

NOTICE OF MEETING

Meeting: GENERAL PURPOSES AND LICENSING COMMITTEE

Date and Time: FRIDAY, 13 NOVEMBER 2015, AT 9.30 AM*

Place: COMMITTEE ROOM 1, APPLETREE COURT,
LYNDHURST

Telephone enquiries to: Lyndhurst (023) 8028 5000
023 8028 5588 - ask for Melanie Stephens
Email: melanie.stephens@nfdc.gov.uk

PUBLIC PARTICIPATION:

*Members of the public may speak in accordance with the Council's public participation scheme:

- (a) immediately before the meeting starts, on items within the Cabinet's terms of reference which are not on the public agenda; and/or
 - (b) on individual items on the public agenda, when the Chairman calls that item.
- Speeches may not exceed three minutes. Anyone wishing to speak should contact the name and number shown above.

Bob Jackson
Chief Executive

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www.newforest.gov.uk

This Agenda is also available on audio tape, in Braille, large print and digital format

AGENDA

Apologies

1. MINUTES

To confirm the minutes of the meeting held on 11 September 2015 as a correct record.

2. DECLARATIONS OF INTEREST

To note any declarations of interest made by members in connection with an agenda item. The nature of the interest must also be specified.

Members are asked to discuss any possible interests with Democratic Services prior to the meeting.

3. PUBLIC PARTICIPATION

To note any issues raised during the public participation period.

4. RELOCATION OF HYTHE MARKET AND TRANSFER OF MANAGEMENT CONTROL TO HYTHE & DIBDEN PARISH COUNCIL (Pages 1 - 10)

To consider the relocation of Hythe market, transfer of management and control of Hythe market to Hythe & Dibden Parish Council.

5. ENVIRONMENTAL HEALTH SERVICE - HEALTH AND SAFETY ADVICE GIVEN TO LOCAL BUSINESS (Pages 11 - 14)

To consider the introduction of charging business for Health and Safety Advice from the Council's Environmental Health Service.

6. DE-REGULATION ACT 2015 - TAXI (DRIVERS & PRIVATE HIRE OPERATORS) LICENSING (Pages 15 - 16)

To consider the impact of the Deregulation Act 2015 on taxi licensing.

7. GAMBLING ACT 2005 - REVIEW OF STATEMENT OF PRINCIPLES (Pages 17 - 70)

To consider the consultation responses and recommend to the Council the adoption of the Statement of Principles.

8. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT

To: **Councillors**

S J Clarke (Chairman)
L R Puttock (Vice-Chairman)
G C Beck
G R Blunden
Ms L C Ford
R L Frampton
A T Glass
L E Harris

Councillors

J M Olliff-Cooper
A K Penson
D N Tungate
A S Wade
Mrs C V Ward
J G Ward
Mrs P A Wyeth

EXECUTIVE MANAGEMENT TEAM – 3 NOVEMBER 2015
GENERAL PURPOSES AND LICENSING COMMITTEE – 13 NOVEMBER 2015

RELOCATION OF HYTHE MARKET AND TRANSFER OF MANAGEMENT AND CONTROL OF HYTHE MARKET TO HYTHE AND DIBDEN PARISH COUNCIL

1. INTRODUCTION

- 1.1 This report deals with a request from Hythe and Dibden Parish Council to relocate the weekly Tuesday Hythe Market from part of New Forest District Council's car park at St Johns Street to parts of the High Street, St Johns Street and The Marsh and to transfer management and control of Hythe Market from the District Council to the Parish Council. The Parish Council's request is attached as Appendix 1. A plan showing the proposed new location for Hythe Market coloured green is attached as Appendix 2.

2. BACKGROUND

- 2.1 This Committee has previously dealt with requests from New Milton Town Council and Totton Town Council to take on control and management of their local Market. This Committee and full Council has previously agreed and followed the appropriate process in relation to the New Milton Market in 2003/4 and then the Totton Market in 2011/12. This involved designating consent streets to permit street trading and then delegating District Council powers to control the street trading to the Town Councils under Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 ("the Act"). It is proposed that the same process would be followed in relation to Hythe Market, as the legislation and procedures remain unchanged, and more details of the process are set out at paragraph 4 of this Report below.

3. THE PARISH COUNCIL'S REQUEST

- 3.1 The Parish Council's request indicates that the size of Hythe Market has been "shrinking" and this has had a direct effect on businesses in the area. The Parish Council believes that relocating the Market to a more central High Street location will be good for the viability of the village and increase the footfall on Tuesdays. Ideally, the Parish Council would like to take over control of the Market and operate it in the new location (with the assistance of an experienced market operator) on Tuesdays as soon as is possible after Good Friday 25 March 2016.
- 3.2 The Market has been operated by the District Council for the last 12 years. The Council contracts out day-to-day management of the Market and has weekly licences with the dwindling number of traders. Both the contract and licences would need to be terminated if the District Council agrees to relinquish control of the Market to the Parish Council.
- 3.3 The District Council's Asset Management Group has considered the level of income that the Market generates of around £21,000 per annum for the District Council and is supportive of relocating and relinquishing control of the Market to support the Parish Council in its aspirations and to relieve the District Council of the burden of running the Market.

- 3.4 Since making its request, the Parish Council has carried out formal consultation on the proposal with the local community and businesses and received 215 individual responses via social media, the Parish website and in writing. The Parish Council summarises the responses as follows:
- 190 Agree to the market being moved (88.5%)
 - 25 Disagree (11.5%)
 - Of the 215 total, 23 (10%) responses were from businesses in Hythe and of those, 100% supported the moved.
- 3.5 The relocation of the Market is dependent on a Traffic Regulation Order (“TRO”) being made to permit the closure of part of St Johns Street to traffic on the Tuesday market days. This is not a matter within the terms of reference of this Committee. The District Council’s Transportation Section is dealing with the TRO and is now in a position to make the Order and is liaising with the Parish Council to determine when the TRO should come into operation but it is understood that it is likely to be March 2016. So, even if this Committee decides to designate that part of St Johns Street as a consent street, no trading on the road will be permitted unless and until the TRO is made and comes into force.
- 3.6 The Parish Council has also been made aware that, as part of taking over control and management of the Market, it would be responsible for obtaining any necessary planning permission involved in relocating and managing the Market going forward.

4. THE PROCESS

- 4.1 The relevant legislation states that a District Council may resolve that the street trading provisions in the Act, which govern markets such as Hythe Market, will apply to their District. This Council made that resolution on 29 July 1985.
- 4.2 This Council may now designate particular streets in the District as “consent streets” for the purposes of the Act to enable trading on those streets.
- 4.3 The designation process involves giving more than 28 days’ notice of the Council’s ‘intention to pass a resolution to designate’ in a local newspaper, inviting the public to make representations, and supplying the Chief Officer of Police for the area and Hampshire County Council, as highways authority, with a copy as statutory consultees.
- 4.4 If, after considering all representations, the Council decides to make the resolution and designate as “consent streets”, the Council must again give more than 28 days’ notice in a local newspaper of the ‘coming into force’ of the designation.
- 4.5 Once a street is designated as a consent street, the Council has powers to issue consents to traders to trade in that street. The District Council may delegate these powers, should it choose to, and place conditions on any delegation granted. The intention here is that the District Council and Hythe and Dibden Parish Council would enter into a formal agreement with the District Council delegating its powers to issue consents to traders to the Parish Council. This would include any conditions the District Council wished to insist on. As a minimum, it would oblige the Parish Council to be responsible for issuing consents and monitoring compliance; restricting trading to Tuesdays only; maintaining public liability insurance; maintaining adequate arrangements for litter clearance; and ensuring compliance with the instructions of the highways authority over the mechanics of the road closure and diversion signing.

There would also be provisions giving the District Council power to serve formal notice on the Parish Council to rectify any breaches of the agreement, and to terminate the agreement if the breaches continued.

- 4.6 Only full Council can delegate to the Parish Council its powers to exercise its functions under Schedule 4 of the Act.

5. CONCLUSIONS

- 5.1 The Parish Council is keen to take on control and move the location of the existing Market and its formal consultation has shown firm support for this proposal. It therefore appears appropriate for the District Council to support the Parish Council in its aspirations to benefit Hythe, its businesses and the public and accept and further progress the Parish Council's request. This would also benefit the District Council by relieving it of the burden of carrying on the operation of a dwindling Market in its current location.

6. FINANCIAL IMPLICATIONS

- 6.1 The Parish Council has agreed to meet the costs incurred by the District Council in relation to the designation of parts of the High Street, St Johns Street and The Marsh as consent streets and the costs of making the TRO.
- 6.2 So long as the proposed formal agreement is entered into with the Parish Council, the financial implications to this Council of designation as consent streets will be minimal and will become the responsibility of the Parish Council until the agreement is terminated.
- 6.3 The loss of the income from the existing Market of around £21,000 per annum in its current location has been considered by this Council's Asset Management Group. Whilst there will be a loss of that income to the Council, it is considered that the benefits to the village centre in relocating and reinvigorating the Market will outweigh that factor.

7. ENVIRONMENTAL, CRIME & DISORDER IMPLICATIONS

- 7.1 A properly regulated centrally located market can improve the economic vitality of a town or village, countering the perceived attraction of "out-of-town" retail stores.
- 7.2 The conditions in the proposed formal agreement should ensure that the streets are left in an acceptable state of cleanliness at the end of market days.

8. EQUALITY & DIVERSITY IMPLICATIONS

- 8.1 Increasing the retail offer in the village centre would provide more choice to those local residents with reduced mobility, or those residents where access to private motor vehicles or public transport might be limited.

- 8.2 The proposed TRO permitting the closure of St John's Street shall affect that part of St Johns Street which has several disabled bays and a loading bay To offset the loss of disabled parking, it is proposed to create 5 alternative but comparable disabled parking bays on The Promenade, by re-designating 6 existing general purpose limited waiting bays. Overall the proposals will increase the disabled parking provision in the village.

9. PORTFOLIO HOLDER COMMENTS

- 9.1 The comments of the Portfolio Holders for Finance & Efficiency (Councillor Jeremy Heron) and Transportation (Councillor Edward Heron) are awaited.

10. RECOMMENDATIONS

- 10.1 That, in accordance with Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982, notice be published in a local newspaper as soon as possible of the Committee's intention to pass the following draft resolution on 15 January 2016.

"That parts of the High Street, St Johns Street and The Marsh in Hythe, Southampton be designated as consent streets within the meaning of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, and that this designation comes into force on 18 February 2016"; and

- 10.2 That a brief Report setting out responses from the public and statutory consultees be brought to the 15 January 2016 meeting of this Committee. If there are no objections and/or the responses are favourable, that Report shall contain the following recommendations:

10.2.1 That those parts of the High Street, St Johns Street and The Marsh in Hythe shown coloured green on the plan attached as Appendix 2, be designated as consent streets within the meaning of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982, and that this designation comes into force on 18 February 2016; and

10.2.2 That the following recommendations be made to full Council at its meeting on 22 February 2016:

10.2.2.1 That, subject to an agreement being entered into under recommendation 10.2.2.2 below, and the making of a Traffic Regulation Order in relation to part of St Johns Street, all the Council's functions under paragraphs 7 and 9 of Schedule 4 to the Local Government (Miscellaneous Provisions) Act 1982 be delegated to Hythe and Dibden Parish Council in respect of those parts of the High Street, St Johns Street and The Marsh in Hythe which were designated as consent streets on 18 February 2016;

10.2.2.2 That the Head of Legal and Democratic Services be authorised to enter into a written agreement with Hythe and Dibden Parish Council concerning the terms on which the Parish Council is to exercise this delegation; and

10.2.2.3 That the Chief Executive, in consultation with the appropriate Head of Service and the Chairman of the General Purposes and Licensing Committee, be authorised to exercise the Council's powers under the terms of the agreement referred to in 10.2.2.2 above.

Further Information

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Background papers

Public documents

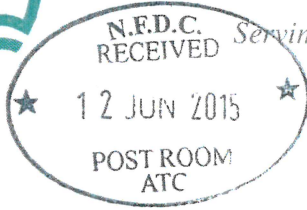
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HYTHE AND DIBDEN PARISH COUNCIL

The Grove, 25 St. John's Street, Hythe, Hampshire SO45 6BZ

Serving the communities of Dibden, Dibden Purlieu and Hythe



Stephanie Bennett Clerk to the Council

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Andy Groom
New Forest District Council
Appletree Court
Lyndhurst
Southampton

11 June 2015

Hythe market/ss

Dear Andy

Hythe Market – Street Trading Consent

Further to our previous conversations relating to the above.

I can confirm that the Parish Council has again considered the possibility of the transfer of the management of Hythe Market from New Forest District Council to the Parish Council. In addition Members also discussed re-siting the market from its current home in St John's Street Car Park to the High Street and a part of the Marsh.

As a result I can confirm that the Parish Council would like the District Council to undertake the necessary legal work in order to receive Street Trading Consent at the above locations. If you would like a copy of the previously supplied plan please let me know. I understand that there will be a cost of around £1500.00 to complete the process.

As requested I have enclosed a letter from the Parish Council's Development Officer which outlines her work in trying to ascertain trader's views on the possibility of the market being relocated.

Once the legal work has begun I would be grateful if we could discuss the options available for the provision of car parking for market trader's vehicles whilst the market is in operation.

Just to let you know that as part of the process I will be contacting the NFDC's Transportation Section to request that a Traffic Regulation Order is placed on the small section of St John's Street which would allow for a road closure on a Tuesday.

If you require any further information please let me know, in the meantime I would be grateful if you would indicate the anticipated length of time it will take for the process to complete.

Yours sincerely

Sean Spencer
Deputy Clerk to the Council



+www.hytheanddibden.gov.uk



HYTHE AND DIBDEN PARISH COUNCIL

The Grove, 25 St. John's Street, Hythe, Hampshire SO45 6BZ

Serving the communities of Dibden, Dibden Purlieu and Hythe

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FAO Andy Groom
Planning
New Forest District Council
Appletree Court
Lyndhurst

Dear Andy

Supplementary Report On Support for Re-Location of Tuesday Market.

For a number of years there has been an anecdotal desire for the market to be relocated to the centre of the village both from businesses and the community. The ever shrinking size of the market has had a direct effect on businesses, Tuesday once being on of their busiest days.

On the introduction of the Vintage and Music events, and to try and gauge response without going into too much detail why it was raised at a Hythe Business Partnership meeting (HBP is now defunct again). The response was unanimously positive. Since then we have introduced the Bank Holiday Vintage and Music, the French and the Italian events, there were a few initial very minor issues identified and corrected early on but since then there have been no issues and no 'abnormal' complaints from the businesses. We have deliberately run the events on different days of the week to identify if there are potential issues relating to the day of the week, again there have been none of significance. The overwhelming response has been one of positivity with many businesses reporting increased sales on event days. Waitrose has also confirmed they have above average trading on those days.

We have had no adverse response or complaints from public transport or taxi companies.

Whilst we are keeping the relocation of the Tuesday Market private and confidential we have been chatting to businesses and the community on a casual basis to sound them out about regarding the existing events and at this point there are no indications there will be any negative response to the future relocation. In fact it will be welcomed.

Yours sincerely

Helen Bradley Owers
Parish Development Officer



www.hytheanddibden.gov.uk



**Hythe and Dibden
Parish Council**

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Title

Date 20/10/15

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GENERAL PURPOSES AND LICENSING COMMITTEE – 13 NOVEMBER 2015

CONSIDERATION OF THE INTRODUCTION OF CHARGING BUSINESS FOR HEALTH AND SAFETY ADVICE FROM THE ENVIRONMENTAL HEALTH SERVICE

1. PURPOSE OF REPORT

- 1.1 The current 2015-2016 Health and Safety Intervention Plan states that advice to businesses is given free of charge. When the Committee were reviewing the current intervention plan in June 2015, consideration was given to whether health and safety advice should continue to be provided free of charge, or whether there was scope to charge for this service. At the request of the Committee, this subject is being given further consideration in this report.

2. THE HEALTH AND SAFETY REGULATORY SERVICE

- 2.1 The role of the regulator is to support, encourage, advise and where necessary, hold to account businesses to ensure that they effectively manage the occupational health and safety risks they create. This enables us to make best use of our resource by choosing the most appropriate way of influencing businesses to reduce risks to an acceptable level by targeting our interventions; which include advice, inspection, investigation and enforcement activity. Depending on the level of risk present and the cooperation of the employer, we choose the most appropriate response ranging from education through formal action to prosecution.
- 2.2 Advice is often seen as an important factor in giving responsible employers the knowledge to self-regulate. An employer may be unaware of duties until they are informed. Whilst larger businesses have support from head office, the majority of small businesses do not have the same resources and can be unaware of legal duties.
- 2.3 The Council's Health and Safety Enforcement Policy Statement states the need to target relevant and effective interventions that focus on influencing behaviours and improving the management of risk. As well as taking formal action, many of our dealings are informal e.g. offering information and advice to employers.
- 2.4 Routine food hygiene work takes us into premises where we have contact with employers. In addition to providing advice and information in relation to food hygiene, where appropriate, health and safety advice is also given. Where a food business is new and we make the first inspection of food hygiene, we also give advice regarding matters of health and safety. This type of intervention often produces a positive response from the employer.
- 2.5 There are currently few occasions when we proactively receive a request for advice from an employer. This may be due to us being primarily a regulatory service. Should matters of non-compliance be noted, there is no provision for us to ignore them. Where we are invited into a business and identify non-compliance we would agree a suitable timescale of response to achieve compliance which will depend on the level of risk. However for more serious breaches of law, we would take appropriate formal action and this can be seen as conflicting with an employer's expectation of receiving advice.
- 2.6 Advice can also be given at the same time as investigating other matters that breach law. Health and safety requirements are numerous. A matter that may be deserving of

formal enforcement action will be treated separately from a less serious or technical matter. Therefore a letter reporting investigation findings can include both enforcement aspects and recommendations. In all communication we ensure there is clear differentiation between matters that are for information or guidance as distinct from legal requirements.

- 2.7 The provision and availability of advice is an integral part of the service to employers. It is passed on during all forms of contact with employers. This does make it difficult to determine when it starts and finishes and therefore to make it into a saleable service.

3. APPROACH OF HAMPSHIRE LOCAL AUTHORITIES

- 3.1 Although some other Local Authorities in Hampshire and the Isle of Wight have considered charging for advice, none have taken the step of introducing it.
- 3.2 This can be seen in the light of the National Local Authority Enforcement Code and Supplementary guidance which gives recognition to the role of local authorities being able to provide advice and support to business. It suggests this can support local economic development and growth and identifies the benefit to new business start ups. However, there is no mention that a charge should not be levied in these circumstances.

4. FEES LEVIED BY THE HEALTH AND SAFETY EXECUTIVE (HSE)

- 4.1 The HSE have not pursued charging for advice. HSE inspectors use the majority of their time investigating accidents, ill health and the most serious complaints. The organisation does not have the resource to provide staff able to give one-to-one advice. This gap has been filled by the HSE website which is now the source of advice. This website has developed into the most extensive and authoritative source of health and safety information available to all. It is freely available and accessible.
- 4.2 However, the HSE does charge businesses for the time spent by inspectors carrying out investigatory work. This Fee For Intervention (FFI) cost recovery scheme, came into effect on 1 October 2012, and was introduced by The Health and Safety (Fees) Regulations 2012. A business now has to pay a fee if an HSE inspector makes a visit to a business and they see material breaches of the law.
- 4.3 The suitability of this approach was considered for local authority enforcement work, and was rejected at a national level. This is currently not an available option for Local Authorities. The HSE website states that FFI only applies to work carried out by HSE's inspectors. It goes on to say "if your business is inspected for health and safety by another regulator, such as local authority environmental health officers, it will not apply".

5. CONCLUSIONS

- 5.1 This reported has sought to highlight the difficulties which would be encountered in charging businesses for the provision of health and safety advice. It would be difficult to determine when informal advice, for example a telephone discussion becomes chargeable. In addition it is difficult to determine when advice stops and becomes enforcement action. It is possible that better performing businesses which may currently seek advice will be discouraged from doing so.

- 5.2 The benefit from income generation realistically needs to be seen against the negative affect it would have on our relationship with business. The income likely to be generated is small due to the expected number of requests. The result is also likely to lead to the service not reaching as many businesses as it does at present.
- 5.3 The small number of enquiries currently received by the Service are welcomed as they give an opportunity for an employer to increase their understanding of responsibilities of staff and public safety. This is regarded as supporting business in complying with the law and is likely to produce a positive action from the employer. Additionally, it is considered that the Environmental Health Service can contribute to delivering the growth agenda by providing advice to new business.
- 5.4 There are no other Hampshire Authorities that make a charge for health and safety advice.

6. FINANCIAL IMPLICATIONS

- 6.1 The existing budget covers all work currently carried out by the service. This report considers the benefit of raising income by the introduction of charges for health and safety advice and considers the affect on the service to business. If introduced, the potential income is small due to there being little demand from employers actively seeking advice.

7. CRIME & DISORDER IMPLICATIONS, EQUALITY & DIVERSITY IMPLICATIONS AND ENVIRONMENTAL IMPLICATIONS

- 7.1 None.

8. RECOMMENDATIONS

- 8.1 It is recommended that the Committee do not introduce charging for health and safety advice at this time.
- 8.2 It is advised that the Service keep this matter under review with a view to presenting it to Committee in the future in light of new information or guidance.

For further information contact:

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Title: Environmental Health Manager
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Background Papers:

The Health and Safety Enforcement Policy
Statement - NDFC Website
National Local Authority Enforcement Code
and Supplementary guidance - HSE Website

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GENERAL PURPOSES AND LICENSING COMMITTEE – 13 NOVEMBER 2015

DEREGULATION ACT 2015 – TAXI (DRIVERS & PRIVATE HIRE OPERATORS) LICENSING

1. INTRODUCTION

- 1.1 The purpose of this report is to consider the impact of the Deregulation Act 2015 on taxi licensing.

2. BACKGROUND

- 2.1 The Deregulation Act 2015 introduces three changes to taxi legislation. These being the requirement that driver licences should last for three years, private hire operator licences should be issued for 5 years and the freedom for a private hire operator (PHO) to subcontract a booking across a council boundary. These came into effect on 1 October 2015.

3. SUBCONTRACTING ACROSS BORDERS

- 3.1 This change allows a PHO licensed under the Local Government (Miscellaneous Provisions) Act 1976 to subcontract a booking for a journey to a licensed PHO in the same or another district. It should be noted that the first PHO commits an offence if they know that the second PHO is going to use an unlicensed vehicle or driver to fulfil the subcontracted booking. It will however clearly allow much freedom of operation by private hire firms.
- 3.2 Concerns about this change have been raised on the grounds of public safety. This does not appear to be a particularly convincing argument, as the vehicle and driver that are being supplied under the subcontracted booking must themselves be licensed by the authority which licences the 'new' operator.
- 3.3 There may also be questions over the quality of the vehicle and driver provided by the subcontracted firm; if the initial contract was for a high quality vehicle but the one supplied by the second operator fell short of that agreed or anticipated. However, this would appear to be a matter of contract rather than public safety.

4. CHANGES TO THE DURATION OF LICENCE

- 4.1 Section 10 of the Deregulation Act 2015 amends sections 53 and 55 of the Local Government (Miscellaneous Provisions) Act 1976, which deal with the granting of licences to drive hackney carriage and private hire vehicles.
- 4.2 Subsection (2) changes the law in such a way as to establish a standard duration of three years for driver licences. The section specifies that a licence may be granted for a period of less than three years but only in the circumstances of an individual case, not because of a blanket policy.
- 4.3 Subsection (3) changes the law in such a way as to establish a standard duration of five years for a private hire vehicle operator licence. The section also specifies that a licence may be granted for a period of less than five years but only in the circumstances of an individual case, not because of a blanket policy.

5. EXISTING FEES AND POLICY

- 5.1 The current policy is to issue a combined hackney and private hire drivers licence initially for one year only, at a cost of **£72** and every three years thereafter upon renewal at a cost of **£98**.
- 5.2 The current policy is to issue yearly private hire operators licences at a cost of **£290** for initial grant and at a cost of **£155** for annual renewals thereafter.

6. PROPOSALS

- 6.1 That the Council changes the licence duration from one to three years for the initial grant of a combined hackney and private hire drivers licence but maintains the right to issue such licences for a lesser period as appropriate on a case by case basis. The cost of both the new and renewal of a three year licence shall be **£140**.
- 6.2 That the Council introduces the issue of a five year private hire operator's licence at a cost of **£509**, replacing the current one year licence.
- 6.3 Circumstances where a licence would be issued for a shorter period could be as a probationary measure or after review of the licence. This is likely to occur rarely, but where it is deemed necessary to issue a licence for a shorter period than those specified above, the fee of £140 or £509, as applicable, will not be reduced.
- 6.4 Any increase in the fee for a private hire operator's licence must be advertised as prescribed by the relevant legislation. If objections to the proposed fees are made the committee will have to consider these representations at its next meeting in January 2016 before any increase can be implemented.

7. FINANCIAL IMPLICATIONS

- 7.1 The provisions of Local Government (Miscellaneous Provisions) Act 1976 do not allow the local authority complete discretion to charge whatever it likes for the grant of a licence. The cost of a licence has to be related to the cost of the licensing scheme itself. Fees have to be both reasonable and imposed with a view to recovering the costs of issue and administration. The proposed fees set out in this report have been calculated to cover the full costs of the issue and administration of the licence.

8. ENVIRONMENTAL, CRIME & DISORDER AND EQUALITY & DIVERSITY IMPLICATIONS

- 8.1 None directly arising from this report.

9. RECOMMENDATION

- 9.1 That the Committee considers the proposals in paragraphs 6.1 and 6.2 and set the fees applicable for a combined driver licence and a private hire operator's licence, subject to the procedure detailed in paragraph 6.4.

Further Information:

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Background Papers:

Deregulation Act 2015
NFDC Taxi Licensing Policy

GENERAL PURPOSES AND LICENSING COMMITTEE – 13 NOVEMBER 2015

GAMBLING ACT 2005 – REVIEW OF STATEMENT OF PRINCIPLES

1. INTRODUCTION

- 1.1 The purpose of this report is to consider the review of the (gambling) Statement of Principles in accordance with the Gambling Act 2005.

2. BACKGROUND

- 2.1 Section 349 of the Gambling Act 2005 requires all licensing authorities to publish a statement of principles and undertake a review of the statement every three years thereafter. The statement sets out the principles which the licensing authority will follow as it exercises its gambling licensing functions and promotes the gambling licensing objectives. The statement provides transparency for all those involved in the gambling licensing regime including local residents, responsible authorities and operators.

3. REVIEW OF POLICY

- 3.1 The (gambling) Statement of Principles is only valid for a three year period without a formal review. The current statement came into force on 31 January 2013. The review of the statement should replicate the original process and also take into account and reflect any developments or trends at both local and national levels.
- 3.2 A copy of the responses to the consultation and an officer appraisal summary is attached to this report as **Appendix 1**.
- 3.3 The amended Statement of Principles, taking into account all relevant comments received, is attached to this report as **Appendix 2**.
- 3.4 The committee is invited to consider the consultation responses and the amended Statement of Principles and make any further changes that are considered appropriate. The statement will then be submitted to Council for approval.

4. FINANCIAL IMPLICATIONS

- 4.1 All costs associated with the review are met from gambling licensing fee income.

5. ENVIRONMENTAL IMPLICATIONS

- 5.1 None directly associated with this report.

6. CRIME & DISORDER IMPLICATIONS

- 6.1 The statement of principles sets out the approach taken by the Council to:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
 - Ensuring that gambling is conducted in a fair and open way.

7. EQUALITY & DIVERSITY IMPLICATIONS

7.1 The statement also sets out the approach taken by the Council to uphold the protection of children and other vulnerable persons from being harmed or exploited by gambling.

8. RECOMMENDATION

8.1 That the Committee considers the responses to the consultation and recommends to Council the adoption of the new (gambling) Statement of Principles with effect from 1 January 2016.

Further Information:

Paul Weston
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E mail: licensing@nfdc.gov.uk

Background Papers:

Gambling Act 2005
Section 25 Guidance (Sept 2012)



GOSCHALKS
SOLICITORS

New Forest District Council
Licensing Services
Appletree Court
Lyndhurst
Hampshire
SO43 7PA

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / LHK / 097505.00004
#GS365852
Your ref:
Date: 14 September 2015

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

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

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

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

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

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

LGA – ABB Betting Partnership Framework

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

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

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council, which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this

should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

Local Area Profiles – Need for an evidence based approach

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the "aim to permit" principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

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

Concerns around increases in the regulatory burden on operators

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

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put

into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

Employing additional licence conditions

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

Specific Policy Comments

In the section headed "Fundamental Considerations", the policy would be assisted by an exposition of s153 Gambling Act 2005 and the authority's requirement to aim to permit use of premises insofar as any application is in accordance with the LCCP, in accordance with the Gambling Commissions Guidance to licensing authorities, insofar as the application is reasonably consistent with the licensing objectives and the application is in accordance with the Authority's statement of principles. We welcome the fact that each application will be considered on its own merits but are concerned that there appears to be a reverse burden of proof contained within the final two paragraphs. The legislation is permissive and applications should only be refused if there is evidence that a grant would not be in accordance with s153. If an applicant can demonstrate that its policies and procedures are such that a grant would be reasonably consistent with the licensing objectives then the application should be granted.

The ABB is extremely concerned with regard to statements within part B under the heading "Location". This suggests that the licensing authority believes that it may introduce a special policy with regard to areas where gambling premises should not be located. We respectfully submit that any decision to designate an area as one where licensing premises may not be granted is unlawful. Whilst we support the idea of local area profiles, it is for the licensing authority to identify risks. Those risks then need to be considered within the context of s153. Once again, there appears to be a suggestion that the starting point for consideration of an application is that the application would be refused. This obviously is contrary to the requirement within s153.

In the section of the policy that deals with the licensing objectives, we respectfully submit that the statement of principles could be strengthened by inclusion of the Gambling Commission's view that in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance. The statement of principles indicates the licensing

authority is aware of the distinction but we suggest that the distinction is included within the policy.

Insofar as the section on conditions is concerned, the licensing authority is reminded that betting premises are already subject to robust mandatory and default conditions. In the vast majority of cases, these will be sufficient. It is only in exceptional circumstances where there is evidence before a committee of a particular risk to the licensing objectives then additional conditions could be imposed.

Under the section "Betting Premises" there is a statement that the licensing authority may take into account the size etc of the premises when considering the number, nature or circumstances of betting machines an operator wants to offer. We respectfully submit that the policy needs to be clear. The policy needs to be clear that whilst the number of betting machines may be restricted, there is no power to restrict the number of gaming machines. You will be aware that under s172(8) Gambling Act 2005 a betting premises licence authorises the holder to use up to 4 gaming machines of categories B, C or D. There is no power to restrict the number of gaming machines. This section relating to machines within betting premises could be misleading and should be clear about precisely what can be limited by condition.

Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

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

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,



GOSSCHALKS

Licensing Services
Public Health & Community Safety
New Forest District Council
Appletree Court
Lyndhurst
Hampshire
SO43 7PA

18th September 2015

Dear Sir,

Consultation on New Forest District Council's Statement of Principles – Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited note that the existing policy has not yet been amended and in your letter of invite dated 3rd July 2015, you have asked for feedback relating to both the existing policy and 3 specified considerations.

In relation to the existing policy, we are broadly supportive. We note that the Board when considering applications are required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives', additionally noting that it should not take into account of any moral objections to gambling. We do though have feedback relating to a section headed 'Fundamental Considerations' – Page 8. This section indicates that whilst each application is judged on its merits, those that are located in certain areas are more at risk of causing harm to the licensing objectives. These areas included:-

- *Schools and young person's establishments;*
- *Young offenders premises;*
- *Vulnerable adult centres;*
- *Residential areas where there is a high concentration of families with children*

Coral knows of no evidence that the location of a licensed betting office within the proximity of the aforementioned causes harm to the licensing objectives. It involves a four-fold suggestion that

- a) those using such facilities are inherently problem gamblers
- b) that having visited such facilities, users are more likely to visit a betting office than if they had not used such facilities
- c) that if they do, that they are more likely to engage in problem gambling
- d) that the protective mechanisms arising from the Licence Conditions and Codes of Practice are insufficient to mitigate the risk.

We do not believe that there is evidence for any of these propositions.



Coral Racing Limited
One Stratford Place, Montfichet Road, London E20 1EJ
Registered Office: New Castle House, Castle Boulevard, Nottingham NG7 1FT
Registered in England No. 541600
Tel: 020 3288 7000 Fax: 020 3288 7050



company

Coral knows of no evidence that children coming from schools are gaining access to betting offices. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges and no evidence whatsoever that they cause problems.

In terms of the additional sections to be included within the Statement of Gambling Policy. Coral Racing Limited recognise the requirement to supply risk assessments with future applications & variations from 6th April 2016.

Coral's experience is that through all it does, it achieves an exemplary degree of compliance already, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed.

We would caution against the council providing a long list of locations which must be risk assessed and instructions / templates for completion which are not proportionate to the styles of businesses we operate. As a guide, Coral already operates systems which ensure that the licensing objectives are strongly promoted across its estate.

For example:

- Coral benefits from an operating licence granted by the national regulator, the Gambling Commission. Therefore, its corporate systems for the promotion of the licensing objectives have been approved by the Commission, which continues to exercise vigilance in this regard through inspections and examination of regulatory returns.
- Coral is subject to the Licence Conditions and Codes of Practice, which are effectively the national code of operation to ensure that the licensing objectives are promoted.
- It carries out health and safety risk assessments pursuant to its legal obligations. These assessments are shortly to be extended so that formal compliance assessments are conducted.
- It conducts risk assessments in relation to Exposure to Violence, Aggression and Conflict (EVAC assessments).
- It operates the assessment principles of the Safe Bet Alliance, the national code for safe premises. It was one of the architects of the code.
- It operates the ABB's Code for Responsible Gambling, and again was one of the architects of that code.
- It operates an extensive compliance manual, upon which all staff members are trained. Copies are available for your inspection if required.
- It contributes to the Responsible Gambling Trust, which seems to promote responsible gambling who in-turn contribute to GamCare, the national problem gambling charity.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,

John Liddle
Director of Development – Coral Retail

REVIEW OF STATEMENT OF PRINCIPLES GAMBLING ACT 2005 – CONSULTATION RESPONSES

Please Note: For ease of understanding, all insertions to the policy have been highlighted in blue and deletions have been highlighted in red on the accompanying policy document.

No.	DATE	SOURCE	COMMENT	APPRAISAL	REF.
1/1	14/Sept/15	Gosschalks solicitors	<p>In the section headed “Fundamental Considerations”, the policy would be assisted by an exposition of s153 Gambling Act 2005 and the authority’s requirement to aim to permit use of premises insofar as any application is in accordance with the LCCP (Licence Conditions and Codes of Practice), in accordance with the Gambling Commissions Guidance to licensing authorities, insofar as the application is reasonably consistent with the licensing objectives and the application is in accordance with the Authority’s statement of principles. We welcome the fact that each application will be considered on its own merits but are concerned that there appears to be a reverse burden of proof contained within the final two paragraphs. The legislation is permissive and applications should only be refused if there is evidence that a grant would not be in accordance with s153. If an applicant can demonstrate that its policies and procedures are such that a grant would be reasonably consistent with the licensing objectives then the application should be granted.</p>	<p>Move ‘aim to permit’ statement from page 5 to page 8 under heading of ‘Fundamental Considerations.</p> <p>Delete last sentence in paragraph 5.</p> <p>Delete last sentence in paragraph 6.</p>	<p>Page 5</p> <p>Page 8</p> <p>Page 8</p>

1/2	14/Sept/15	Gosschalks solicitors	The ABB (Association of British Bookmakers) is extremely concerned with regard to statements within part B under the heading "Location". This suggests that the licensing authority believes that it may introduce a special policy with regard to areas where gambling premises should not be located. We respectfully submit that any decision to designate an area as one where licensing premises may not be granted is unlawful. Whilst we support the idea of local area profiles, it is for the licensing authority to identify risks. Those risks then need to be considered within the context of s153. Once again, there appears to be a suggestion that the starting point for consideration of an application is that the application would be refused. This obviously is contrary to the requirement within s153.	Delete sentences 3 and 4.	Page 15
1/3	14/Sept/15	Gosschalks solicitors	In the section of the policy that deals with the licensing objectives, we respectfully submit that the statement of principles could be strengthened by inclusion of the Gambling Commission's view that in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance. The statement of principles indicates the authority is aware of the distinction but we suggest that the distinction is included within the policy.	Insert following wording as suggested: 'In the case of gambling premises licences disorder is generally intended to mean activity that is more serious and disruptive than mere nuisance.'	Page 5
1/4	14/Sept/15	Gosschalks	Insofar as the section on conditions is	Comments duly noted, however the Licensing	Page

		solicitors	concerned, the licensing authority is reminded that betting premises are already subject to robust mandatory and default conditions. In the vast majority of cases, these will be sufficient. It is only in exceptional circumstances where there is evidence before a committee of a particular risk to the licensing objectives then additional conditions could be imposed.	Authority will impose conditions in accordance with the legislation. No changes to policy.	17
1/5	14/Sept/15	Gosschalks solicitors	Under the section "Betting Premises" there is a statement that the licensing authority may take into account the size etc of the premises when considering the number, natures or circumstances of betting machines an operator wants to offer. We respectfully submit that the policy needs to be clear. The policy needs to be clear that whilst the number of betting machines may be restricted, there is no power to restrict the number of gaming machines. You will be aware that under s172(8) Gambling Act 2005 a betting premises licence authorises the holder to use up to 4 gaming machines of categories B, C or D. There is no power to restrict the number of gaming machines. This section relating to machines within betting premises could be misleading and should be clear about precisely what can be limited by condition.	Delete paragraph as gaming machines numbers and categories are prescribed by legislation.	Page 19
2/1	18/Sept/15	Coral	In relation to the existing policy, we are broadly supportive. We note that the Board when considering application are required to 'aim to permit gambling' where this is 'reasonably consistent with the licensing objectives',	See response no.1/2 above.	Page 15

			<p>additionally noting that it should not take into account of any moral objections to gambling. We do though have feedback relating to a section headed 'Fundamental Considerations' – page 8. This section indicates that whilst each application is judged on its merits, those that are located in certain area are more at risk of causing harm to the licensing objectives. These area included:-</p> <ul style="list-style-type: none"> • Schools and young person's establishments; • Young offenders premises; • Vulnerable adult centres; • Residential areas where there is a high concentration of families with children <p>Coral knows of no evidence that the location of a licensed betting office within the proximity of the aforementioned causes harm to the licensing objectives. It involves a four-fold suggestion that</p> <ol style="list-style-type: none"> a) Those using such facilities are inherently problem gamblers b) That having visited such facilities, user are more likely to visit a betting office than if they had not used such facilities c) That if they do, that they are more likely to engage in problem gambling d) That the protective mechanisms arising from the Licence Conditions and Codes of Practice are insufficient to mitigate the risk. 		
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			<p>We do believe that there is evidence for any of these propositions.</p> <p>Coral knows of no evidence that children coming from schools are gaining access to betting offices. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are many examples of betting offices sited immediately next to schools and colleges and no evidence whatsoever that they cause problems.</p>		
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New Forest
DISTRICT COUNCIL

GAMBLING ACT 2005

STATEMENT OF PRINCIPLES

This Statement of Principles will remain in force from 31 January 2016
until 31 January 2019

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**NEW FOREST DISTRICT COUNCIL
GAMBLING ACT 2005
SECTION 349**

Statement of Principles

The contents of this document are provided as information on the policy and principles of New Forest District Council in carrying out its functions in relation to the regulation of gambling. The document is not a full and authoritative statement of the law or statutory guidance and does not constitute professional or legal advice.

This Statement of Principles as determined by New Forest District Council in respect of its licensing functions in relation to the Gambling Act 2005 for the three year period commencing 31 January 2016 is set out in this document. During the three year period the document will be kept under regular review and following a full consultation process the Council will make such revisions to it, at such times, as it considers appropriate.

Further statements of principles will be published every three years thereafter.

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015.

Advertising

Before publishing a statement or revision, New Forest District Council will publish a notice of their intention to do so no less than two weeks before the statement or revision is to be published. The notice will:

- a) Specify the date on which the statement or revision is to be published;
- b) Specify the date on which the statement or revision will come into effect;
- c) Specify the internet address where the statement or revision will be published and the address of the premises at which it may be inspected; and
- d) Be published on the authority's website and in/on one or more of the following places:
 - A local newspaper circulating in the area covered by the statement;
 - A local newsletter, circular, or similar document circulating in the area covered by the statement;
 - A public notice board on or near the principle office of the authority;
 - A public notice board on the premises of public libraries in the area covered by the statement.

Publication

This statement or any subsequent revision of the statement will be published on the New Forest District Council website (www.newforest.gov.uk). The statement or any subsequent revision of the statement is also available for inspection at:

New Forest District Council
Appletree Court
Beaulieu Road
Lyndhurst
SO43 7PA

Declaration

In publishing this document, New Forest District Council (NFDC) has had regard to the licensing objectives of the Gambling Act 2005 (the Act), the guidance issued by the Gambling Commission and any responses from those consulted on the policy statement.

Operating licences and personal licences are issued and regulated by the Gambling Commission whilst local authorities are responsible for the issue and regulation of premises licences, and other permits.

The Act places responsibilities on licensing authorities in ways similar to the Licensing Act 2003. There are some interdependencies between the Licensing Act 2003 (LA2003) and the Gambling Act 2005 (GA2005) in terms of the framework for decision making and the procedures that must be followed. NFDC will however take care to ensure that when dealing with applications under the GA2005 they will follow the procedures that the GA2005 requires and only take into account issues that are relevant to that Act. Care will be taken not to confuse GA2005 considerations with those relevant to LA2003 or planning matters.

When using this document reference should also be made to the Gambling Act 2005, any associated regulations and any guidance and advice issued by the Gambling Commission or the Department of Culture, Media and Sport, and information contained on the NFDC website.

PART A

The Licensing Objectives

In exercising most of their functions under the GA2005, licensing authorities must have regard to the licensing objectives as set out in Section 1 of the Act. These are:

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

In the case of gambling premises licences disorder is generally intended to mean activity that is more serious and disruptive than mere nuisance.

It should be noted that the Gambling Commission has stated:

“The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

The licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as 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 authority’s statement of licensing policy.

Introduction to the New Forest District Council area

The New Forest area is in the south west corner of Hampshire, bounded by the Solent water. It is situated between the conurbations of Southampton to the east and Bournemouth to the west. One of the most striking features of the Forest is the open expanse of semi-natural vegetation at its heart which has National Park status. Much of the open forest is owned and cared for by the Forestry Commission working in conjunction with a wide range of other statutory bodies and interest groups.

Tourism is a major part of the local economy and every year approximately 22 million visitors come to the area. Many people visit on a regular basis to enjoy the forest area.

The New Forest faces many challenges if its special character is not to be eroded by modern day pressures.

It has a number of premises conducting gambling activities as follows:

- 14 betting offices;
- 1 adult entertainment centre;
- Approximately 500 licensed premises;
- Approximately 60 private, social & sporting members clubs;

At the time of publication there are no bingo halls, tracks or casinos within the NFDC area.

The Council recognises that legal gambling in a fair and open way, with suitable protection for vulnerable persons, is an important part of the district and contributes to the local economy. Attention is drawn to the section 'Fundamental Principles' regarding demand, objections and locations for any application for new gambling premises.

Should you have any comments regarding this policy statement please contact:

Licensing Services
Public Health & Community Safety
New Forest District Council
Appletree Court
Lyndhurst
Hampshire
SO43 7PA

Tel: 023 8028 5505

Email: licensing@nfdc.gov.uk

Consultation on the Statement of Principles

NFDC consulted the following interested parties on this statement:

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

A full list of consultees can be obtained from Licensing Services, NFDC.

NFDC will also consult the above for any subsequent revision of the statement.

In determining its policy, NFDC will always:

- Have regard to the Gambling Commission's Guidance to Licensing Authorities;
- Give appropriate weight to the views of those consulted.

In determining what weight to give to particular representations on its statement the factors taken into account will always include:

- Who is making the representation in terms of their expertise or interest;
- What their motivation may be for their views;
- How many other people have expressed the same or similar views;
- How far the representations relate to matters that the licensing authority should be including in its policy statement.

It will be for NFDC to ensure that it looks at the views of consultees and considers carefully whether they should be taken into account and to what extent (having regard to the above factors). NFDC will always give reasons for the decisions it has made following consultation, details of which can be viewed on the NFDC web-site or by contacting Licensing Services at Appletree Court, Lyndhurst.

The consultation process took place between 3rd July 2015 and 18th September 2015.

The full list of comments made and considered by the Council is available by request to Licensing Services at licensing@nfdc.gov.uk.

Fundamental Considerations

In carrying out its function NFDC will regulate gambling in the public interest and will have regard to the guidance issued under Section 25 of the Act. With the exception of premises licensing and temporary use notices, NFDC may use its discretion where there are strong and defensible reasons for departing from the guidance, and NFDC consider it right to do so. In any such case NFDC will clearly express and explain its reasons for doing so.

This policy statement does not override the right of any person to make an application under the Act and to have that application considered on its merit. Additionally, this policy statement does not undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

The policy will not comment on the need for gambling premises. Unmet demand is not a criterion in considering an application for a premises licence, and each application will be considered on its merits without regard to demand. Moral objections to gambling will not be a reason to reject an application for premises licences.

Each application will be considered on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. **If an applicant for a premises licence can show how concerns about the licensing objectives can be overcome, that will be taken into account when reaching a decision on whether or not to grant a licence.**

In rejecting an application, NFDC will rely on reasons that demonstrate that the licensing objectives are not being met.

The licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as 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 authority's statement of licensing policy.

Responsible Authorities

When dealing with applications for and review of premises licences, NFDC is obliged to consider representations from two categories of persons, referred to as '**responsible authorities**' and '**interested parties**'. (It should be noted that these are defined differently to those defined in the LA2003). Representations made by persons other than responsible authorities or interested parties will be inadmissible.

NFDC will only consider representations that are relevant, which are likely to be those that relate to the licensing objectives, or that raise issues issued under this policy statement, or the Commission's guidance or codes of practice (i.e. those matters mentioned in Section 153 of the Act).

NFDC will examine closely all representations to ensure that they are not frivolous or vexatious, which will include:

- Who is making the representation, and whether there is a history of making representations that are not relevant;
- Whether it raises a 'relevant' issue; or
- Whether it raises issues specifically to do with the premises that are the subject of the application.

Responsible Authorities are public bodies that must be notified of applications by the applicant. The full list and contact details are contained on the NFDC website or can be provided by Licensing Services upon request.

NFDC is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act, to designate in writing a body which is competent to advise the Authority about the protection of children from harm.

The principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this Authority designated the Local Safeguarding Children Board for this purpose.

The contact details of all Responsible Authorities under the Gambling Act 2005 are available via the Council's website at: www.nfdc.gov.uk

Interested Parties

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

“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 applications 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 paragraph (a) or (b).”

The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the GA2005 to determine whether a person is an interested party. The principles are:

Each case will be determined upon its individual merits. This Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities. It will also consider the Gambling Commission’s Guidance that “has business interests” should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and Members of Parliament. No specific evidence of being asked to represent an interested person will be required as long as the councillor or MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this Authority will generally require written evidence that a person/body represents someone who either lives sufficiently close or has a business interest to the premises to be likely affected by the authorised activities. A letter from one of these parties requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken to ensure that the councillor is not part of the Licensing Committee dealing with the licence application. If there are any doubts please contact the licensing department; licensing@ngfc.gov.uk

Exchange of Information

NFDC is required to include in their policy statement the principles to be applied by the Authority in exercising the functions under Section 29 and Section 30 of the Act, with respect to the exchange of information between it and the Gambling Commission and the functions under Section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

The principle that this licensing authority applies is that it will act in accordance with the provisions of the GA2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the GA2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

Compliance and Enforcement

Licensing authorities are required by regulation under the GA2005 to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

This Licensing Authority's principles are that it will be guided by the Gambling Commission's guidance to licensing authorities and will endeavour 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; and
- Targeted – regulation should be focused on the problem, and minimise side effects.

As per the Gambling Commission's guidance to licensing authorities, this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

This Licensing Authority has adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission, in particular at Part 36;
- The principles set out in this statement of licensing policy.

The main enforcement and compliance role for this Licensing Authority in terms of the GA2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for personal and operating licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

This Licensing Authority also keeps itself informed of developments as regard the work of the Better Regulation Executives in its consideration of the regulatory functions of Local Authorities.

New Forest District Council Functions

Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing **Premises Licences**;
- Issue **Provisional Statements**;
- Regulate members clubs who wish to undertake certain gaming activities via the issue of **Club Gaming Permits** and/or **Club Machine Permits**;
- Issue **Club Machine Permits** to commercial clubs;
- Grant permits for the use of certain lower stake gaming machines at **unlicensed Family Entertainment Centres**;
- Receive **notifications** from alcohol licensed premises (LA2003) for the use of one or two **gaming machines**;
- Issue **Gaming Machine Permits** for alcohol licensed premises (LA2003) where there are more than two gaming machines;
- Register **Small Society Lotteries** below prescribed thresholds;
- Issue **Prize Gaming Permits**;
- Receive and endorse **Temporary Use Notices**;
- Receive **Occasional Use Notices**;
- Provide information to the Gambling Commission regarding details of licences issued;
- Maintain registers of the permits and licences that are issued under these functions.

It should be noted that licensing authorities are not involved in licensing remote gambling which is regulated by the Gambling Commission, via operating licences.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

General Principles

Premises licences are subject to the requirements set out in the GA2005 and the accompanying regulations, as well as specific mandatory and default conditions issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others where it is believed to be appropriate.

Decision Making

This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far 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 Authorities policy statement.

It is appreciated that as per the Gambling Commission's guidance 'moral objections to gambling are not a valid reason to reject applications for premises licences' (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority.

Definition of 'premises' – in the Act 'premises' is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences where appropriate safeguards are in place. Licensing authorities should however pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

The Gambling Commission's guidance to Licensing Authorities states that: "In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean 32 High Street cannot be the subject of separate premises licences for a basement and ground floor. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and licensing services. However, the Commission does not consider that areas of a building that are artificially separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

This Licensing Authority will consider these and other relevant factors in making its decision depending on all the circumstances of the case.

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

Planning – The Gambling Commission guidance states: ‘In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal’.

This Licensing Authority will not take into account irrelevant matters as per the above. In addition this authority notes the following guidance: ‘When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 GA2005 prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building’.

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

When dealing with a premises licence application for finished buildings, this Licensing Authority will not take into account whether those buildings have to comply with the necessary planning or building consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

Licensing Objectives – Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission’s Guidance and makes further comment below.

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – this licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider relevant factors so as to make that distinction.

- **Ensuring that gambling is conducted in a fair and open way** – this licensing authority notes that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with this objective as it will be addressed via operating and personal licences. There is however more of a role for authorities with tracks, which is explained in more detail later.
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling** – this licensing authority notes the guidance that this objective means preventing children from taking part in gambling, as well as restriction of advertising so that gambling products are not aimed at or is particularly attractive to children. This licensing authority will therefore consider whether specific measures are required at particular premises, as suggested in the guidance and the Gambling Commission Codes of Practice.

It is noted that the Gambling Commission does not seek to offer a definition of the term ‘vulnerable persons’ but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who are gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

Conditions – 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;
- Fairly and reasonably related to the scale and type of premises; and
- Reasonable in all other respects.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under certain the licence types as detailed later. Likewise this licensing authority would expect licence applicant’s to offer their own suggestions for measures that would uphold the licensing objectives.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling area frequented by children; and the supervision of gaming machines.

This authority will also ensure that where category C or above machines is on offer in premises to which children are admitted:

- All such machines are located in an area of the premises which is separated;
- Only adults are admitted to the area where these machines are located;
- Access to the area where the machines are located is supervised;

- The area where these machines are located is arranged so that it can be observed by staff or the licence holder;
- At the entrances to and inside any such areas there are prominently displayed notices indicating that the area is prohibited to persons less than 18 years of age.

These considerations will apply to premises including building where multiple premises licence is applicable.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specific area of the track. As per the guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the licensing authority cannot attach to premises licences, these are:

- Any condition on the premises licence which makes it impossible to comply with as 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 for casino and bingo premises; and
- Conditions in relation to stakes, fees, winning or prizes.

Door Supervisors – the Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access, then it may require that the entrances to the premises are controlled by a door supervisor and is entitled to impose a premises licence condition to this effect.

Where it is decided that the supervision of entrances and/or gambling machine areas is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be made. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary as per the guidance.

Adult Gaming Centres

The Gambling Commission's relevant access provisions for this premises type states:

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

Also this licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises:-

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

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

Betting Premises

The Gambling Commission's relevant access provisions for this premises type states:

- Access must be from a street or from another premises with a betting premises licence;
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a cafe – the whole area would have to be licensed.

Also this licensing authority will, as per the guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of machines by children and young persons or by vulnerable people, when considering the number, nature or circumstances of betting machines an operator wants to offer.

Bingo Premises

The Gambling Commission's relevant access provisions for this premises type states:

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

Also this licensing authority notes the guidance which states:

- Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence.
- The unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted but that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.
- Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young are allowed.

Casinos

The Gambling Commission's relevant access provisions for this premises type states:

- The principle access entrance to the premises must be from a street;
- No entrance to a casino must be from premises that are used wholly or mainly by children or young person's;
- No customer must be able to enter a casino directly from any other premises which hold a gambling premises licence.

Also this licensing authority has not passed a '**no casino**' resolution under section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

Family Entertainment Centres (licensed):

The Gambling Commission's relevant access provisions for this premises type states:

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

Also this licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 years olds do not have access to the adult only gaming machine areas.

This licensing authority may consider measures to meet the licensing objectives such as:-

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

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

This licensing authority will, as per the guidance, refer to the Gambling Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated.

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

Tracks

The Gambling Commission's relevant access provisions for this premises type states:

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

Also this licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the guidance, this licensing authority will especially consider the impact upon the protection of children and vulnerable persons from being harmed or exploited licensing objectives 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.

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young person's will be permitted to enter track areas where facilities for betting are provided on days when dog racing or horse racing takes place, but that they are still prevented from entering areas where gaming machines are provided other than category D.

This licensing authority may consider measures to meet the licensing objectives such as:-

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

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

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

This licensing authority will, as per the guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people, when considering the number, nature or circumstances of betting machines an operator proposes to offer.

Applications and Plans

The Gambling Act requires applicants to submit plans of the premises with their application in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to undertake future premises inspection activity.

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such circumstances where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with detailing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the 'five times rule' (betting rings) must be indicated on the plan.

Provisional Statements

The guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

In deciding whether a premises licence can be granted where there is outstanding construction or alteration works at premises, this authority will determine applications on their merits, applying a two stage consideration process:

- First, whether the premises ought to be permitted to be used for gambling;
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

Section 204 GA2005 provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that they:

- Expects to be constructed;
- Expects to be altered; or
- Expects to acquire a right to occupy.

The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track application) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about 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 authority may refuse the premises licence, or grant it on terms different to those attached to the provisional statement, only by reference to matters:

- Which could not have been raised by objectors at the provisional statement stage;
- Which in the authority's opinion reflect a change in the operator's circumstances; or
- Where the premises have not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

Reviews

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

- In accordance with any relevant Code of Practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with the authority's statement of principles policy.

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

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

Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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

- Add, remove or amend a licence condition imposed by the licensing authority;
- Exclude a default condition imposed by the Secretary of State, or remove or amend such an exclusion;
- Suspend the premises licence for a period not exceeding three months; or
- Revoke the premises licence.

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

In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed the licensing authority must, as soon as possible, notify its decision to:-

- The licence holder
- The applicant for review
- The Gambling Commission
- Any Responsible Authority who made representations
- Any Interested Party who made representations
- The Chief Officer of Police
- Her Majesty's Commissioners for Revenue and Customs

PART C

Permits & Notices

(Unlicensed) Family Entertainment Centre – gaming machine permits

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit (uFEC). It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use, (section 238 GA2005).

In accordance with the guidance; an application for a permit may only be granted if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. Licensing authorities may consider applicants to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs;
- That the applicant has no relevant convictions, those set out in Schedule 7 of the Act; and
- That staff are trained to have a full understanding of the maximum stakes and prizes.

It should be noted that a licensing authority cannot attach conditions to this type of permit.

Also, this licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures, such as staff training, regarding suspected truant school children on the premises or dealing with unsupervised young children on the premises.

This licensing authority will also expect, as per the guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs; that the applicant has no relevant convictions and that staff are trained to have a full understanding of the maximum stakes and prizes.

Licensed Premises (alcohol) – gaming machine permits

Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of category C and/or D. The premises merely need to notify the licensing authority.

The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonable consistent with the pursuit of the licensing objectives;
- Gaming has taken place on the premises that breaches a condition of section 282 of the Act;
- The premises are mainly used for gaming; or
- An offence under the GA2005 has been committed on the premises.

Permit: 3 or more gaming machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit. The licensing authority must consider that application based upon the licensing objectives, the guidance and such matters as they think relevant. This may include consultation with Responsible Authorities and submission of plans of the premises showing the location of machines.

This licensing authority considers that such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets and helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely be applied for and dealt with as an Adult Gaming or Family Entertainment Centre premises licence, dependant on the suitability of the premises or category of gaming machine requested.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and or a different category of machines than that applied for. Conditions other than these cannot be attached.

It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of gaming machines.

Prize Gaming Permits

This licensing authority expects the applicant for a prize gaming permit to set out the types of gaming that they are intending to offer and that the applicant should be able to demonstrate the following matters:

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

In making its decision on an application for this permit the licensing authority does not need to, but may, have regard to the licensing objectives but must have regard to the guidance.

It should be noted that there are conditions in the GA2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions.

The conditions in the Act are:

- The limits on participation fees, as set out in regulations, must be complied with;
- All chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day;
- The game must be played and completed on the day the chances are allocated;
- 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 a non-monetary prize); and
- Participation in the gaming must not entitle the player to take part in any other gambling.

Club Gaming and Club Machine Permits

Members clubs may apply for a Club Gaming Permit or a Club Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

The guidance states that licensing authorities may only refuse an application for a club permit on the grounds that:

- The applicant does not fulfil the requirements for a members or commercial club and therefore not entitled to receive this type of permit;
- The applicant's premises are used wholly or mainly by children or young person's;
- An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- A permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the Gambling Commission or the Police.

There is a 'fast-track' procedure available under the Act 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 Police, and the grounds upon which an authority can refuse a permit are reduced. The grounds on which an application under this process may be refused are:

- That the club is established primarily for gaming, other than gaming prescribed by regulation under section 266 of the Act;
- That in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- That a club permit issued to the applicant in the last 10 years has been cancelled.

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

NOTICES

Temporary Use Notices (TUN):

TUN allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for TUN, according to the guidance, would include hotels, conference centres and sporting venues.

The licensing authority can only grant a TUN to a person or company holding a relevant operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by TUN, (i.e. SI no 3157), which only permit the provision of facilities for equal chance gaming where the gaming is intended to produce a single winner such as a poker tournament.

There are a number of statutory limits as regards TUN. The meaning of 'premises' will be a question of fact in the particular circumstances of each notice that is given. In considering whether 'any place' falls within the definition, the licensing authority needs to look at, amongst other things, the ownership or occupation and control of the premises.

This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the guidance.

Occasional Use Notices (OUN):

The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days per calendar year is not exceeded. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to give notice.

MISCELLANEOUS

Travelling Fairs

This licensing authority is responsible for deciding whether, where category D machines and or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

Rights of Appeal and Judicial Review

NFDC is aware that its decisions may be subject to an appeal in accordance with the provisions of the Act and Judicial Review. It also recognises that failure to give reasons for a decision may compel a person to appeal. NFDC will:

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

An appeal has to be commenced by the giving of a notice of appeal by the appellant to the local Magistrate Court within a period of 21 days beginning with the day on which the appellant was notified by NFDC of the decision to be appealed against.

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

Gambling Act 2005 - Premises Licence Fees

Premises Type	Transitional Fast-Track Application	Transitional Non-Fast Track Application	New Application	Annual Fee
	£	£	£	£
Existing Casinos	n/a	n/a	n/a	n/a
New Small Casino	n/a	n/a	tba	tba
New Large Casino	n/a	n/a	tba	tba
Regional Casino	n/a	n/a	tba	tba
Bingo Club	150	875	1750	500
Betting Premises (excluding Tracks)	150	750	1500	300
Tracks	150	625	1250	500
Family Entertainment Centres	120	400	800	300
Adult Gaming Centre	120	400	800	400

	Application to Vary	Application to Transfer	Application for Re-Instatement	Application for Provisional Statement	Licence Application (provisional Statement holders)	Copy Licence	Notification of Change
	£	£	£	£	£	£	£
Existing Casinos	n/a	n/a	n/a	n/a	n/a	n/a	n/a
New Small Casino	tba	tba	tba	tba	tba	25	50
New large Casino	tba	tba	tba	tba	tba	25	50
Regional Casino	tba	tba	tba	tba	tba	25	50
Bingo Club	875	600	1200	3500	600	25	50
Betting Premises (excluding Tracks)	750	600	600	1500	600	25	50
Tracks	625	475	475	1250	475	25	50
Family Entertainment Centres	400	380	380	800	380	25	50
Adult Gaming Centres	400	480	480	800	480	25	50

Permits – These fees are set by the Secretary of State and the licensing authority has no discretion to change them.

Fee Type Permit Type	Application fee	Annual fee	Renewal fee
	£	£	£
FEC Gaming Machine	300	N/A	300 10 years
Prize Gaming	300	N/A	300 10 years
Alcohol Licences Premises – Notification of 2 or less machines (If Premises Licence Holder changes a new notice is required)	50	N/A	N/A
Alcohol Licences Premises – More than 2 machines	150	50	N/A
Club Gaming Permit	200	50	200 10 years
Club Gaming Machine Permit	200	50	200 10 years
Club Fast-track for Gaming Permit or Gaming Machine Permit	100	50	100 10 years
Small Society Lottery Registration	40	20	N/A
Temporary Use Notice	500	N/A	N/A

Permit - Miscellaneous Fees

	Change of Name £	Copy of Permit £	Variation £	Transfer £
FEC Permits	25	15	N/A	N/A
Prize Gaming Permits	25	15	N/A	N/A
Alcohol Licences Premises – Notification of 2 or less machines	N/A	N/A	N/A	N/A
Alcohol Licences Premises – More than 2 machines	25	15	100	25
Club Gaming Permit	N/A	15	100	N/A
Club Gaming Machine Permit	N/A	15	100	N/A

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