5 2AG**

Or by email to [licensing@newcastle-staffs.gov.uk](mailto:licensing@newcastle-staffs.gov.uk)



**July 2015**

## **Exempt Information in Council Reports, Licensing Act Applications involving Representations and Mediation, Licensing Fees Course**

Welcome to the July edition of the Bulletin. This considers the question of Committee reports in the closed part of a Licensing Committee meeting. It also looks at the continuing question of determining Licensing Act applications after mediation.

With the Elections (both local and national) now receding, and Councils settling into their stride, it is also an opportune time to consider a Licensing Fees course, and the details are attached.

We hope you have a good summer.

### **Exempt Information in Council Reports**

Council meetings must be held in public, and that includes meetings of Committees and Sub-committees. That is the starting point for all meetings of the Council under s100A of the Local Government Act 1972 ("LGA 1972")<sup>1</sup>.

It is possible for a meeting to be held in the absence of the press and public if a resolution to exclude them and move into private session is passed in accordance with s100A(4) on the basis that the meeting will be considering exempt information, as defined in s100I. Such a resolution must be based on one of the descriptions of exempt information contained in Schedule 12A to the LGA 1972, and once that resolution has been passed, the subsequent session is usually

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<sup>1</sup> Meetings of the statutory Licensing Committee are not meetings covered by the LGA 1972 and are governed by The Licensing Act 2003 (Hearings) Regulations 2005 SI 2005/44 as amended by The Licensing Act 2003 (Hearings)(Amendment) Regulations 2005 SI 2005/78 and The Gambling Act 2005 (Proceedings of Licensing Committees and Sub-committees)(Premises Licences and Provisional Statements)(England and Wales) Regulation 2007 SI 2007/173.

referred to as Part 2 or Part B, and the reports for those items are exempt reports, as they do not have to be published in the usual way for public inspection.

This approach is usually taken by the non-statutory Licensing Committee<sup>2</sup> and its sub-committees when considering matters concerning existing and potential hackney carriage and private hire drivers, operators and (occasionally) proprietors. This is because they will be appearing before the committee as there is some element of their application that means that they do not fall within the Councils policy (in which case the matter could usually be determined by officers under delegated powers) and therefore fall to be determined by the Committee.

The usual justification for excluding the press and public is one of the paragraphs of Schedule 12A which describe exempt information. These include “information relating to any individual” (para 1) and “information which is likely to reveal the identity of an individual” (para 2).

Once the resolution has been passed, no reporting of the matter can take place, and the usual detailed minutes need not be produced, although there must be a written summary of the proceedings which provides a reasonably fair and coherent record without disclosing the exempt information (see s100C).

It can therefore be seen that if the Council decide to treat an application for or consideration of an existing licence as exempt information, then none of that exempt information can be revealed. This would include any information that would identify the person if either paragraphs 1 or 2 was used as the basis of the exempt information. In these circumstances it would appear that the written summary would only be able to refer to “an applicant” or “an existing licensee”, or possibly, if slightly more information is felt to be warranted, “a male/female applicant” or “an existing male/female licensee”. Even using initials would be sufficient to identify the person, especially in the closed community of licensees.

It does remain open to the Council not to treat such applications as being exempt information and therefore to hear all such matters in public, as the process contained in section 100(4) is discretionary. This approach is taken by a small number of authorities, and in those cases full details of the applicant or licensee can be made public, although not any further information covered by the Data protection Act such as criminal convictions, medical concerns etc. If those matters are to be discussed, it would still be necessary for the resolution to be passed and the Committee/sub-committee to exclude the press and public, unless the applicant/licensee consented to such information being disclosed.

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<sup>2</sup> For the need for each Local Authority to have 2 distinct Licensing Committees, see Bulletin February 2014

## **Licensing Act Applications involving Representations and Mediation**

There are continuing difficulties<sup>3</sup> encountered in how to determine applications for Premises Licences under the Licensing Act 2003 (“LA 2003”) where relevant representations have been made<sup>4</sup>.

As is well known, in the absence of relevant representations, any such application is granted by officers subject to conditions which are consistent with the application and operating schedule, and the relevant mandatory conditions<sup>5</sup>.

Where relevant representations have been received, the matter can only be determined by the licensing committee<sup>6</sup>.

The difficulty arises when relevant representations have been made, and successful mediation has taken place. The idea of mediation was first introduced in the second edition of the S182 Guidance issued by the Department of Culture, Media and Sport in June 2006<sup>7</sup> and has remained a feature ever since<sup>8</sup>.

There is no doubt that mediation has been a great success in many cases, and Licensing Officers have often facilitated compromises that have left both the applicant and those who have made representations satisfied with the outcome.

The problem arises when the time comes to grant the application, which is now different from the application which was originally made.

This is a continuing issue, but was recently brought to light by the following example.

An application was made to vary an existing Premises Licence. Amongst a number of matters, the proposed operating schedule stated as a suggested condition:

*“Hire SIA Door Staff for Friday/Saturday Evenings”*

Without having made a relevant representation (or indeed any representation at all) and in the absence of the licensing authority, the Police entered into negotiations with the applicant and both sides agreed that there should be a condition attached to the licence in the following terms:

*“The premises will employ a minimum of 1 SIA Door Staff on Friday and Saturday evenings from 8pm until 4am”.*<sup>9</sup>

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<sup>3</sup> This matter was considered in “P.H. Law” Volume 15 in January 2009

<sup>4</sup> This also applies to applications for variations (not minor variations) and to applications for club premises certificates and variations to those.

<sup>5</sup> See 18(2) LA 2003

<sup>6</sup> See 10(4) LA 2003

<sup>7</sup> See paragraph 5.68A

<sup>8</sup> See paragraphs 9.31 to 9.34 of the March 2015 Guidance

<sup>9</sup> It is interesting to consider, as an entirely different point, whether this condition is effective.

The Police then argued that they did not need to make a representation or attend a hearing in order to ensure that the condition as negotiated was applied to the licence. The Police reasoning was that the latest edition of the S182 guidance (March 2015) was amended to reflect changes and that paragraph 9.2 is now clearer that a hearing is not required when representations are made but subsequently withdrawn, and that licensing authorities should not hold hearings for uncontested applications. Paragraph 9.38 states that any conditions added to the licence must be those imposed at the hearing **or those agreed when a hearing has not been necessary** [original police emphasis].

The Police argued that the changes to the Guidance were made to stop the situation of responsible authorities and applicants agreeing conditions but still needing to go to a hearing, and in this particular case they had agreed this condition with the applicant in line with the operating schedule.

Unfortunately this approach is not correct, and the revised Guidance does not indicate that such an approach is lawful.

There is nothing in the new guidance to alter the requirements of the legislation. Any alteration to the application can only be made by the Licensing Committee/Sub-committee following relevant representations. A representation that is withdrawn is not a representation<sup>10</sup>, and then the application would be granted by officers as it was made as there is no ability to alter an application.

This was made clear in *Mathew Taylor v Manchester City Council*<sup>11</sup>. The case concerned the application for a variation of a premises licence, but as the process for variation is identical to the process for a new application, the principal remains the same. The court was very clear in the judgment given Hickinbottom J where he stated<sup>12</sup>:

“70. The scheme provides no mechanism for amending an application once made, and neither the Act nor the regulations, nor the Secretary of State’s Guidance nor the Council’s own Statement of Licensing Policy, makes any mention of the possibility of amendment. Clearly, a power to amend that would defeat or undermine the object of the procedural provisions relating to advertisement and right of responsible authorities and interested parties to make representations could not conceivably be implied; and neither Mr Phillips nor Miss Clover suggested otherwise.

71. However, the scheme has no express power enabling an applicant to amend an application to vary; and, in my judgment, properly construed, the regulatory scheme does not as such allow or envisage any amendment to an application to vary once it has been made.”

Accordingly in a situation such as this, the police must make a representation, and the matter must be determined by members at a licensing committee/sub

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<sup>10</sup> S18(7)(b) LA 2003

<sup>11</sup> [2012] EWHC 3467 (Admin) [2013] LLR 179

<sup>12</sup> [2012] EWHC 3467 (Admin) [2013] LLR 179 at paras 70 - 71

committee meeting, although that does not necessarily have to be a hearing as the parties can agree that hearing is not necessary. A hearing is where the parties appear before the committee/subcommittee and argue the matter. A meeting is a committee/subcommittee meeting which enables the members to determine the matter by means of approving an agreed compromise.

The revised guidance does not alter the position detailed in “*P.H. Law*” 6 years ago<sup>13</sup> January 2009 and it remains as follows.

Section 10(4) of the LA 2003 prevents an officer determining various applications under delegated powers (section 10(1) & (2)) where there are relevant representations, police notices etc.

Section 18(3) says where relevant representations are made the authority must hold a hearing, unless all parties agree a hearing is not necessary, and 18(2) says where no relevant representations have been made, authority must grant the application subject to conditions consistent with the operating schedule.

Accordingly, if the relevant representations are withdrawn, they are no longer relevant representations and section 18(2) applies. However, if the relevant representations stay on the table, section 10(4) applies and the determination must be made by the committee or sub-committee, but the need for a hearing (but not member determination) can be waived by all the parties who have mediated the agreed conditions.

The bottom line is that in these circumstances, there must be a meeting of the sub-committee (or committee) to make the determination based on the mediated agreement. As there will be no “hearing” this could either be a very short meeting for one application, or alternatively, a large number of applications could be determined in a relatively short time.

Indeed this position has been reinforced by the *Matthew Taylor* case which confirms that an application once made cannot be altered.

It is arguable that if an application is altered and then granted by officers, the grant will be void as no valid application was considered. The alternative argument is that the application itself was valid, but the grant was made ultra vires the powers of the officers and is once again void. It is therefore vital that Licensing Authorities have the correct procedures in place.

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<sup>13</sup> “*P.H. Law*” January 2009

## Licensing Fees Courses

After the Summer, local authorities will start to consider their Licensing Fees for the next year, and this course will prove invaluable.

With the dust starting to settle around the Supreme Court decision in *Hemming*<sup>14</sup>, and the announcement by the Government that locally set fees for the Licensing Act 2003 are apparently on indefinite hold, this is the ideal time for local authorities to ensure that their licence fees are lawful. As challenge to the fees (often well after the fees have been levied and used) is relatively easy, it is vital that authorities are well placed to justify their fees and therefore successfully resist any such challenges.

This course considers the principles and processes required to assess and then set lawful licence fees, in an inclusive manner which involves discussion and practical exercises.

It is ideally run in-house for one authority, and the key attendees are ideally to following (plus as many others who would find the Course useful):

- Chair and Deputy Chair(s) of the Licensing Committees
- Other Licensing Committee Members
- Portfolio Holder for Licensing
- Portfolio Holder for Finance
- Licensing Officer
- Head of Service for the Licensing Department or Section
- Finance Officer
- Legal adviser
- DSO

Further details are given on the attached flyer. If you are interested in running such a course, please contact us at the office (01629 735566 or [james@jamesbutton.co.uk](mailto:james@jamesbutton.co.uk)) and we can provide further information and possible dates.

**James Button**

**24<sup>th</sup> July 2015**

For further information please contact James Button on 01629 735566 or [james@jamesbutton.co.uk](mailto:james@jamesbutton.co.uk)

This bulletin is for information only and does not constitute legal advice.  
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**James T H Button**, BA, Solicitor, CIOl – Principal.

<sup>14</sup> R (app *Hemming* (t/a *Simply Pleasure Ltd*) and others) v Westminster City Council [2015] UKSC 25.  
For more details see Bulletin April 2015



### A One Day Course

Facilitated by: **James Button BA.**, Solicitor,  
CIOl.- Principal



**Confident that the licence fees that your Authority sets and levies are lawful, and that you can resist any challenge?**

**Do you understand the Westminster Court of Appeal judgment and its impact?**

This course enables consideration of:

- \* your licence fees
- \* the legality of those fees
- \* the political dimension to fee setting
- \* the consequences of getting the fees wrong

Key personnel who would benefit from this course:

- \* Chair (and other members) of the Licensing Committees
- \* Portfolio Holder for Licensing
- \* Portfolio Holder for Finance
- \* Licensing Officer
- \* Head of Service for the Relevant Department
- \* Finance Officer
- \* Legal adviser
- \* DSO

*Fully considers  
the decision of  
the Supreme  
Court in  
Hemming*

#### **Session 1 – Licensing Fees – The Legal Position**

- \* What fees can be charged?
- \* How do you determine the fees?
- \* What can and cannot be taken into account?

#### **Session 2 – Legal Position contd.**

- \* Impact of the EU Services Directive
- \* *R (App Hemming) v Westminster* - what does it mean?

#### **Session 3 – Practical Exercises**

- \* How will you set fees?
- \* How will you find the correct information?
- \* How will you justify them?

#### **Session 4 – Worked Example of Fee Setting**

- \* How one authority set its fees
- \* How long it took
- \* How they have used the process since

"Jim Button tackles the difficult subject of setting licensing fees and presents the information in a readily understandable format for both experienced professionals and beginners alike. The course represents excellent value for money and avoids the Council making what could be costly errors"  
*Nigel J Marston, Licensing Manager, South Somerset District Council.*

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## GAMBLING ACT 2005 – STATEMENT OF GAMBLING POLICY

**Submitted by: Democratic Services Manager**

**Portfolio: Safer Communities**

**Ward(s) affected: All**

### **Purpose of the Report**

To consider the representations received in relation to the consultation on the draft Gambling Policy and to agree upon a final version of the draft policy for submission to Full Council on 25<sup>th</sup> November 2015.

### **Recommendations**

- 1. That the Committee consider the responses received to the consultation exercise.**
- 2. That the updated Policy be presented for approval to Full Council at its meeting on Wednesday 25th November 2015.**

### **Reasons**

Under section 349 of the Gambling Act 2005 the Council has a statutory duty to review its Gambling statement set out in the Gambling Policy before December 2015.

### **Background**

Before determining its policy, the licensing authority must consult certain groups and organisations that must be consulted regarding the revised policy under Section 349 (3) of the Gambling Act 2005:

- The Chief Officer of Police for the authority's area
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area
- 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 Gambling Act

The Current consultation is still underway and will close on Friday 23<sup>rd</sup> October 2015.

### **1. Issues**

To date one response has been received from Newcastle under Lyme Civic Society, this response is attached to the report.

The main point appears to be in relation to the differentiation between nuisance and disorder. The Guidance states that:

*In the context of gambling premises licences, licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance. Factors to consider in determining whether a disturbance was serious enough to constitute disorder would include whether police assistance was required and how threatening the behaviour was to those who could see or hear it. There is not a clear line between nuisance and disorder and the licensing authority should*

*take the views of its lawyers before determining what action to take in circumstances in which disorder may be a factor.*

Any responses received after the publication of this agenda will be published immediately.

**2. Legal and Statutory Implications**

Under section 349 of the Gambling Act 2005 the Council has a statutory duty to review its Gambling statement set out in the Gambling Policy before December 2015.

**3. List of Appendices**

Appendix A Draft Gambling Policy.

Appendix B Response from Newcastle under Lyme Civic Society.

**4. Background Papers**

Newcastle under Lyme Gambling Policy 2012



# **STATEMENT OF GAMBLING POLICY**

DRAFT 2015

<b>CONTENTS</b>		<b>Page</b>
<b>PART A - THE GAMBLING ACT 20015</b>		
<b>1.</b>	<b>The Licensing Objectives</b>	<b>3</b>
<b>2.</b>	<b>The Purpose of the Gambling Policy</b>	<b>3</b>
<b>3.</b>	<b>The Licensing Framework</b>	<b>4</b>
<b>4.</b>	<b>Local Risk Assessment Assessments</b>	<b>5</b>
<b>5.</b>	<b>Local Area Profile</b>	<b>5</b>
<b>6.</b>	<b>Declaration</b>	<b>7</b>
<b>7.</b>	<b>Responsible Authorities</b>	<b>7</b>
<b>8.</b>	<b>Interested Parties</b>	<b>8</b>
<b>9.</b>	<b>Exchange of Information</b>	<b>8</b>
<b>10.</b>	<b>Licensing Authority Functions</b>	<b>9</b>
<b>11.</b>	<b>Definition of Children and Young Persons</b>	<b>9</b>
<b>PART B - PROMOTION OF THE LICENSING OBJECTIVES</b>		
<b>12.</b>	<b>Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.</b>	<b>10</b>
<b>13.</b>	<b>Ensuring that Gambling is conducted in a fair and open way</b>	<b>10</b>
<b>14.</b>	<b>Protection of Children</b>	<b>10</b>
<b>15.</b>	<b>Protection of Vulnerable People</b>	<b>11</b>
<b>PART C - PREMISES LICENCES</b>		
<b>16.</b>	<b>Introduction to Premise Licences</b> <ul style="list-style-type: none"> <li>• Definition</li> <li>• Location</li> <li>• Duplication with other Regimes</li> <li>• Conditions</li> <li>• Door Supervision</li> </ul>	<b>12</b>
<b>17.</b>	<b>Adult Gaming Centres</b>	<b>14</b>
<b>18.</b>	<b>Casinos</b>	<b>15</b>
<b>19.</b>	<b>Bingo Premises</b>	<b>16</b>
<b>20.</b>	<b>Betting Premises</b>	<b>17</b>
<b>21.</b>	<b>Travelling Fairs</b>	<b>19</b>
<b>22.</b>	<b>Provisional Statements</b>	<b>19</b>
<b>PART D - PERMITS, TEMPORARY USE NOTICES AND SMALL SOCIETY LOTTERY REGISTRATION</b>		
<b>23.</b>	<b>Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits)</b>	<b>20</b>
<b>24.</b>	<b>Gaming Machine Permits in premises licensed for the sale of alcohol</b>	<b>20</b>
<b>25.</b>	<b>Prize Gaming Permits - Statement of Principles on Permits</b>	<b>21</b>
<b>26.</b>	<b>Club Gaming and Club Machine Permits</b>	<b>22</b>

<b>27.</b>	<b>Temporary use Notices</b>	<b>23</b>
<b>28.</b>	<b>Occasional Use Notices (for tracks)</b>	<b>23</b>
<b>29.</b>	<b>Small Society Lottery Registrations</b>	<b>24</b>
<b>PART E - ENFORCEMENT</b>		
<b>30.</b>	<b>Enforcement Principles</b>	<b>25</b>
<b>31.</b>	<b>Reviews</b>	<b>26</b>
<b>APPENDIX 1 - GAMNING MACHINES</b>		<b>27</b>
<b>APPENDIX 2 - LOCAL RISK ASSESSMENT TEMPLATE</b>		<b>29</b>
<b>APPENDIX 3 - LOCAL AREA PROFILE MAPS</b>		<b>31</b>

## **PART A – THE GAMBLING ACT 2005**

### **1. The Licensing Objectives**

1.1 Under the Gambling Act 2005 (the Act), the Borough Council of Newcastle-under-Lyme is the licensing authority for Newcastle-under-Lyme and licences premises for gambling activities as well as granting various other gambling permits. In this document unless otherwise stated any references to the Council are to the Borough Council of Newcastle-under-Lyme Licensing Authority

1.2 The Council will carry out its functions under the Act with a view to promoting the three licensing objectives set out at Section 1 of the Act. The licensing objectives are:

- Preventing gambling from being a source of crime or disorder, being associated with crime 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.

1.3 More information can be found about how the Council will promote the licensing objectives in Parts B and C of this document

1.4 The Council will also follow any regulations and statutory guidance issued in accordance with the Act and have regard to any Codes of Practice issued by the national gambling regulator, the Gambling Commission

1.5 The Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling insofar as it thinks it is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the Council's Statement of Gambling Policy.

### **2. The Purpose of the Gambling Policy**

2.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions under the Act. This document fulfils this requirement. Such statement must be published at least every three years. The statement can also be reviewed from time to time and any amendments must be consulted upon. The statement must then be re-published



2.2 The Council consulted widely upon this Policy Statement before finalising and publishing it. A list of the consultees is given below:

- Staffordshire Police
- Staffordshire County Council
- Representatives of local businesses (including the North Staffordshire Chamber of Trade and the Newcastle Chamber of Trade)
- Local residents and their representatives
- Town and Parish Councils in the Borough
- Local Members of Parliament
- National bodies representing the gambling trade
- National charities concerned with the social impact of gambling
- Representatives of existing licence holders
- Renew and North Staffs Regeneration Zone
- Newcastle Community Safety Partnership
- Keele University
- Local financial/debt management agencies
- Department of Community Services, Newcastle Borough Council
- Department of Regeneration and Planning Services, Newcastle Borough Council
- Staffordshire County Council Trading Standards
- Newcastle LSP
- Aspire Housing
- North Staffs Race Equality Council

2.3 The consultation took place between September and November 2006 and followed the Cabinet Office Code of Practice on consultations published in April 2004. This document is available from the Cabinet Office website at [www.cabinetoffice.gov.uk](http://www.cabinetoffice.gov.uk)

2.4 A copy of the consultation report containing a summary of the comments received and the consideration by the Council of those comments is available on request

2.5 The Policy was approved at a meeting of the Full Council on 20th December 2006 (resolution 563/06).

### **3. The Licensing Framework**

3.1 The Gambling Act 2005 brought about changes to the way that gambling is administered in the United Kingdom. The Gambling Commission is the national gambling regulator and has a lead role in working with Central Government and local authorities to regulate gambling activity

3.2 The Gambling Commission issues operators' licences and personal licences. Any operator wishing to provide gambling at certain premises must have applied for the requisite personal licence and operator's licence before they can approach the Council for a premises licence. In this way, the Gambling Commission is able to screen applicants and organisations to ensure they have the correct credentials to operate gambling premises. The Council's role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and any Codes of Practice issued by the Gambling

Commission. The Council also issues various permits and notices to regulate smaller scale and/or ad hoc gambling in other locations such as pubs, clubs and hotels

- 3.3 The Council does not licence large society lotteries or remote gambling through websites. These areas fall to the Gambling Commission. The National Lottery is not licensed by the Gambling Act 2005 and continues to be regulated by the National Lottery Commission under the National Lottery Act 1983.

#### **4. Local Risk Assessments**

- 4.1 The Gambling Commission's Licence Conditions and Code of Practice (LCCP) which were revised and published in February 2015 formalised the need for Operators to consider local risks.

- 4.2 The Social Responsibility (SR) code requires licensees to assess the local risk 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 relevant matters identified in this policy statement.

- 4.3 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 identified in this policy statement
- Where there are significant changes at a licensee's premises that may affect their mitigation of local risks.

- 4.4 The Council requires licensees to share their risk assessment with the licensing authority when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise.

- 4.5 The risk assessment should will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of license conditions are required.

- 4.6 Where this policy statement sets out its approach to regulation with clear reference to local risks, the licensing authority 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.

- 4.7 A template risk assessment is attached at Appendix 2.

#### **5. Local area profile**

- 5.1 The Licensing Authority has completed an assessment of the local environment as a means of 'mapping out' local areas of concern, which can be reviewed and updated to reflect changes to the local landscape. Such an assessment is known as the local area profile. There is no statutory duty on

the Licensing Authority to complete an area profile; however benefits for both the Licensing Authority and Operators would be in having a better awareness of the local area and risks. Importantly, risk in this context includes potential and actual risk, thereby taking into account possible future emerging risks, rather than reflecting current risks only.

- 5.2 The Borough is the second largest district in Staffordshire and has a population of 123,900. The majority of the population live in the urban centres of Newcastle-under-Lyme and Kidsgrove which are located in close proximity to the City of Stoke-on-Trent and form part of the North Staffordshire Conurbation. The areas around the urban centre to the north, south and west are mainly rural comprising mostly Green Belt and Areas of Special Landscape where new development is restricted and population density is low.
- 5.3 The total number of people who are in employment aged between 16 and 74 is 57,366 (62.13%) with 61,568 being classed as economically active (66.7%).
- 5.4 The total number of people deemed to be in very good health is 44.7% in comparison to 47.2% across England as a whole.

The population profile for residents is as below:

Age	Population	Percentage
0- 4	6,314	5.1%
5 -9	6,368	5.1%
10 - 15	8,376	6.7%
16 - 24	16,675	13.5%
25 - 44	30,206	24.4%
45 - 64	33,424	27.0%
65 - 74	12,030	9.7%
75 +	10,478	8.5

- 5.5 The Borough has a black and minority ethnic population of 5% made up of a number of different groups with no single largest minority community
- 5.6 Over recent years there has been significant growth in entertainment use within Newcastle town centre and Newcastle now has a vibrant night time economy
- 5.7 Newcastle Borough Council has a total of 20 gambling premises licences.

The breakdown of those licences by type and location is given below:

By premises:

- Betting: 14
- Betting (Track): 0
- Bingo: 1
- Adult Gaming Centres (AGC's): 3
- Licensed Family Entertainment Centres: 2

By location:

Town Ward: 10

Cross Heath: 1  
Chesterton: 1  
Butt Lane: 2  
Wolstanton: 2  
Silverdale and Parkside: 1  
Ravenscliffe: 1  
Keele (M6 Service Station): 2  
Bradwell: 1

A map of the Council area and the location of the gambling premises is attached at Appendix 3.

- 5.8 The Council will proactively engage with all responsible authorities as well as other organisations; public health, mental health, housing, education, community welfare groups and safety partnerships to ensure any new or varied applications are assessed taking the local area profile and any risks into account.
- 5.9 This Statement of Gambling Policy seeks to promote the licensing objectives within the Borough.

## **6. Declaration**

- 6.1 This Policy Statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005
- 6.2 In producing the final Statement of Gambling Policy, the Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and any responses from those consulted on the Policy Statement.

## **7.0 Responsible Authorities**

- 7.1 The Act empowers certain agencies to act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Responsible authorities are able to make representations about licence applications or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants
- 7.2 The Council is required by regulations to state the principles it will apply to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- The need for the body to be responsible for an area covering the whole of the licensing authority's area;
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.
- 7.3 In accordance with the regulations, the Council designates the Local Safeguarding Children Board for this purpose

- 7.4 The contact details of all the responsible authorities under the Gambling Act 2005 can be found in our application packs and on the Council's website at [www.newcastle-staffs.gov.uk](http://www.newcastle-staffs.gov.uk).

## **8.0 Interested Parties**

- 8.1 Interested parties are certain types of people or organisations that have the right to make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as set out below.
- 8.2 For the purposes of this part, a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the application is made, the person:
- (a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
  - (b) has business interests that might be affected by the authorised activities, or
  - (c) represents persons who satisfy paragraphs (a) or (b).
- 8.3 The Council is required by regulations to state the principles it will apply to determine whether a person is an interested party. The principles are:
- Each case will be decided upon its merits. The Council will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Local Authorities. Within this framework, the Council will accept representations made on behalf of residents and tenants' associations
  - In order to determine if an interested party lives or has business interests sufficiently close to the premises to be likely to be affected by the gambling activities, the Council will consider factors such as the size of the premises and the nature of the activities taking place.
- 8.4 The Council will provide more detailed information on the making of representations in a separate guidance note.

## **9. Exchange of Information**

- 9.1 Licensing authorities are required to include in their Policy Statement the principles to be applied by the Authority with regard to the exchange of information between it and the Gambling Commission, as well as other persons listed in Schedule 6 to the Act
- 9.2 The principle that the Council applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Council will also have regard to any guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

## **10. Licensing Authority Functions**

Licensing authorities are responsible under the Act for:

- Licensing premises where gambling activities are to take place by issuing premises licences
- Issuing provisional statements
- Regulating members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issuing Club Machine Permits to commercial clubs
- Granting permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or less gaming machines
- Granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises under the Licensing Act 2003, where more than two machines are required
- Registering small society lotteries below prescribed thresholds
- Issuing Prize Gaming Permits
- Receiving and endorsing Temporary Use Notices
- Receiving Occasional Use Notices (for tracks)
- Providing information to the Gambling Commission regarding details of licences issued (see section above on information exchange)
- Maintaining registers of the permits and licences that are issued under these functions

10.1 The Council will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operators' licences.

## **11. Definition of Children and Young Persons**

In this policy "child" means an individual who is less than 16 years old.

In this policy "young person" means an individual who is not a child but who is less than 18 years old.

## **PART B – PROMOTION OF THE LICENSING OBJECTIVES**

### **12. Preventing Gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

12.1 The Gambling Commission will take a lead role in keeping gambling crime-free by vetting all applicants for personal and operators' licences. The Council's main role is to try and promote this area with regard to actual premises. So, where an area has known high levels of organised crime the Council will consider carefully whether gambling premises are suitable to be located there (see paragraphs 13.8 and 13.9) and whether conditions may be required such as the provision of door supervision (see paragraph 13.15)

12.2 There is a distinction between disorder and nuisance. In order to make the distinction when incidents of this nature occur, the Council will consider factors such as whether Police assistance was required and how threatening the behaviour was to those who could see it

12.3 Issues of nuisance cannot be addressed by the Gambling Act provisions. However, problems of this nature can be addressed through other legislation as appropriate.

12.4 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

### **13. Ensuring that Gambling is conducted in a fair and open way**

13.1 The Council is aware that except in the case of tracks (see Section 18), generally the Gambling Commission does not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

13.2 The Council will however familiarise itself with operator licence conditions and will communicate any concerns to the Gambling Commission about misleading advertising or any absence of required game rules or other information.

13.3 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document, and also in Part D which covers permits and notices.

### **14. Protection of Children**

14.1 This licensing objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are particularly attractive to children). The Council will therefore consider whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

14.2 The Council will pay particular attention to any Codes of Practice which the Gambling Commission issues regarding this licensing objective in relation to specific premises such as casinos

14.3 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.

## **15. Protection of Vulnerable People**

15.1 Regarding the term 'vulnerable persons', the Council is not seeking to offer a definition but will, for regulatory purposes, assume that this group includes people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to mental health needs, learning disability or substance misuse relating to alcohol or drugs. The Council will consider this licensing objective on a case by case basis having regard to any guidance issued by the Gambling Commission. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision

15.2 The Council will promote this objective by publishing information on the Council website about the symptoms of problem gambling and the various support organisations which are available to help problem gamblers. These web pages will be prepared in conjunction with these support agencies

15.3 The Council will also familiarise itself with operator licence conditions related to this objective which may include a requirement for operators to provide information to their customers on how to gamble responsibly and how to access information about problem gambling. The Council will communicate any concerns to the Gambling Commission about any absence of this required information

15.4 Examples of the specific steps the Council may take to address this area can be found in the various sections covering specific premises types in Part C of this document and also in Part D which covers permits and notices.



## **PART C – PREMISES LICENCES**

### **16. Introduction to Premises Licensing**

16.1 The Council will issue premises licences to allow those premises to be used for certain types of gambling. For example, premises licences will be issued to amusement arcades, bingo halls, bookmakers and casinos

16.2 Premises licences will be subject to the permissions/restrictions set out in the Gambling Act 2005 and regulations as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach other conditions, where it is believed to be necessary and proportionate.

#### ***Definition of 'Premises'***

16.3 Premises is defined in the Act as 'any place'. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances

16.4 The Council 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, the Council will assess entrances and exits from parts of a building covered by one or more licences to satisfy itself that they are separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area

16.5 The Council will pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Issues that the Council will consider before granting such applications include whether children can gain access; compatibility of the two establishments and the ability to comply with the requirements of the Act. In addition, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act

16.6 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that references to 'the premises' are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued by the Council in relation to premises that are ready to be used for gambling. Whether a premises is finished to a degree that it can be considered for a premises licence will always be a question of fact in the circumstances. Requiring a building to be complete ensures that the Council can, if necessary, inspect it fully, as can other responsible authorities with inspection rights

16.7 Where a premises is not yet built or is about to be altered for the purpose of providing gambling and ultimately a premises licence will be required, the

applicant should in the first instance consider making an application for a provisional statement (see Section 20).

***Location***

16.8 The Council is aware that demand issues (e.g. the likely demand or need for gambling facilities in the area) cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The Council will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder

16.9 With regard to these objectives, it is the Council's policy, upon receipt of any relevant representations, to look at specific location issues including:

- The proximity of the premises to schools and vulnerable adult centres
- The proximity of the premises to residential areas where there may be a high concentration of families with children
- The size of the premises and the nature of the activities taking place
- Any levels of organised crime in the area.

Such information may be used to inform the decision the Council makes about whether to grant the licence, to grant the licence with special conditions or to refuse the application

16.10 This policy does not preclude any application being made and each application will be decided on its merits, with the onus being upon the applicant to show how the concerns can be overcome.

***Duplication with other regulatory regimes***

16.11 The Council will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Council will not consider whether a licence application is likely to be awarded planning permission or building regulations approval in its consideration of it. It will listen to and consider carefully any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

***Conditions***

16.12 Any conditions attached to licences will be proportionate and will 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, and/or related to the area where the premises is based
- Fairly and reasonably related to the scale and type of premises and
- Reasonable in all other respects

16.13 Decisions about individual conditions will be made on a case by case basis, although there will be a number of control measures the Council will consider using, such as the use of door supervisors, supervision of adult gaming machines, appropriate signage for adult only areas etc. There are specific comments made in this regard under each of the licence types below. The

Council will also expect the applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively

16.14 There are conditions which the Council cannot attach to premises licences which are:

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

### ***Door supervision***

16.15 The Council will consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It should be noted that the Gambling Act 2005 has amended the Private Security Industry Act 2001 and that door supervisors at casinos or bingo premises are not required to be licensed by the Security Industry Authority. Where door supervisors are required at these premises, it is the operator's responsibility to ensure that any persons employed in this capacity are fit and proper to carry out such duties. Normally door supervisors will only be required in betting offices if there is clear evidence from the history of trading that it is necessary and proportionate. Possible ways to achieve this could be to carry out a criminal records (CRB) check on potential staff and also to ensure that staff members have attended Security Industry recognised training

## **17. Adult Gaming Centres and Licensed Family Entertainment Centres (LFECs)**

17.1 Adult Gaming Centres are a new category of premises introduced by the Act that are most closely related to what are commonly known as adult only amusement arcades, seen in many city centres. Licensed Family Entertainment Centres (LFECs) are those premises which usually provide a range of amusements such as computer games and penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes.

17.2 Under the Act a premises holding an adult gaming centre licence will be able to make certain numbers of category B, C and D gaming machines available and no-one under 18 will be permitted to enter such premises. LFECs will be able to make available a certain number of category C and D machines where there is clear segregation in place so children do not access the areas where the category C machines are located (see Appendix 1)

17.3 The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling in the above

premises. The Council will expect applicants to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises or in the case of LFECs to the adult only gaming machine areas

17.4 The Council will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

- Proof of age schemes (e.g. PASS schemes)
- The use of Challenge 25 policy
- The use of 'No ID No Entry' policy
- To train staff in the law and challenge people as to their age
- CCTV
- Door supervision
- Supervision of machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The appointment of a single senior named point of contact to assist in compliance.

This list is not mandatory nor exhaustive and is merely indicative of examples

17.5 The Council will refer to the Gambling Commission's website to familiarise itself with any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Council will also make itself aware of any mandatory or default conditions on these premises licences when they have been published.

## **18. Casinos**

18.1 The Gambling Act states that a casino is an arrangement whereby people are given the opportunity to participate in one or more casino games whereby casino games are defined as a game of chance which is not equal chance gaming. This means that casino games offer the chance for multiple participants to take part in a game competing against the house or bank at different odds to their fellow players

18.2 The Act introduces three new categories of larger casino –

- One super/regional casino
- Eight large casinos and
- Eight small casinos

These 17 casinos will be sited in various regions around Britain in line with decisions made by the Independent Casino Advisory Panel

### **Casino Resolution**

18.3 With regard to the casinos referred to at paragraph 15.2, each local authority is required to publish information in its Statement of Gambling Policy about how the Authority has taken or will take a decision to pass (or not to pass) a casino

resolution. A casino resolution is a judgment made by a local authority about whether it will allow any small, large or the regional casino to be located in its authority area. The Council has passed a resolution that there will be no casinos in the Newcastle-under-Lyme town centre.

### **Proposal for a Casino**

- 18.4 The Council has not submitted a proposal for a large casino to the Independent Casinos Advisory Panel

### **Casinos and Competitive Bidding**

- 18.5 Where a local authority area is enabled to grant a premises licence for a new style casino there are likely to be a number of operators who will want to run the casino. In such situations the Council will have regard to Schedule 9 of the Gambling Act 2005

### **Licence Considerations/Conditions**

- 18.6 The Gambling Commission has indicated that further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises. This guidance will be considered by the Council when it is made available

### **Betting Machines**

- 18.7 The Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Council, amongst other things, will take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

## **19. Bingo Premises**

- 19.1 There is no official definition for bingo in the Gambling Act 2005. However, from a licensing point of view there will be a new category of premises licence specifically for bingo premises which will be used by traditional commercial bingo halls for both cash and prize bingo. In addition, they will also be able to provide a limited number of gaming machines in line with the provisions of the Act (see Appendix 1)
- 19.2 The Council is aware that it is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted then the Council will ensure that:
- All such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance

- Only adults are admitted to the area where the machines are located
- Access to the area where the machines are located is supervised
- The area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder, and
- At the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

19.3 The Council is also aware that the Gambling Commission is to issue further guidance regarding the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This guidance will be considered by the Council once it is made available.

## **20. Betting Premises**

20.1 Betting premises are premises such as bookmakers where various types of gambling are authorised to take place. The Act contains a single class of licence for betting premises. However, within this single class there are different types of premises which require licensing such as normal high street bookmakers, bookmakers located in self-contained facilities at racecourses as well as the general betting premises licences that track operators will require

20.2 **Betting machines** – the Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines and the nature and circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises the Council, amongst other things, will take into account the size of the premises, the number of counter positions available for person to person transactions and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

## **20.3 Tracks**

20.4 Tracks are sites where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the 'totaliser' or 'tote'), and also general betting, often known as 'fixed odds' betting. Multiple betting outlets are usually located on tracks such as 'on course' betting operators who come on to the track just on race days to provide betting for the races taking place on that track. There can also be 'off course' betting operators who may operate self-contained facilities at the tracks which offer customers the chance to bet on other events, not just those taking place on the track. All tracks will require an overriding 'general betting premises licence' that the track operator will hold

20.5 The Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

The Council is also aware that the track operator may not be required to hold an operator licence as there may be several premises licence holders at the track who will need to hold their own operator licences. The Council will consider the impact upon the protection of children licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter

- 20.6 Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when racing takes place, although they are still prevented from entering areas where gaming machines (other than Category D machines) are provided
- 20.7 The Council will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:
- Proof of age schemes (e.g. PASS schemes)
  - The use of Challenge 25 policy
  - The use of 'No ID No Entry' policy
  - To train staff in the law and challenge people as to their age
  - CCTV
  - Door supervision
  - Supervision of machine areas
  - Physical separation of areas
  - Location of entry
  - Notices/signage
  - Specific opening hours
  - The appointment of a single senior named point of contact to assist in compliance.

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

- 20.8 **Betting machines** – the Council is aware that Section 181 of the Act contains an express power for licensing authorities to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Council, amongst other things, will take into account the size of the premises, the number of counter positions available for person to person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people. The Council will also consider the special implications that may arise at a track due to the size of the premises and the possibility that machines may be scattered around the site making it more difficult for the track operator to comply with the law and prevent children from betting on the machines
- 20.9 The Council agrees with the Commission's view that it is preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences. This ensures that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises

20.10 **Condition on rules being displayed** – the Council will consider any Gambling Commission guidance about the application of conditions regarding rules being displayed. The Council may require the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that the rules are displayed in the race card or made available in leaflet form from the track office.

## **21. Travelling Fairs**

21.1 Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit provided that certain conditions are met and this provision continues in similar fashion under the new Act

21.2 Travelling fairs have the right to provide an unlimited number of category D gaming machines and/or equal chance prize gaming (without the need for a permit) as long as the gambling amounts to no more than an ancillary amusement at the fair (see Appendix 1)

21.3 The Council will consider whether any fairs which take up the above entitlement fall within the statutory definition of a travelling fair

21.4 The Council is aware that the 27 day statutory maximum for the land being used as a fair is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Council will work with its neighbouring authorities to ensure that land which crosses its boundaries is monitored so that the statutory limits are not exceeded.

## **22. Provisional Statements**

22.1 A provisional statement application is a process which allows a developer to examine the likelihood of whether a building which has yet to be constructed or is about to be altered for the purpose of gambling would be granted a premises licence when the building work is complete. A provisional statement is not a licence and merely gives the holder some form of guarantee that a premises licence would be granted so the project can be started. Once works are complete a full premises licence would still be required

22.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage or they reflect a change in the applicant's circumstances. In addition, the Council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- a) which could not have been raised by objectors at the provisional licence stage; or
- b) which in the Authority's opinion reflect a change in the operator's circumstances

22.3 When determining a provisional statement application the Council will operate in accordance with the Act and will not have regard to any issues related to planning consent or building regulations, e.g. the likelihood that planning consent will be granted.



## **PART D – PERMITS, TEMPORARY/OCCASIONAL USE NOTICES AND SMALL SOCIETY LOTTERY REGISTRATIONS**

### **Permits, Temporary/Occasional Use Notice**

#### **23. Unlicensed Family Entertainment Centre Gaming Machine Permits (Statement of Principles on Permits)**

- 23.1 The term 'Unlicensed Family Entertainment Centre' is one defined in the Act and refers to premises which provides category D gaming machines along with various other amusements such as computer games and penny pushers. The premises are 'unlicensed' in that they do not require a premises licence but do require a permit to be able to provide category D machines. It should not be confused with a 'Licensed Family Entertainment Centre' which does require a premises licence because it contains both category C and D gaming machines
- 23.2 The Gambling Act 2005 contains a provision for local authorities to prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit. Schedule 10, paragraph 7 of the Act states: "In preparing this Statement and/or considering applications, it [the Council] need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under Section 25"
- 23.3 In accordance with Gambling Commission guidance, the Council will give weight to child protection issues when considering applications for permits
- 23.4 The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The Council will assess these policies and procedures on their merits. However, they may include appropriate measures/training for staff regarding suspected truant schoolchildren on the premises, measures/training covering how staff would deal with unsupervised children being on the premises, or children causing problems on or around the premises. The Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs, that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act), and that staff are trained to have a full understanding of the maximum stakes and prizes
- 23.5 The Council is aware that an application for a permit may only be granted if the Chief Officer of Police has been consulted on the application
- 23.6 In line with the Act the Council cannot attach conditions to this type of permit and the statement of principles only applies to initial applications and not to renewals.

#### **24. Gaming Machine Permits in premises licensed for the sale of alcohol**

- 24.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have two gaming machines of categories C

and/or D. The premises merely need to notify the Council. The Council can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives
- Gaming has taken place on the premises that breaches a condition of Section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant Code of Practice issued by the Gambling Commission about the location and operation of the machine has been complied with)
- The premises are mainly used for gaming; or
- An offence under the Gambling Act has been committed on the premises.

24.2 If a premises wishes to have more than two machines, then it needs to apply for a permit and the Council must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission under Section 25 of the Gambling Act 2005, and 'such matters as it thinks relevant'. The Council considers that 'such matters' will be decided on a case by case basis, but generally regard will be had to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will also expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines

24.3 Measures which may satisfy the Council that there will be no access could include the adult machines being situated in close proximity to the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18 years of age. Notices and signage may also help. Regarding the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare

24.4 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be dealt with under the relevant provisions of the Act

24.5 The Council can decide to grant the application with a smaller number of machines and/or a different category of machines from that applied for. Conditions (other than these) cannot be attached

24.6 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine

## **25. Prize Gaming Permits – Statement of Principles on Permits**

25.1 The Council will expect the applicant to set out the types of gaming that he or she is intending to offer and be able to demonstrate:

- That they understand the limits to stakes and prizes that are set out in regulations;

- That the gaming offered is within the law.
- 25.2 In making its decision on an application for prize gaming permits, the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance
- 25.3 There are conditions in the Gambling Act 2005 with which the permit holder must comply, but the Council cannot attach conditions. The conditions in the Act are:
- The limits on participation fees, as set out in regulations, must be complied with
  - All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated, and the result of the game must be made public in the premises on the day that it is played
  - The prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - Participation in the gaming must not entitle the player to take part in any other gambling.

## **26. Club Gaming and Club Machines Permits**

- 26.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit or a club gaming machines permit. The club gaming permit will enable the premises to provide gaming machines (three machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A club gaming machine permit will enable the premises to provide gaming machines (three machines of categories B, C or D)
- 26.2 To qualify for these special club permits, a members' club must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include workingmen's clubs, branches of the Royal British Legion and clubs with political affiliations
- 26.3 Before granting the permit, the Council will need to satisfy itself that the premises meet the requirements of a members' club and that the majority of members are over 18 years of age
- 26.4 The Council may only refuse an application on the grounds that:
- a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which they have applied

- b) the applicant's premises are used wholly or mainly by children and/or young persons
- c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- d) a permit held by the applicant has been cancelled in the previous ten years; or
- e) an objection has been lodged by the Gambling Commission or the Police.

26.5 There is also a fast track procedure available for premises which hold a club premises certificate under the Licensing Act 2003. Under the fast track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which the Council can refuse a permit are reduced. The grounds on which an application under the process may be refused are:

- a) that the club is established primarily for gaming
- b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

## **27. Temporary Use Notices**

27.1 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 useful for a temporary use notice would include hotels, conference centres and sporting venues

27.2 The Act makes a special reference, in the context of temporary use notices, to a 'set of premises' to try and ensure that large premises which cannot reasonably be reviewed as separate are not used for more temporary use notices than permitted under the Act. The Council considers that the determination of what constitutes a 'set of premises' will be a question of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a 'set of premises', the Council will look at, amongst other things, the ownership/occupation and control of the premises. The Council will be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

## **28. Occasional Use Notices (for Tracks)**

28.1 There is a special provision in the Act which provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence. Track operators and occupiers need to be aware that the procedure for applying for an occasional use notice is different to that for a temporary use notice

28.2 The Council has very little discretion regarding these notices apart from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Council will however consider the definition of a 'track' and whether the applicant is entitled to benefit from such notice.

## **29. Small Society Lottery Registrations**

29.1 The Act creates two principal classes of lotteries - licensed lotteries and exempt lotteries. Licensed lotteries are large society lotteries and lotteries run for the benefit of local authorities. These will be regulated by the Gambling Commission. Within the class of exempt lotteries, there are four sub classes, one of which is small society lotteries

29.2 A small society lottery is a lottery promoted on behalf of a non-commercial society as defined in the Act which also meets specific financial requirements set out in the Act. These may be administered by the Council for small societies who have a principal office in the area and wish to run such a lottery

29.3 A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less

29.4 To be 'non-commercial', a society must be established and conducted:

- For charitable purposes
- For the purpose of enabling participation in, or supporting, sport, athletics or a cultural activity; or
- For any other non-commercial purpose other than that of private gain.

29.5 The other types of exempt lotteries are 'incidental non-commercial lotteries', 'private lotteries' and 'customer lotteries'

29.6 The National Lottery is not licensed by the Gambling Act 2005 and continues to be regulated by the National Lottery Commission under the National Lottery Act 1993.

## **PART E – ENFORCEMENT**

### **30. Enforcement Principles**

30.1 The Council will work closely with the responsible authorities in accordance with a locally established joint enforcement protocol and will aim to promote the licensing objectives by targeting known high risk premises following Government guidance around better regulation

30.2 In carrying out its enforcement duties with regard to the inspection of premises and the powers to institute criminal proceedings in respect of certain offences under the Act, the Council will try to be:

**Proportionate:**

Regulators should only intervene when necessary. Remedies should be appropriate to the risk posed, and costs identified and minimised

**Accountable:**

Regulators must be able to justify decisions, and be subject to public scrutiny

**Consistent:**

Rules and standards must be joined up and implemented fairly

**Transparent:**

Regulators should be open and keep regulations simple and user friendly

**Targeted:**

Regulation should be focused on the problem and minimise side effects

30.3 The Council will endeavour to avoid duplication with other regulatory regimes as far as possible

30.4 The Council will also adopt a risk-based inspection programme in line with Government recommendations around better regulation and the principles of the Hampton Review

30.5 The main enforcement and compliance role for the Council in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences. Concerns about the manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Gambling Commission. In circumstances where the Council believes a premises requires a premises licence for gambling activities and no such licence is in force, the Council will notify the Gambling Commission

30.6 The Council will also keep itself informed of developments regarding the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities

30.7 The Council's enforcement/compliance protocols/written agreements will be available upon request

**31. Reviews**

31.1 A review is a process defined in the legislation which ultimately leads to a licence being reassessed by the Licensing Committee with the possibility that the licence may be revoked or suspended or that conditions may be amended or new conditions added

31.2 Requests for a review of a premises licence can be made by interested parties or responsible authorities. However, it is for the Council to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives; and
- In accordance with this Authority's Statement of Gambling Policy.

In addition the Council may also reject the application on the grounds that the request is frivolous, vexatious, will not cause the Authority to wish to alter, revoke or suspend the licence, or is substantially the same as previous representations or requests for review

31.3 The Council can also initiate a review of a licence on the basis of any reason which it thinks appropriate.

**APPENDIX 1 – GAMING MACHINES**

This Appendix describes the categories of gaming machine as set out in the Act (and in the Regulations) and the number of such machines that may be permitted in each type of gambling premises.

Table 1 below sets out the current proposals for the different categories with the maximum stakes and prizes that will apply. This table will be updated as soon as the proposals are confirmed.

Table 2 shows the maximum number of machines permitted and in the case of casinos the ratios between tables and machines.

**TABLE 1**

<b>Category of Machine</b>	<b>Maximum Stake</b>	<b>Maximum Prize</b>
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£25
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize



**TABLE 2**

Premises type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to table ratio)						
Large casino (machine/table ratio of 2-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to 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, within the total limit of 80 (subject to table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines, categories B to D or 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 4 machines in category B3 of B4		No limit C or D machines	
Adult gaming centre				Maximum of 4 machines in category B3 of 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
Clubs or miners' welfare institutes with permits					Maximum of 3 machines in categories B4 to D		
Qualifying alcohol licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licences premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on category D machines
	A	B1	B2	B3	B4	C	D

## APPENDIX 2

### Local Gambling Risk Assessment

**Premises Name:**

**Premises Licence Number (If Applicable):**

**Premises Address:**

**Post Code:**

**Category of gambling premises licence:**

**Name of person completing the assessment:**

**Date original assessment carried out:**

This risk assessment must be completed for all new premises or when the premises licence is varied. The assessment must also be reviewed when there are any significant changes to either the local circumstances and/or the premises.

Complete **a) - c)** with areas that may pose a risk to the licensing objectives by virtue of the provision of gambling facilities at the premises having regard to Local Area, Gambling Operation and premises design.

**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**

**c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

**d) Control measures** (based on the information above for a) – c), state the control measures you will put in place, e.g. systems, design and physical)

Describe the steps you intend to take to promote the three licensing objectives:

**ACTIONS FOLLOWING ASSESSMENT**

AREA e.g local area, gambling operation, premises design	PERSON/DEPT TASKED	DATE TASKED	DATE TASK COMPLETED

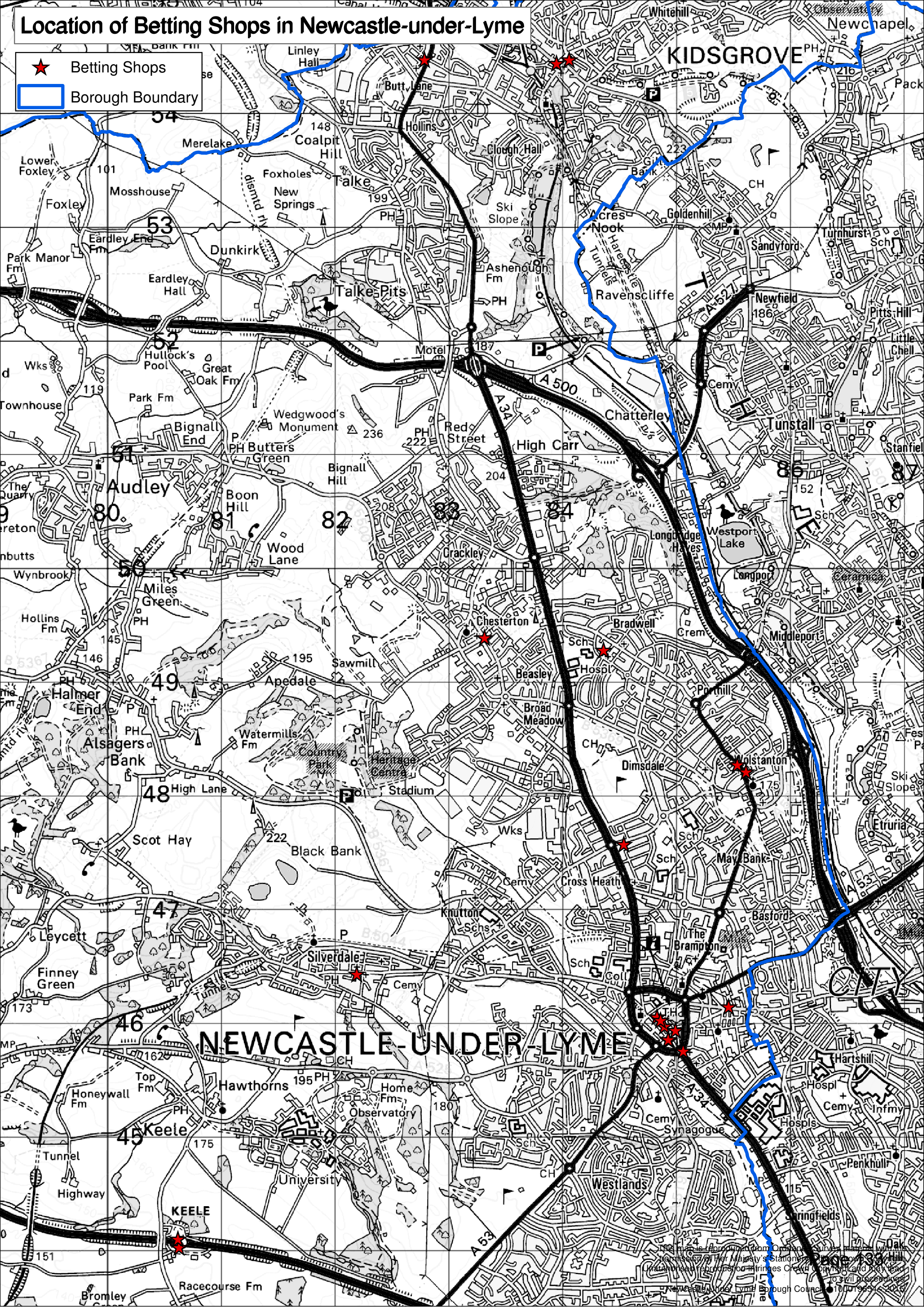
<b>Signed:</b>	<b>Date:</b>
<b>PRINT NAME:</b>	

For further guidance on completing this assessment or when this assessment must be reviewed please refer to Gambling Commission Guidance on Undertaking Gambling Local Area Risk Assessments para 6.41  
<http://www.gamblingcommission.gov.uk/pdf/GLA5---March-2015.pdf>

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# Location of Betting Shops in Newcastle-under-Lyme

★ Betting Shops  
□ Borough Boundary



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## NEWCASTLE-UNDER-LYME CIVIC SOCIETY

### SUBMISSION RE DRAFT UPDATE OF NBC GAMBLING POLICY

This appeared to be a comprehensive document

1. Perhaps the list of Consultees should include Civic Societies and Residents' Associations specifically since organisations like the Civic Society keep a watching brief on the civic impact of such establishments, and RAs would be aware of the impact of gambling establishments on the locality (2.2 and 8.3).
2. Should or will or both? (4.5)
3. The area profile was a useful idea. And it was interesting to note that the main form of gambling in Newcastle appeared to be via betting shops. Is this owing to demand or because it is easier to acquire a licence for a betting shop? (5.1)
4. There appeared to be a differentiation between nuisance and disorder – they are very closely related and one can lead to the other. Perhaps this could be more clearly stated? (12.2)
5. That the NBC web site will contain helpful information re gambling – it was questioned that vulnerable people with an inclination to gamble might not use this web site. Perhaps there is a need for alternatives. (15.2).
6. Should read secretary of State (16.2)

Since the policy appears to rely heavily on self regulation by establishments, initial screening and regular monitoring should also be strengthened since the strength and effectiveness of any policy relies upon its successful implementation and the manner and effectiveness of its enforcement and monitoring.

J Howe

Chairman

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE LICENSING COMMITTEE

#### FEES TO BE CHARGED IN RELATION TO THE GAMBLING ACT 2005

**Submitted by:** Democratic Services Manager

**Portfolio:** Finance and Resources

**Ward(s) affected:** ALL

#### **Purpose of the Report**

For Members to consider and agree the fees to be charged in relation to the Gambling Act 2005.

#### **Recommendations**

That the Committee agree the fees to be charged in relation to the Gambling Act 2005.

#### 1. **Background**

Licensing authorities are responsible for setting the fees for gambling premises licences. These must be calculated on a cost recovery basis. Fees must not exceed the maximums set out in the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007. At the moment all of the fees current charges by Newcastle under Lyme Borough Council are at the maximum level and the recommendation is that this continues to be the case.

Licensing authorities have a duty to set these fees on a cost recovery basis. The Act states S212 (2) (d) that licensing authorities "shall aim to ensure that income from fees as nearly as possible equates to the cost of providing the service to which the fee relates including a reasonable share of expenditure which is referable only partly or only indirectly linked to the provision of the service". Licensing authorities must be transparent about the assumptions they have made in setting their fees. The annual fee will cover the costs of compliance and enforcement work, including the cost of dealing with illegal gambling in a licensing authority's area.

Fees for premises licences should include an element for overheads and for dealing with illegal gambling in the area. This Council has delegated responsibility for setting Gambling fees to the licensing committee.

Fees cannot be set on the basis of size, rateable value or any other basis. Licensing authorities must be transparent about the assumptions they have made in setting their fees. Fees should be published and reviewed on an annual basis initially.

## Detail

<b>Gambling Act 2005</b>	<b>Current</b>	<b>Proposed</b>	<b>Increase/Decrease</b>	<b>Upper Limit</b>
Lotteries - application fee	40	40	Statutory	N/A
Lotteries - annual fee	20	20	Statutory	N/A
Bingo - application fee	3,500.00	3,500.00	No Change	3,500
Bingo - annual fee	1,000.00	1,000.00	No Change	1,000
Bingo - application to vary	1,750.00	1,750.00	No Change	1,750
Track betting - application fee	2,500.00	2,500.00	No Change	2,500
Track betting - annual fee	1,000.00	1,000.00	No Change	1,000
Track betting - application to vary	1,250.00	1,250.00	No Change	1,250
Track betting - application to transfer	950	950	No Change	950
Club machine permit - application fee	200	200	Statutory	N/A
Club machine permit - renewal fee	200	200	Statutory	N/A
Club machine permit - annual fee	50	50	Statutory	N/A
Betting premises - application fee	3,000.00	3,000.00	No Change	3,000
Betting premises - annual fee	600	600	No Change	600
Betting premises - application to vary	1,500.00	1,500.00	No Change	1,500
Betting premises - application to transfer	1,200.00	1,200.00	No Change	1,200
Family entertainment centre - application fee	2,000.00	2,000.00	No Change	2,000
Family entertainment centre - annual fee	750	750	No Change	750
Family entertainment centre - application to vary	1,000.00	1,000.00	No Change	1,000
Family entertainment centre - application to transfer	950	950	No Change	950
Adult gaming centre - application fee	2,000.00	2,000.00	No Change	2,000
Adult gaming centre - annual fee	1,000.00	1,000.00	No Change	1,000
Adult gaming centre - application to vary	1,000.00	1,000.00	No Change	1,000
Adult gaming centre - application to transfer	1,200.00	1,200.00	No Change	1,200

2. **Issues**

None identified

3. **Options Considered**

That the fees listed in the table above be agreed by the Licensing Committee for the financial year 2016/2017.

4. **Reasons for Preferred Solution**

No change is recommended in relation to the fees relating to the Gambling Act 2005.

6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- crime and disorder
- regeneration
- quality of life
- environment
- health improvement implications

7. **Legal and Statutory Implications**

Licensing authorities have a duty to set these fees on a cost recovery basis. The Act states S212 (2) (d)) that licensing authorities “shall aim to ensure that income from fees as nearly as possible equates to the cost of providing the service to which the fee relates including a reasonable share of expenditure which is referable only partly or only indirectly linked to the provision of the service”. Licensing authorities must be transparent about the assumptions they have made in setting their fees.

8. **Equality Impact Assessment**

No adverse impact has been identified.

9. **Financial and Resource Implications**

As no reduction in the fees is recommendation there should be no detrimental financial implications for the Council. No increase in fee is possible as all fees currently charged are at the maximum permitted.

10. **Major Risks**

11. **Key Decision Information**

Not applicable

13. **Recommendations**

That the Committee agree the fees to be charged in relation to the Gambling Act 2005.

14. **List of Appendices**

Overview of the Types of Licence

15. **Background Papers**

The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007

Application Type	Description
Application Fee	This is a one-off, non-refundable fee payable to the licensing authority upon application for a new gambling premises licence or one under the transitional arrangements for existing operators. The fee will cover the cost to the licensing authority of receiving, considering and determining the application, including staff costs, overheads, IT, legal and other central support costs, initial inspections, Licensing Committee costs and hearing costs and appeals.
First Annual Fee	This will cover the regulatory costs for the first year (e.g. processing costs, plus review, inspection and enforcement activity). Licensing authorities have discretion to offer a discount on the first annual fee in recognition of the fact that checks will have been done at time of application, and the costs will be on average lower than in subsequent years. This is consistent with the Gambling Commission's approach to non-remote operating licensing fees.
Annual Fee	<p>Payable annually by all premises licence holders for the maintenance of their licence. This will cover the regulatory costs for the next year (i.e. inspection, holding reviews and enforcement activity), the costs associated with processing the annual fee (i.e. updating computer systems, register of gambling premises licences and processing fee) and annualised periodic costs incurred by the licensing authority in respect of its 3 year licensing policy statements;</p> <p>Under the Act, subsequent annual fees are payable before each anniversary of the date on which the licence is issued.</p> <p>Under the Act, a licensing authority must revoke a premises licence if a licensee fails to pay the annual fee, except where the authority thinks the failure to pay is due to an administrative error.</p>
<b>MISCELLANEOUS FEES</b>	
Change of circumstance fees	Payable by holders of premises licences when they submit a notification of a change of circumstance.
Variation of licence fees	Payable by holders of premises licences when they apply to vary a licence.
Transfer of licence	Payable by holders of premises licences when they apply to transfer a licence from one operator to another.
Re-instatement	Payable by anyone applying for a licence to be re-instated
Provisional statement fees	Payable by anyone applying for a provisional statement (a statement from the licensing authority in advance of a full premises licence).
Copy of licence fees	Payable for the provision of a replacement copy of a premises licence.

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**2007 No. 479**

**BETTING, GAMING AND LOTTERIES, ENGLAND AND WALES**

**The Gambling (Premises Licence Fees) (England and Wales) Regulations 2007**

<i>Made</i> - - - -	<i>21st February 2007</i>
<i>Laid before Parliament</i>	<i>21st February 2007</i>
<i>Coming into force</i> - -	<i>21st May 2007</i>

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 159(6), (7) and (8)(a), 184(1) to (4), 186(3)(a) and (9)(a), 187(3) and (4), 188(2), 190(2) and (6)(a), 195(3), 204(2), 212(1), (4) and (5), and 355(1) of, and paragraphs 6, 7 and 11 of Schedule 18 to, the Gambling Act 2005(a):

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 and shall come into force on 21st May 2007.

(2) These Regulations extend to England and Wales only.

**Interpretation**

2.—(1) In these Regulations—

“annual fee” in relation to a premises licence means the fee payable under section 184(1)(b) for the licence,

“application fee” means—

- (a) in relation to an application for a premises licence under section 159(1) (whether it is a conversion or non-conversion application), the fee to accompany such an application payable under section 159(6)(c),
- (b) in relation to an application to vary a premises licence under section 187(1), the fee to accompany such an application payable under section 159(6)(c) (as applied by section 187(3)),
- (c) in relation to an application to transfer a premises licence under section 188(1), the fee to accompany such an application payable under section 159(6)(c) (as applied by section 188(2)),
- (d) in relation to an application for a copy of a premises licence under section 190(1), the fee to accompany such an application payable under section 190(2),

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(a) 2005 c. 19.

(e) in relation to an application for reinstatement of a premises licence under section 195(2), the fee to accompany such an application payable under section 159(6)(c) (as applied by section 195(3)), and

(f) in relation to an application for a provisional statement under section 204(1), the fee to accompany such an application payable under section 159(6)(c) (as applied by section 204(2)),

“betting premises (other) licence” means a betting premises licence that is not a betting premises (track) licence,

“betting premises (track) licence” means a betting premises licence issued in respect of a track or any part of a track,

“conversion application” means an application to which paragraph 54 of Schedule 4 to the Transitional Order applies,

“converted casino premises licence” means a casino premises licence to which paragraph 65 of Schedule 4 to the Transitional Order applies,

“fast track application” means an application to which paragraph 57 of Schedule 4 to the Transitional Order applies,

“first annual fee”, in relation to a premises licence, means the fee payable under section 184(1)(a) for the licence,

“non-conversion application” means an application for a premises licence under section 159(1) that is not a conversion application,

“non-fast track application” means an application to which paragraph 56 of Schedule 4 to the Transitional Order applies,

“relevant licensing authority” means—

(a) in relation to an application for—

(i) a premises licence under section 159(1) (whether it is a conversion or non-conversion application), or

(ii) a provisional statement under section 204(1),  
the licensing authority to whom the application is made, and

(b) in relation to—

(i) any other application,

(ii) a notification of a change of circumstance under section 186(1), or

(iii) the first annual fee or annual fee,

in respect of a premises licence, the licensing authority who issued the licence,

“the Table” means the table of maximum fees set out in the Schedule, and

“the Transitional Order” means the Gambling Act 2005 (Commencement No. 6 and Transitional Provisions) Order 2006(a).

(2) A reference in these Regulations to a section of an Act is a reference to a section of the Gambling Act 2005.

### **Classes of premises licence**

3.—(1) For the purposes of these Regulations, there are the following classes of premises licence—

(a) a regional casino premises licence,

(b) a large casino premises licence,

(c) a small casino premises licence,

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(a) S.I. 2006/3272 (C.119), to which there are amendments not relevant to this Order.



- (d) a converted casino premises licence,
  - (e) a bingo premises licence,
  - (f) an adult gaming centre premises licence,
  - (g) a betting premises (track) licence,
  - (h) a family entertainment centre premises licence, and
  - (i) a betting premises (other) licence.
- (2) In applying regulations 4(2)(b), 5(2), 11(2), 12(2), 14(2) and 15(2)—
- (a) the class of premises licence to which an application relates, or
  - (b) the relevant class of premises licence, in the case of an application for a provisional statement,

is to be determined as at the date that the application is made.

(3) In applying regulation 8(2), the class of premises licence to which an annual fee relates is to be determined as at the date by which the fee is payable.

#### **Application fee for conversion application**

**4.**—(1) The amount of the application fee for a conversion application shall be determined by the relevant licensing authority.

- (2) But the amount of that fee shall not exceed—
- (a) in the case of a fast track application, £300, and
  - (b) in the case of a non-fast track application, the amount specified in column (2) of the Table which is opposite the class of premises licence in column (1) to which the application relates.

#### **Application fee for non-conversion application**

**5.**—(1) The amount of the application fee for a non-conversion application shall be determined by the relevant licensing authority.

- (2) But the amount of that fee shall not exceed—
- (a) in the case of an application in respect of provisional statement premises, the amount specified in column (3) of the Table which is opposite the class of premises licence in column (1) to which the application relates, and
  - (b) in the case of an application in respect of any other premises, the amount specified in column (4) of the Table which is opposite the class of premises licence in column (1) to which the application relates.
- (3) In paragraph (2) “provisional statement premises”—
- (a) means premises in respect of which a licensing authority have issued a provisional statement under section 164 (as applied by section 204(2)), but
  - (b) does not include any such premises which have been constructed or altered otherwise than in accordance with the plans and information included with the application for the provisional statement in accordance with section 204(3).

#### **First annual fee for premises licence**

**6.**—(1) The amount of the first annual fee for a premises licence shall be determined by the relevant licensing authority.

(2) But the amount of that fee shall not exceed the amount of the annual fee for the licence as determined in accordance with regulation 8.

- (3) In applying paragraph (2) the amount of the annual fee for the licence is to be determined—
- (a) as at the date by which the first annual fee is payable, and

- (b) as if the annual fee were payable by that date.
- (4) This regulation is subject to regulation 9.

**Date by which first annual fee is payable**

7.—(1) Where a licence comes into effect on the issue date, the first annual fee for the licence shall be paid within 30 days after that date.

(2) Where a licence specifies that it is to come into effect on an effective date, the first annual fee for the licence shall be paid within—

- (a) the relevant period, or
- (b) 12 months,

after the issue date, whichever is sooner.

(3) Paragraph (2) does not apply to a premises licence issued before 1st September 2007.

(4) In this regulation—

“the effective date”, in relation to a licence which specifies that it is to come into effect on a date after the issue date, means the date so specified,

“the issue date” means the date on which a licence is issued, and

“the relevant period”, in relation to a licence, means the period which is equal to the sum of—

- (a) the period between the issue date and the effective date, and
- (b) 30 days.

**Annual fee for premises licence**

8.—(1) The amount of the annual fee for a premises licence shall be determined by the relevant licensing authority.

(2) But the amount of that fee shall not exceed the amount specified in column (5) of the Table which is opposite the class of premises licence in column (1) to which the fee relates.

(3) This regulation is subject to regulation 9.

**First annual and annual fees for premises licence that is subject to a seasonal condition**

9.—(1) Where a premises licence is subject to a seasonal condition, the relevant licensing authority may determine—

- (a) a first annual fee, and
- (b) an annual fee,

for the licence that are less than the first annual fee and annual fee respectively that would, but for this regulation, be payable in respect of the licence.

(2) In paragraph (1), “seasonal condition” means a condition attached to a licence by a licensing authority under section 169(1)(a) which provides that the premises to which the licence relates may be used for the activities specified in the licence for part of a year only.

**Change of circumstance fee**

10.—(1) The amount of the fee under section 186(3)(a) to accompany a notification of a change of circumstance under section 186(1) shall be determined by the relevant licensing authority.

(2) But the amount of that fee shall not exceed £50.

**Fee for application to vary licence**

11.—(1) The amount of the application fee for an application to vary a licence under section 187(1) shall be determined by the relevant licensing authority.

(2) But the amount of that fee shall not exceed the amount specified in column (6) of the Table which is opposite the class of premises licence in column (1) to which the application relates.

**Fee for application to transfer**

12.—(1) The amount of the application fee for an application to transfer a licence under section 188(1) shall be determined by the relevant licensing authority.

(2) But the amount of that fee shall not exceed the amount specified in column (7) of the Table which is opposite the class of premises licence in column (1) to which the application relates.

**Fee for application for copy of licence**

13.—(1) The amount of the application fee for an application for a copy of a licence under section 190(1) shall be determined by the relevant licensing authority.

(2) But the amount of that fee shall not exceed £25.

**Fee for application for reinstatement**

14.—(1) The amount of the application fee for an application for reinstatement of a licence under section 195(2) shall be determined by the relevant licensing authority.

(2) But the amount of that fee shall not exceed the amount specified in column (8) of the Table which is opposite the class of premises licence in column (1) to which the application relates.

**Fee for application for provisional statement**

15.—(1) The amount of the application fee for an application for a provisional statement under section 204(1) shall be determined by the relevant licensing authority.

(2) But the amount of that fee shall not exceed the amount specified in column (9) of the Table which is opposite the relevant class of premises licence in column (1).

(3) In paragraph (2), “the relevant class of premises licence”, in relation to an application for a provisional statement in respect of premises, means the class of premises licence to which an application for a licence in respect of the premises would, if made, relate.

21st February 2007

*Richard Caborn*  
Minister of State  
Department for Culture, Media and Sport

## SCHEDULE

Table of maximum fees

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>	<i>Column (4)</i>	<i>Column (5)</i>	<i>Column (6)</i>	<i>Column (7)</i>	<i>Column (8)</i>	<i>Column (9)</i>
<i>Classes of premises licence</i>	<i>Maximum conversion application fee for non-fast track application</i>	<i>Maximum non-conversion application fee in respect of provisional statement premises</i>	<i>Maximum non-conversion application fee in respect of other premises</i>	<i>Maximum annual fee</i>	<i>Maximum fee for application to vary licence</i>	<i>Maximum fee for application to transfer a licence</i>	<i>Maximum fee for application for reinstatement of a licence</i>	<i>Maximum fee for application for provisional statement</i>
Regional casino premises licence	£8,000	£15,000	£15,000	£15,000	£7,500	£6,500	£6,500	£15,000
Large casino premises licence	£5,000	£10,000	£10,000	£10,000	£5,000	£2,150	£2,150	£10,000
Small casino premises licence	£3,000	£8,000	£8,000	£5,000	£4,000	£1,800	£1,800	£8,000
Converted casino premises licence	£2,000			£3,000	£2,000	£1,350	£1,350	
Bingo premises licence	£1,750	£1,200	£3,500	£1,000	£1,750	£1,200	£1,200	£3,500
Adult gaming centre premises licence	£1,000	£1,200	£2,000	£1,000	£1,000	£1,200	£1,200	£2,000

<i>Column (1)</i>	<i>Column (2)</i>	<i>Column (3)</i>	<i>Column (4)</i>	<i>Column (5)</i>	<i>Column (6)</i>	<i>Column (7)</i>	<i>Column (8)</i>	<i>Column (9)</i>
<i>Classes of premises licence</i>	<i>Maximum conversion application fee for non-fast track application</i>	<i>Maximum non-conversion application fee in respect of provisional statement premises</i>	<i>Maximum non-conversion application fee in respect of other premises</i>	<i>Maximum annual fee</i>	<i>Maximum fee for application to vary licence</i>	<i>Maximum fee for application to transfer a licence</i>	<i>Maximum fee for application for reinstatement of a licence</i>	<i>Maximum fee for application for provisional statement</i>
Betting premises (track) licence	£1,250	£950	£2,500	£1,000	£1,250	£950	£950	£2,500
Family entertainment centre premises licence	£1,000	£950	£2,000	£750	£1,000	£950	£950	£2,000
Betting premises (other) licence	£1,500	£1,200	£3,000	£600	£1,500	£1,200	£1,200	£3,000

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision about application, annual and other fees relating to premises licences issued under Part 8 of the Gambling Act 2005 (“the Act”) in England and Wales.

The Regulations provide that the following types of fees are to be determined by licensing authorities:

- licence application fee (regulations 4 and 5),
- first annual fee (regulations 6 and 9),
- annual fee (regulations 8 and 9),
- notification of a change of circumstance fee (regulation 10),
- application to vary a licence fee (regulation 11),
- application to transfer a licence fee (regulation 12),
- fee for a copy of a licence (regulation 13),
- application for reinstatement of a licence fee (regulation 14), and
- provisional statement application fee (regulation 15).

In each case, the fee determined by a licensing authority must not exceed a maximum fee specified in the relevant regulation or in the table of maximum fees in the Schedule. The table in the Schedule specifies maxima for different types of fee according to the class of premises licence to which the fee relates. Regulation 3 sets out the different classes of premises licence. Six of these classes are identical to those set out in section 150 of the Act. The remainder are defined in regulation 2.

Regulations 4 and 5 provide for licensing authorities to determine different licence application fees for conversion applications and non-conversion applications. The terms “conversion application” and “non-conversion application” are defined in regulation 2 – the former meaning an application to which paragraph 54 of Schedule 4 to the Gambling Act 2005 (Commencement No.6 and Transitional Provisions) Order 2006 (S.I. 2006/3272) (“the Transitional Order”) applies.

Regulation 4 provides for two types of conversion application – fast track and non-fast track applications – which are defined in regulation 2 as meaning applications to which paragraphs 57 and 56 of Schedule 4 to the Transitional Order, respectively, apply. Regulation 4 provides for licensing authorities to determine different fees for fast track and non-fast track applications, which must not exceed amounts specified in regulation 4(2)(a) and the table in the Schedule respectively.

Regulation 5 provides for licensing authorities to determine different fees for two types of non-conversion applications:

- those in respect of provisional statement premises, and
- those in respect of any other premises.

The term “provisional statement premises” is defined in regulation 5(3).

Regulations 6(2) and (3) provide that the first annual fee for a licence determined by a licensing authority must not exceed the annual fee for the licence, determined as at the date by which the first annual fee is payable as if the annual fee were payable by that date.

Regulation 7(1) provides that, where a licence comes into effect on the date on which it is issued (“the issue date”), the first annual fee shall be paid within 30 days after that date. Regulation 7(2) provides that, where a licence specifies that it is to come into force on a date after the issue date (“the effective date”), the first annual fee shall be paid either within 30 days after the effective date, or within 12 months of the issue date, whichever is sooner. Regulation 7(2) does not apply to licences which were issued before 1st September 2007 – transitional provision as to the payment

of first annual fees in respect of such licenses is made in paragraph 36 of Schedule 4 to the Transitional Order.

Regulation 9 provides for licensing authorities to determine specific first annual fees and annual fees for licences that are subject to seasonal conditions. The term “seasonal condition” is defined in regulation 9(2). Where a licensing authority does determine a specific first annual fee and annual fee in these circumstances, those fees must be less than the first annual fee and annual fee that would otherwise apply to the licence.

A full regulatory impact assessment of the effect that this instrument will have on the costs of business is available from Frances Macleod at the Department for Culture, Media and Sport, 2-4 Cockspur Street, London SW1Y 5DH; email: frances.macleod@culture.gsi.gov.uk.

**2007 No. 479**

**BETTING, GAMING AND LOTTERIES, ENGLAND AND  
WALES**

The Gambling (Premises Licence Fees) (England and Wales)  
Regulations 2007

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## NEWCASTLE-UNDER-LYME BOROUGH COUNCIL

### EXECUTIVE MANAGEMENT TEAM'S REPORT TO THE LICENSING COMMITTEE

#### 1. FEE TO BE CHARGED FOR THE LICENSING OF SEXUAL ENTERTAINMENT VENUES

**Submitted by:** Democratic Services Manager

**Portfolio:** Finance and Resources

**Ward(s) affected:** ALL

#### **Purpose of the Report**

For Members to consider the fee to be charged in relation to the licensing of Sexual Entertainment Venues.

#### **Recommendations**

That the Committee agree a fee to be charged for the licensing of sexual entertainment venues.

#### 1. **Background**

Newcastle Borough Council adopted schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 on 31<sup>st</sup> March 2011 which came into effect on 3<sup>rd</sup> August 2011.

The adoption of the schedule means that the Council can control and regulate the operation of certain kinds of sex establishment within its area through the use of a policy for the licensing of sex establishments. The revised policy was agreed at the meeting of the Full Council held on 17<sup>th</sup> September 2014.

The fees that are currently charged for the licensing of Sexual entertainment venues are:

<b>Sex establishments - Application fee</b>	<b>3,000.00</b>	<b>No Change</b>
<b>Sex establishments - Renewal fee</b>	<b>2,000.00</b>	<b>No Change</b>
<b>Sex establishments - Variation</b>	<b>1000.00</b>	<b>No Change</b>
<b>Sex establishments - Transfer</b>	<b>1000.00</b>	<b>No Change</b>

A licence is only valid for one year.

#### 2. **Issues**

**The European Services Directive states (Art 12.2):**

*Authorisation procedures and formalities shall not be dissuasive and shall not unduly complicate or delay the provision of the service. They shall be easily accessible and any charges which the applicants may incur from their application shall be reasonable and proportionate to the cost of the authorisation procedures in question and shall not exceed the cost of the procedures*

The Directive includes specific requirements that apply to the charging of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme.

Councils must not use fees covered by the Directive to make a profit or act as an economic deterrent to deter certain business types from operating within an area.

**Guidance for Local Authorities on the Provision of Service Regulations States (2<sup>nd</sup> Edition June 2009 Para 12d):**

*Local Authorities must set fees that are proportionate to the effective cost of the procedure dealt with. As costs vary from region to region, central advice on the level of fees will not be appropriate. Local Authorities will need to bear in mind the threat of a legal challenge should the service provider feel that the level of fees are being used as an economic deterrent or to raise funds for local authorities Enforcement costs should not be assimilated with the application fee. This is to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.*

**3. Options Considered**

That the below fees be considered:

	<b>Current</b>	<b>Proposed</b>
Sex establishments - Application fee	3,000.00	3,000
Sex establishments - Renewal fee	2,000.00	2,000
Sex establishments - Variation	1000.00	1,000
Sex establishments - Transfer	1000.00	1,000

**4. Proposal**

That the Committee discuss the options and agree upon a reasonable fee.

**4. Reasons for Preferred Solution**

The fee can be used to cover the cost of the following:

**Administration** – This could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.

**Initial visit/s** – This could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include ‘on-costs’ in this calculation. Councils will need to consider whether ‘on-costs’ include travel costs and management time.

**Third party costs** – Some licensing processes will require third party input from experts,

**Liaison with interested parties** – Engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.

**Management costs** – Councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the ‘on-costs’ attached to officer time referenced below.

**Local democracy costs** – Councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.

**On costs** – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.

**Development, determination and production of licensing policies** – The cost of consultation and publishing policies can be fully recovered.

**Web material** – The EU Services Directive requires that applications, and the associated guidance, can be made online and councils should effectively budget for this work.

**Advice and guidance** – This includes advice in person, production of leaflets or promotional tools, and online advice.

**Setting and reviewing fees** – This includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

## 6. **Outcomes Linked to Sustainable Community Strategy and Corporate Priorities**

- crime and disorder
- regeneration
- quality of life
- environment
- health improvement implications

## 7. **Legal and Statutory Implications**

### **Hemming v Westminster**

The degree to which fees and processes are proportionate has been tested in a legal challenge brought against the fee charged by Westminster City Council for licensing sex establishments. The case established a number of key points about setting fees under the Services Directive.

In Hemming v Westminster, the Court of Appeal ruled that the fees set must not exceed the costs of administering the licensing regime. This means the council was no longer able to include the cost of enforcement against unlicensed sex establishment operators when setting the licence fee, although the cost of visits to licensed premises to monitor compliance could be recovered through fees.

The judgement found that the annual reviews conducted by an officer of Westminster City Council were no substitute for determinations by the council. The judge rejected the council's submission that the fee had been fixed on an open-ended basis in 2004 so that the fee rolled over from one year to the next. Westminster City Council was consequently ordered to repay fees charged over that period.

Annual reviews allow for the fine tuning of fees and allow councils to take steps to avoid either a surplus or deficit in future years. This will not immediately benefit licence holders where the licence has been granted for a number of years and paid for in a lump sum, but will ensure new entrants to the licensing scheme are charged appropriately.

Where fees charged result in a surplus, Hemming v Westminster stated that this surplus must be used to reduce the fees charged in the following year. It is possible to extend the reinvestment of the surplus over more than one year, but this will need careful consideration about whether contributors may leave the licensing system over that period and therefore lose out on the return.

Deficits can similarly be recovered, although where there is a significant deficit, councils may want to consider how recovery can be undertaken over more than one year so as not to financially harm otherwise viable businesses.

The case of R v Tower Hamlets LBC (1994)<sup>7</sup> may also be of relevance, as the High Court indicated that “a council has a duty to administer its funds so as to protect the interests of what is now the body of council tax payers”.

8. **Equality Impact Assessment**

An equality impact assessment will be completed before the end of March in relation to the policy.

9. **Financial and Resource Implications**

Should a challenge be made in relation to the fee level as detailed in the Hemming v Westminster there could be detrimental financial implications for the Council

10. **Major Risks**

As detailed under Legal and Statutory Implications

11. **Key Decision Information**

Not applicable

12. **Earlier Cabinet/Committee Resolutions**

Newcastle Borough Council adopted schedule 3 of The Local Government (Miscellaneous Provisions) Act 1982 on 31<sup>st</sup> March 2010 which came into effect on 3<sup>rd</sup> August 2011.

13. **Recommendations**

That the Committee agree the fees to be charged for the licensing of sexual entertainment venues.

14. **List of Appendices**

None

15. **Background Papers**

LGA Guidance on Local Fee Setting