

# NOTICE OF MEETING

**Meeting:** GENERAL PURPOSES AND LICENSING COMMITTEE

**Date and Time:** FRIDAY, 14 JUNE 2019, AT 9.30 AM\*

**Place:** COUNCIL CHAMBER, APPLETREE COURT,  
LYNDHURST

**Telephone enquiries to:** Lyndhurst (023) 8028 5000  
023 8028 5588 - ask for Andy Rogers  
Email: [andy.rogers@nfdc.gov.uk](mailto:andy.rogers@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 Committee'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

Appletree Court, Lyndhurst, Hampshire. SO43 7PA  
[www.newforest.gov.uk](http://www.newforest.gov.uk)

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

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## AGENDA

### Apologies

#### 1. MINUTES

To confirm the minutes of the meeting held on 25 February and 20 May 2019 as correct records.

#### 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. GAMBLING ACT POLICY - REVIEW (Pages 1 - 46)**

To consider a review of the Council's Gambling Policy.

**5. SAFEGUARDING TRAINING FOR TAXI DRIVERS (Pages 47 - 50)**

To note arrangements for safeguarding training for taxi drivers.

**6. LICENSING PROCEDURE AND CHECKLIST (Pages 51 - 58)**

To consider a proposed revision to the procedure for Licensing Hearings.

**7. POLLING DISTRICTS AND PLACES REVIEW**

The Council is required to complete a review of the polling districts and polling places within the District by the end of 2019. Following discussions with the Chairman, it is proposed to set up a Working Party of five members to consider the issues involved and to make recommendations to this Committee. Local members would be invited to attend when issues concerning their wards are discussed. Views of parish and town councils, together with those of disability groups, will also be sought.

The Committee is asked to appoint the Working Party, with the following terms of reference:

"To oversee the review of the polling districts and polling places in the New Forest District under Section 17 of the Electoral Registration and Administration Act 2013, and to make recommendations to the General Purposes and Licensing Committee".

**8. ANY OTHER ITEMS WHICH THE CHAIRMAN DECIDES ARE URGENT**

To: **Councillors**

Steve Clarke (Chairman)  
Neil Tungate (Vice-Chairman)  
Ann Bellows  
Geoffrey Blunden  
Rebecca Clark  
Keith Craze  
Jack Davies  
Steve Davies

**Councillors**

Arthur Davis  
Barry Dunning  
David Harrison  
David Hawkins  
Alvin Reid  
Joe Reilly  
John Ward

## GENERAL PURPOSES AND LICENSING COMMITTEE – 14 JUNE 2019

### GAMBLING POLICY – REVISION AND CONSULTATION

#### 1.0 INTRODUCTION

- 1.1 The purpose of this report is to provide background information concerning the new proposed Statement of Gambling Principles and inform the Committee that these Gambling Principles are currently out for consultation until 26 July 2019.
- 1.2 The General Purposes and Licensing Committee will be informed of the comments received at the meeting in September 2019 and will be required to consider recommending the finalised Statement of Gambling Principles to Full Council for adoption.

#### 2.0 BACKGROUND

- 2.1 The New Forest District Council is the Licensing Authority, and is required to discharge its responsibilities in relation to the Gambling Act 2005.
- 2.2 It is a statutory requirement that the Statement of Gambling Principles must be approved by Council as this is not a function that can be delegated to the General Purposes and Licensing Committee.
- 2.3 The licensing objectives which underpin the Gambling Act are;
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way;
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.4 The Statement of Gambling Principles outlines the Authority's policy in respect of granting licences, permits and registrations issued under the Gambling Act 2005 in order to promote the licensing objectives.
- 2.5 The policy is to be reviewed every three years, to ensure that it remains current and reflects any changes in legislation or statutory guidance and is subject to a consultation process.
- 2.6 In reviewing the Statement of Gambling Principles, Officers have revised the format and content to reflect the latest guidance issued to licensing authorities by the Gambling Commission.

#### 3.0 CONSULTATION

- 3.1 Before amending the Statement, the Council is required to consult the police, persons representing gambling businesses and persons representing the interests of people likely to be affected by gambling.

- 3.2 This extensive consultation process was commenced on 7 May 2019 following discussion with the Chair of the General Purposes and Licensing Committee, in order to seek the views of those affected by the Council exercising its functions under the Gambling Act 2005.
- 3.3 The Licensing Authority will consider all comments received except those based on a dislike of gambling, moral objections or comments on the demand or need for gambling premises in the district, as precluded by the Act.
- 3.4 All details of the consultation and the revised Draft Policy are published on the New Forest District Council website and are attached as Appendix 1.
- 3.5 The consultation runs from 7 May to 26 July 2019.

#### **4.0 CONCLUSION**

- 4.1 It is a statutory requirement that the Licensing Authority review and revise the Statement of Gambling Principles.
- 4.2 The comments following the consultation and the revised Statement of Gambling Principles will be taken to the General Purposes and Licensing Committee in September for consideration.

#### **5.0 FINANCIAL IMPLICATIONS**

- 5.1 There are no additional financial implications of the proposals contained within this report.

#### **6.0 ENVIRONMENTAL IMPLICATIONS**

- 6.1 There is minimal environmental impact of these proposals.

#### **7.0 CRIME AND DISORDER IMPLICATIONS**

- 7.1 Where applicable the Gambling Act Policy will cover the approach taken by the Council to consider crime and disorder concerns.

#### **8.0 EQUALITY & DIVERSITY IMPLICATIONS**

- 8.1 Where applicable the Gambling Act Policy will cover the approach taken by the Council to address equality and diversity matters.

#### **9.0 RECOMMENDATIONS**

- 9.1 That the Committee notes the content of the draft revised Statement of Gambling Principles and that the document is currently out for consultation until 26 July 2019.

- 9.2 That the Committee note that at the meeting in September 2019, it will be required to consider commending for approval the finalised Statement of Gambling Policy to Full Council.

**Environmental and Regulation Service**

Service Manager – Joanne McClay

**Report Author:**

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**Background Papers:**

Statutory Guidance issued under s25 of the Gambling Act 2005 (5<sup>th</sup> Edition)

The Gambling Act 2005

**Appendices:**

1.NFDC Draft Statement of Principles (Draft Gambling Policy)

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GAMBLING ACT 2005

# **Statement of gambling principles DRAFT**

**2019-2021**





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# 1. Executive summary

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**The Gambling Act 2005 ('the Act') received Royal Assent in 2005 and came fully into effect in 2007.**

Under Section 349 of the Act, every three years, New Forest District Council ('the Licensing Authority') is required to prepare a statement of principles that they propose to apply in exercising their functions under the Act. This Statement of Gambling Principles ('the Policy') is prepared in accordance with this requirement. This Policy will replace all previous versions of the statement of principles.

The consultation process is laid out clearly in the Act, the Gambling Act 2005 (Authority Policy Statement) (England and Wales) Regulations 2006 and the Guidance to Licensing Authorities ('the Guidance') issued by the Gambling Commission ([gamblingcommission.gov.uk](http://gamblingcommission.gov.uk))

Any decision taken by the Licensing Authority in regard to determination of licences, permits and registrations should aim to permit the use of premises for gambling in so far as it is reasonably consistent with the licensing objectives.

The principles to be applied specifically to the determination of premises licence applications include the definition of premises, location, duplication of other regulatory regimes, conditions, door supervision, layout of premises and supervision of gaming facilities. The Policy specifically mentions adult gaming centres, family entertainment centres, casinos, bingo premises, betting premises, tracks and travelling fairs.

The Licensing Authority is able to issue permits for prize gaming and unlicensed family entertainment centres. The Licensing Authority is able to specify the information it requires as part of the application process which will aid determination and this information is described in the policy.

Club gaming and club machine permits are also issued by the Licensing Authority. The process for this is described along with other processes specified in the Act, for example, temporary use notices, occasional use notices and small society lotteries.

Enforcement of the provisions of the Act is undertaken by the Licensing Authority in conjunction with the Gambling Commission. The Policy describes the Licensing Authority's enforcement principles and the principles underpinning the right of review.

## 2. New Forest District

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**The New Forest District area is in the south west of Hampshire and is bounded by the Solent water. It is situated between Southampton to the east and Christchurch 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 13.5 million visitors come to the area. Many people visit on a regular basis to enjoy the forest area.

There are currently 14 Licensed Gambling Premises in the New Forest comprising 12 betting shops and 2 adult gaming centres. There are currently no bingo halls, tracks or casinos within the New Forest area.

The Licensing Authority has also granted over one hundred small society lottery permits to charitable organisations that organise fundraising raffles and events for the benefit of the community of the New Forest.

The Licensing Authority recognises that legal gambling in a fair and open way, with suitable protection for vulnerable persons, is an important part of the area and contributes to the local economy.

Appendix A (on page 39) provides a map of the area.

## 3. Background

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**The Act provides the regime for the licensing and regulation of commercial gambling in the UK. It is intended to regulate the provisions for gambling and the use of premises for gambling.**

The Act defines three types of gambling;

- Gaming
- Betting, and
- Participating in a lottery.

A variety of licences and permits allow for these gambling activities to take place.

The task of granting the licences and permits is shared between the Gambling Commission and Licensing Authorities. The Gambling Commission approves operating and personal licences and Licensing Authorities issue premises licences and other permissions.

### 3.1 - Statement of licensing principles

The Act requires the Licensing Authority to publish and consult on its statement of licensing principles and revisions to it.

In reviewing the statement of principles, all necessary bodies and stakeholders were consulted including;

- The Chief Officer of Police for Hampshire;
- The Fire Authority;
- Representatives of businesses and residents in the district;
- Representatives of persons representing the interests of persons carrying on gambling businesses in the district;
- Community Safety Partnership;
- Representatives of child welfare groups;
- Town and Parish Councils;
- Gambling industry organisations and associations;
- Gambler support organisations; and
- Faith groups.

In determining the weight to give to particular representations on the statement, the factors taken into account included:

- The expertise and interest of the person making the representation;
- The relevance of factors to the licensing objectives;
- Their motivation and number of similar view and
- How the representations relate to matters for the Licensing Authority to include in the statement.

The statement of principles does not override the right of the appropriate persons to make an application, make representations about an application or apply for a review of a licence, in accordance with the statutory requirements of the Act.

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.

### **3.2 - The licensing framework**

The Act brought about changes to the way that gambling is administered in the UK. The Gambling Commission is the national gambling regulator and has a lead role in working with central government and local authorities to regulate activity.

The Gambling Commission issues operator and personal licences. Any operator wishing to provide gambling at a certain premises must have applied for the requisite personal licence and operator licence before they can approach the Licensing Authority for a premises licence. In this way the Gambling Commission is able to screen applicants and organisations to ensure they have the correct credentials to operate gambling premises.

The Licensing Authority's role is to ensure premises are suitable for providing gambling in line with the three licensing objectives and codes of practice issued by the Gambling Commission. The Licensing Authority also issues various permits and notices to regulate smaller scale and/or ad hoc gambling in various locations such as pubs, clubs and hotels.

The Licensing Authority does not licence large society lotteries or remote gambling through websites. These areas fall to the Gambling Commission. The national lottery is not licensed under the Act but is regulated by the Gambling Commission under the National Lottery Act 1993.

### **3.3 - Licensing objectives**

In exercising functions under the Act, the Licensing Authority will have regard to the licensing objectives set out in section 1 of the Act.

The licensing objectives are :

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

There is an expectation that gambling operators work together with the Licensing Authority to ensure compliance with the licensing objectives.

The Licensing Authority is aware that in making decisions in accordance with the Act 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 this Policy.

### **3.4 - Licensing Authority functions**

The functions under the Act will be carried out by the General Purposes and Licensing Committee, and officers acting under the delegated authority of New Forest District Council.

Licensing Authorities are responsible for :

- The licensing of premises where gambling activities take place by issuing premises licences,
- Issuing of Provisional Statements in relation to future premises,
- Issuing Club Gaming Permits and/or Club Machine Permits to members clubs and miners welfare institutions who may wish to undertake certain gaming activities Issuing Club Machine Permits to Commercial Clubs,
- Granting Permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres,
- Receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of not more than two gaming machines,
- Granting Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the premises where two or more machines are required,
- Registering small society lotteries,
- Issuing Prize Gaming Permits,
- Receiving and endorsing Temporary Use Notices,
- Receiving Occasional Use Notices,
- Providing information to the Gambling Commission regarding details of licences issued,
- Maintaining registers of the permits and licences that are issued under these functions.

### 3.5 - Delegated powers

The General Purposes and Licensing (GP&L) Committee is responsible for discharging the majority of the powers of the Licensing Authority.

Through the Licensing Authority's scheme of delegation of powers, officers will also be responsible for making certain decisions in accordance with the Act. For the full table of delegated powers see Appendix C.

### 3.6 - Representations

Only Responsible Authorities and Interested Parties can make representations about licence applications, or apply for a review of an existing licence.

### 3.7 - Responsible Authorities

The Act empowers certain agencies to act as responsible authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Responsible authorities are able to make representations about licence applications, or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants.

A Responsible Authority is defined in the Act as:

- A Licensing Authority in England and Wales in whose area the premises are wholly or partly situated;
- The Gambling Commission;
- The Chief Officer of Police for the police area in which the premises are wholly or partly situated;
- The Fire and Rescue Authority for an area in which the premises are wholly or partly situated;
- The local planning authority;
- An Authority which has functions by virtue of an enactment in respect of minimising or preventing the risk of pollution of the environment or of harm to human health in an area where the premises is wholly or partly situated;
- A body which is designated in writing for by the Licensing Authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm;
- HM Revenue and Customs (HMRC)

Responsible Authorities will be notified of all premises licence applications by the applicant, unless the application is received electronically by the Licensing Authority. Electronic applications will be forwarded to the Responsible Authorities by the Licensing Authority.

The contact details of all the Responsible Authorities for this Licensing Authority can be found at Appendix B of this Policy.

### 3.8 - Interested Parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence.

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, 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 either of the above.

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

- Each case will be determined upon its individual merits. This Licensing Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the guidance. It will also take into account the Guidance requirement 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 (‘MP’). 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 Licensing Authority will generally require written evidence that a person/body represents someone who either lives sufficiently close to the premises to be or has a business interest 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@nfdc.gov.uk](mailto:licensing@nfdc.gov.uk)

### 3.9 - Admissible and relevant

Representations will only be considered relevant if they relate to the licensing objectives, they raise issues under this Policy, or the Guidance or codes of practice. For example, a representation concerning public nuisance or public safety at the premises would not be considered to be relevant based on the licensing objectives but concerns over crime and disorder or the protection of children would.



### **3.10 - Frivolous or vexatious or likely to have no influence on a decision**

This Licensing Authority will determine an application without a hearing if the representations are considered to be either frivolous or vexatious or it is considered they will certainly not influence the determination of the application.

Officers will decide whether representations are frivolous, vexatious or likely to have no influence on a decision and whether representations or applications for licence reviews should be referred to the General Purposes and Licensing Committee.

In the event of this Licensing Authority considering a representation to be frivolous or vexatious or a likely to have no influence on the decision, then the person making the representation will be informed in writing with the reasons for this decision clearly stated. There is no right of appeal against a determination that representations are not admissible.

### **3.11 - Exchange of information**

The Licensing Authority is required to state the principles it will apply with respect to the exchange of information with the Gambling Commission and other persons listed within the Act.

The Licensing Authority will have regard to any guidance issued by the Gambling Commission as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

The sharing of information will also comply with the Freedom of Information Act 2000, the Data Protection Act 2018 and the General Data Protection Regulation 2018.

Where required, information sharing agreements and protocols will be entered into with the relevant persons or bodies with functions under the Act.

Details of persons making representations will be forwarded to applicants in accordance with the Local Government Act 1972 in order to allow negotiation between the parties.

If a hearing is held it should be noted by all parties that their details will form part of a public document.

The Licensing Authority will maintain a register of the premises licences issued which will be available at any reasonable time to members of the public. There may be a charge for copies of entries in the register.

## 4. Promoting the Licensing objectives

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**This Licensing Authority will have regard to the licensing objectives as set out in the Act when exercising its functions. The licensing objectives are;**

**i) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**

The Gambling Commission will take the lead role in the prevention of gambling from being a source of crime and are responsible for ensuring the suitability of an operator before issuing an operating licence.

If this Licensing Authority becomes aware of any information whilst carrying out its functions which casts doubt over the appropriateness of the applicant or licensee it will ensure that this information is shared with the Gambling Commission.

The Guidance does however envisage that the Licensing Authority should pay attention to the proposed location of gambling premises in terms of this licensing objective. Where an area has known high levels of organised crime this Licensing Authority will consider carefully whether the location and the proposed gambling premises is suitable 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 factors such as if police assistance has been required at any time and the level of the threatening behaviour.

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

This Licensing Authority places a considerable importance on the prevention of crime and disorder and will encourage applicants to discuss crime prevention procedures in their premises before making a formal application.

**ii) Ensuring that Gambling is conducted in a fair and open way**

This Licensing Authority has noted that the Gambling Commission states it would not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is, however, more of a role with regard to tracks which is explained in more detail in the 'Tracks' section.

The Gambling Commission is primarily responsible for ensuring that not only is gambling fair in the way it is played, but also that the rules are transparent to players and they know what to expect. It achieves this by working to ensure:-

- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry,
- easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted,
- the rules are fair,
- advertising is not misleading,

- the results of events and competitions on which commercial gambling takes place are public; and
- machines, equipment and software used to produce the outcome of games meet standards set by the Commission and operate as advertised.

If this Licensing Authority suspected that a gambling activity in the New Forest area was not being conducted in a fair and open way, the information would be brought to the attention of the Gambling Commission.

### **iii) Protecting children and other vulnerable persons from being harmed or exploited by gambling**

The Act is intended to ensure that children and vulnerable persons should not be allowed to gamble, should be prohibited from entering those premises which are adult only environments and there should be a restriction on advertising so that gambling products are not aimed at, nor are particularly attractive, to children.

The Licensing Authority will, therefore, consider, as suggested in the Guidance, whether specific measures are required at particular premises with regard to this licensing objective. Appropriate measures may include supervision of entrances, machines, segregation of areas etc.

This Licensing Authority is required to state the principles it will apply in exercising its powers to designate, in writing, a body which is competent to advise the Licensing Authority about the protection of children from harm.

This Licensing Authority will consult with the local Safeguarding Manager and the Community Safety Partnership on any application that indicates there may be concerns over access for children or vulnerable persons.

It is noted that the Gambling Commission does not offer a definition for the term “vulnerable persons” but states that “it will for the regulatory purposes assume that this group included people who gamble more than they want to; people who gamble beyond their means and people who may not be able to make informed or balanced decisions about gambling due to for example mental health, learning disability or substance misuse relating to alcohol or drugs”.

This Licensing Authority will consider on a case by case basis whether any further unique considerations are required in relation to protecting vulnerable persons at a particular premises. These will be balanced against the aim to permit the use of premises for gambling.

## 5. Premises Licences

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### 5.0 - General principles

The Licensing Authority will issue premises licences to allow those premises to be used for certain types of gambling. Premises Licences are subject to requirements set out in the Act, the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007, the Gambling Commission Licence Conditions and Codes of Practice and Gambling Commission Guidance. Specific mandatory and default conditions must be applied to Premises Licences. This Licensing Authority may exclude default conditions and also attach others, where it believes it to be necessary and proportionate.

Applicants should also be aware that the Gambling Commission has issued Codes of Practice for each interest area, for which they must have regard.

### 5.2 - Definition of premises

In the Act 'premises' is defined as including "any place". Section 152 of the Act, therefore, prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences where appropriate safeguards are in place. 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 Guidance 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 on whether to issue a premises licence depending on all the circumstances of the case.

## 5.3 - Premises “ready for gambling”

### 5.3.1- The Guidance

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, if the premises needs 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.

### 5.3.2 - Provisional statements

In deciding whether a premises licence can be granted, where there is outstanding construction or alteration works at premises, this Licensing 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; and
- Secondly, 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 Licensing 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 Licensing 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.

Section 204 of the Act provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that they:

- Expect to be constructed;
- Expect to be altered; or
- Expect 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 then be constrained in the matters it can consider when determining the premises licence application in relation to the same premises. No further representations from relevant authorities or interested parties can be taken into account unless:

- They concern matters which could not have been addressed at the provisional statement stage, or
- They reflect a change in the applicant's circumstances.

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

- Which could not have been raised by 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.

#### **5.4 - Location of premises**

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 Guidance, this Licensing 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.

The Licensing Authority is also aware that "moral" objections to gambling cannot be taken into consideration in the determination of a premises licence.

#### **5.5 - Local risk assessments**

From 6 April 2016, it has been a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Part II, provision 10, for licensees (except for those which hold betting licences for tracks) to assess the local risks to the licensing objectives posed by the provision of gambling facilities at their premises. They are required to have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in this Policy.

Licensees must review (and update as necessary) their local risk assessments:

- a) to take account of significant changes in local circumstance, including those identified in this policy;
- b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;

- c) when applying for a variation of a premises licence; and
- d) in any case, undertake a local risk assessment when applying for a new premises licence.

The Licensing Authority will expect the local risk assessment to consider the setting including:

- The proximity of the premises to schools.
- The commercial environment.
- Factors affecting the footfall.
- Whether the premises is in an area of deprivation.
- Whether the premises is in an area subject to high levels of crime and/or disorder.
- The ethnic profile of residents in the area.
- The demographics of the area in relation to vulnerable groups.
- The location of services for children such as schools, playgrounds, toy shops, leisure centres and other areas where children will gather.
- The range of facilities in the local area such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities.
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activity, etc.
- The proximity of churches, mosques, temples or any other place of worship.

The local risk assessment should show how vulnerable people, including people with gambling dependencies, are protected through:

- The training of staff in brief intervention when customers show signs of excessive gambling, the ability of staff to offer brief intervention and how the manning of premises affects this.
- Information held by the licensee regarding self-exclusions and incidences of underage gambling.
- Arrangements in place for local exchange of anonymised information regarding self-exclusion and gaming trends.
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments.
- Arrangements for monitoring and dealing with under age people and vulnerable people, which may include:
  - dedicated and trained personnel,
  - leaflets and posters,
  - self-exclusion schemes,



- Window displays and advertisements designed to not entice children and vulnerable people. The provision of signage and documents relating to game rules, gambling care providers and other relevant information be provided in both English and the other prominent first language for that locality.
- An assessment of the proximity of premises that may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctors' surgeries, council community hubs, addiction clinics or help centres and places where alcohol or drug dependent people may congregate.

The local risk assessment should show how children are to be protected through an assessment of:

- The proximity of institutions, places or areas where children and young people frequent such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling alleys, cinemas, etc.
- The proximity of places where children congregate such as bus stops, cafes and shops.
- Areas that are prone to issues of youths participating in anti-social behaviour, including activities such as graffiti, tagging, underage drinking etc.

Other matters that the assessment may include:

- Details as to the location and coverage of working CCTV cameras, and how the system will be monitored.
- The layout of the premises so that staff have an unobstructed view of people using the premises.
- The number of staff that will be available on the premises at any one time. If at any time that number is one, confirm the supervisory and monitoring arrangements when that person is absent from the licensed area or distracted from supervising the premises and observing those people using the premises.
- Where the application is for a betting premises licence (other than in respect of a track), the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence.

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

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

## **5.6 - Local Area Profiles**

Each locality has its own character and challenges. It is for the Licensing Authority to determine if publishing a local area profile for the district is appropriate to address any local issues. Any local profile produced would be included in this Policy or as a separate document.

Where a local area profile exists this should be referred to by applicants and licensees when making an application and producing a risk assessment. The New Forest District Council does not currently have a local area profile.



## 5.7 - Conditions

The Licensing Authority is aware of the Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 and the Gambling Commission Licence Conditions and Codes of Practice which imposes mandatory conditions that are necessary for the general good conduct of gambling premises. Therefore, it is unlikely that the Licensing Authority will need to include individual conditions imposing a more restricted regime in relation to matters that have already been dealt with.

Where there are specific risks or problems associated with a particular locality, or specific premises, or class of premises, the Licensing Authority will attach individual conditions to address this.

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 (including the locality and any identified local risk) and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises;
- reasonable in all other respects; and
- consistent with those attached to Operators' Licences.

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 perceived need, such as the use of supervisors, appropriate signage for adult only areas, etc. There are specific comments made in this regard under some of the licence types below. This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

Where certain measures are not already addressed by the mandatory/default conditions or by the applicant, the Licensing Authority may consider imposing licence conditions to cover issues such as:

- Proof of age schemes.
- CCTV.
- Supervision of entrances.
- Supervision of machine areas.
- A reduction in the number of betting machines (betting premises).
- The manning of premises.
- Physical separation of areas.
- Location of entrance points.
- Notices/signage.
- Specific opening hours.

- A requirement that children must be accompanied by an adult (in premises where children are allowed).
- Enhanced Disclosing Barring Service checks of the applicant and/or staff.
- Staff training in brief intervention, conflict resolution, basic knowledge of mental health, learning disabilities and addiction, including substance misuse.
- Support to people with gambling addiction, including brief intervention.
- Policies to address seasonal periods where children may more frequently attempt to gain access to premises and gamble such as pre and post school hours, half term and school holidays.
- Policies to address the problems associated with truant children who may attempt to gain access to premises and gamble.
- Obscuring windows where appropriate and labelling premises so it's clear that they are gambling premises.
- Self-exclusion schemes.
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not mandatory or exhaustive and is merely indicative of examples of certain measures which may satisfy the requirements of the Licensing Authority and the Responsible Authorities, depending on the nature and location of the premises and the gambling facilities to be provided.

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 areas frequented by children; and
- the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

These matters are in accordance with the Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance but which does not impede the escape route from that or other areas;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and

- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

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. In accordance with the Guidance, this 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 which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required; and
- conditions in relation to stakes, fees, winning or prizes

## **5.8 - Types of premises**

There are a number of premises which may be licensed by the Licensing Authority. This section provides a brief overview of these premises.

### **5.8.1 - Adult Gaming Centres (AGC)**

An AGC is a gambling premises for those over the age of 18 that makes available gaming machines of Category B, C and D which pay out higher jackpots. The numbers and categories of higher jackpot machines that can be placed in adult gaming centres is prescribed.

For this Licensing Authority to accept an application for an AGC, the Operator must already hold a Gaming Machines General Operating Licence (Adult Gaming Centre) with the Gambling Commission.

The Licensing Authority will need to be satisfied that there will be sufficient measures to meet the licensing objectives and comply with all mandatory conditions and the Gambling Codes of Practice. As no one under the age of 18 is permitted to enter an AGC, this Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.

Conditions may be attached to such licences to cover, amongst other matters, issues such as:

- Proof of age schemes;
- CCTV;
- Door supervisors;
- Supervision of entrances / machine areas;

- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-barring 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.

### **5.8.2 - Family Entertainment Centres (FEC) (licensed)**

The Act puts FEC into two categories;

1. Licensed; and
2. Unlicensed.

A licensed FEC is a premises which usually provides a range of amusements such as computer games, penny pushers and may have a separate section set aside for adult only gaming machines with higher stakes and prizes.

Licensed FEC centres are permitted to provide unlimited category C and D gaming machines whereas unlicensed family entertainment centres can only provide category D machines in reliance on a gambling machine permit.

This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or from being exploited by gambling and will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

The Gambling Commission considers that it is not permissible for gaming machines which should be contained within the FEC premises to be located in corridors and walkways which form part of the larger building.

For this Licensing Authority to accept an application for an FEC, the Operator must already hold a Gaming Machine General Operating Licence (Family Entertainment Centre) with the Gambling Commission.

If category C gaming machines are made available for use on the premises of an FEC then the gaming machines must be;

- Separated from the rest of the premises by a physical barrier to prevent access other than via an entrance designed to be the entrance;
- Supervised at all times to ensure children or young persons do not enter the area; and
- Arranged so that the area can be observed by persons responsible for supervision or CCTV which is monitored.

### **5.8.3 - Casinos**

The Act states that a casino is an arrangement whereby people are given the opportunity to participate in one or more casino games. A casino game is defined as a game of chance which is not equal chance gaming.

The Licensing Authority has not passed a resolution not to issue Casino Licences under Section 166 of the Act but is aware of its power to do so.

Should, at any time, the Licensing Authority decide to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision would be made by Full Council.

### **5.8.4 - Bingo premises**

There is no official definition for bingo in the Act, however, there are two types of bingo most frequently played:

1. cash bingo; and
2. prize bingo.

The Licensing Authority acknowledges that children and young people can be allowed entry into bingo premises, however, they are not allowed to take part in bingo or use category B and C machines.

Where category B or C gaming machines are available in the premises to which children are admitted the Licensing Authority will require that;

- the category B and C gaming machines must be separated from the rest of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised at all times
- the area where the machines are located can be observed by staff
- the gaming machines area must also have a notice at the entrance stating that no person under the age of 18 years is permitted to enter the area.

### **5.8.5 - Betting premises**

The Act defines betting as the making or accepting of a bet on the outcome of a race, competition or other event or process, the likelihood of anything occurring or not occurring or whether anything is or is not true. A transaction may still be a bet despite the fact the race, competition or event has already taken place and one party to the transaction knows the outcome.

The most common form of betting is fixed odds betting whereby the customer bets a stake to win a fixed amount calculated by the odds available.

For this Licensing Authority to accept an application for a betting premises, the operator must hold the appropriate operating licence with the Gambling Commission.

This Licensing Authority expects betting premises to have particular regard to social responsibility and the protection of children and vulnerable persons from harm and to satisfy the Licensing Authority that there are sufficient measures to ensure under 18 year olds do not have access to the premises.

### 5.8.6 - Tracks

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

The Licensing Authority is aware that tracks differ greatly from other premises and may be subject to one or more Premises Licences. The track operators may not be required to hold an Operating Licence, due to the fact that the individual bookmakers at the track will be required to hold their own Operating Licences.

The Licensing Authority will especially consider the impact upon the protection of children and vulnerable persons from being harmed or exploited by gambling and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

The Licensing Authority may consider measures to meet the licensing objectives such as;

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

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.

The Licensing Authority will take into account the size of the premises and the ability of staff to monitor the use of the machines by children and vulnerable persons when considering the number nature or circumstances of betting machines an operator proposes to offer.

It may be appropriate for the applicant to provide the following to support an application;

- Proof that measures are in place to promote the third licensing objective;

- Specify what proposals have been made to administrate betting;
- Detailed plan of the track and grounds which identify any fixed betting, areas specifically used by on course operators on race days, the location of the gaming machines, temporary structures and mobile betting facilities.

Plans should be clear on what is being sought for authorisation under the track betting premises licence and what; if any; other areas are to be subject to a separate application for a different type of premises licence.

## **5.9 - Travelling Fairs**

Travelling fairs have traditionally been able to provide various types of low stake gambling without the need for a licence or permit provided that certain conditions are met.

Travelling fairs have the right to provide an unlimited number of category D gaming machines or equal chance prize gaming without a permit, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.

This Licensing Authority will 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 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.

## 6. Permits, notices and lotteries

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**The Act introduces a range of permits for gambling. Permits are required when premises provide a gambling facility but either the stakes and prizes are very low or gambling is not the main function of the premises. The permits regulate gambling and the use of gaming machines in a specific premises.**

This section of the Policy provides an overview of these permits, notices and lotteries.

Licensing Authorities may only grant or reject an application for a permit and cannot impose or attach any conditions. The permits issued by the Licensing Authority are for;

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

### **6.1 - Unlicensed Family Entertainment Centres- Gaming Machine Permits (uFEC)**

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for a uFEC permit.

It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

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 uFEC, and if the Chief Officer of Police has been consulted on the application.

This Licensing Authority will require applicants to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in uFECs;
- That they have 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.

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.

An application for a uFEC should be accompanied by a plan.



## 6.2 - Alcohol licensed premises - Gaming machine permits

There is an automatic entitlement for premises licensed to sell alcohol for consumption on the premises to have two machines of category C and/or D under section 282 of the Act. The premises merely need to notify the Licensing Authority using the prescribed form and pay the fee.

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.

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 Act has been committed on the premises.

If a premises wishes to have more than two machines, 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. It will expect the applicant to satisfy the Licensing 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 Licensing 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.

In regard to 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 FEC 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.

### 6.3 - Prize gaming permits

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

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

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 the Gambling Act 2005 (Limits on Prize Gaming) Regulations 2009;
- That the gaming offered is within the law;
- Clear policies that outline the steps to be taken to protect children from harm.

If the premises will appeal to children and young persons, the Licensing Authority may consider it necessary to consult the Hampshire Safeguarding Children Board.

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.

The Licensing Authority can grant or refuse an application for a permit but cannot add conditions. The permit may only be granted if the Chief Officer of Police has been consulted on the application.

Relevant considerations in making this determination includes the suitability of the applicant in terms of convictions that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.

Conditions on such a permit must be complied with in accordance with the Act.

Relevant considerations would include the suitability of the applicant in terms of convictions that would make them unsuitable to operate prize gaming; and the suitability of the premises in relation to their location and any issues concerning disorder.

If the permit holder is convicted of a relevant offence under the Gambling Act 2005, the court may order the forfeiture of the permit.

### 6.4 - Club gaming and club machine permits

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

- Members clubs; and
- Commercial clubs

A members' club is a club that is not established as a commercial enterprise and is conducted for the benefit of its members. The Act states that members clubs must have at least 25 members and be established and conducted 'wholly or mainly' for

purposes other than gaming, unless the gaming is permitted by separate regulations. Examples include working men's clubs, branches of the Royal British Legion and clubs with political affiliations. Members' clubs may apply for a club gaming permit or a club machine permit.

A commercial club is a club established for commercial gain whether or not they are actually making a commercial gain. Examples of these include commercial snooker clubs, or clubs established as private companies. Commercial clubs can only apply for a club machine permit.

Miners' Welfare Institutes are associations established for recreational or social purposes. They are managed by representatives of miners or use premises regulated by a charitable trust which has received funds from one of a number of mining organisations. Miners' welfare institutes may also apply for club gaming permits and club machine permits.

A 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).

Licensing Authority 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 or miners' welfare institute and therefore not entitled to receive this type of permit;
- The applicant's premises are used wholly or mainly by children or young persons;
- An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- A permit held by the applicant has been cancelled in the previous ten years; or
- An objection has been lodged by the 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.

## 6.5 - Temporary Use Notice (TUN)

A TUN allows the use of premises for gambling where there is no premises licence or permit in place but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a 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 Gambling Act 2005 (Temporary Use Notices) Regulations 2007 prescribe what form of gambling can be authorised by a TUN.

The Regulations state that a TUN:

- Can only be used to offer gambling of a form authorised by the operator's operating licence;
- May only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises;
- Can only be used for the provision of facilities for equal chance gaming where the gaming is intended to produce a single winner, such as a poker tournament.
- Does not permit the provision of gaming machines.

The Act also sets out the nature and form of the TUN to be given by the operator, bodies to be informed, objections and appeals information.

The holder of an operating licence must give the TUN to the Licensing Authority not less than three months and one day before the day on which the gambling event will begin. The TUN must also be copied to the prescribed consultees.

Where the premises are situated in an area covered by this Licensing Authority and another authority, the Licensing Authority will work closely with the neighbouring authority to ensure that the 21-day maximum period for the TUN is not breached.

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.

## 6.6 - Occasional Use Notices (OUN)

The Act provides that where there is betting on a track on 8 days or fewer in a calendar year, betting may be permitted by an occasional use notice (OUN).

OUNs can only be relied upon for 8 days or fewer in a calendar year and therefore the Licensing Authority will keep a record of the number of OUNs served in relation to each track.

A separate OUN must be submitted for each day that betting activity will be conducted on the premises.

The Licensing Authority has very little discretion with regard to OUNs aside from ensuring that the statutory limit of 8 days per calendar year is not exceeded.

This Licensing Authority will consider the definition, as provided in the Act and the Guidance, of a 'track' and whether the applicant is permitted to give notice.

## **6.7 - Small society lotteries**

A simple lottery is a form of gambling that has three essential elements;

- a payment is required to participate;
- one or more prizes are awarded; and
- those prizes are awarded by chance.

A complex lottery differs in that the prizes are allocated by a series of processes, and the first of those processes relies wholly on chance. There are two categories that they fall into;

1. Licensed lotteries that require an operating licence from the Gambling Commission; and
2. Exempt lotteries, including small society lotteries, which require registration with the Licensing Authority.

Small society lotteries are lotteries promoted for the benefit of a Non-Commercial Society and the total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000.

This Licensing Authority will only licence small society lotteries whose principal office is located in the district.

This Licensing Authority will take account of any Guidance issued by the Gambling Commission in registering and controlling non-commercial societies. Non-commercial societies are established and conducted:-

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

Applicants or potential applicants will be referred to the Gambling Commission's advisory documents to assist.

Applicants will need to inform the Licensing Authority the purpose in which the Society was originally established and the Society will need to declare they represent a bona fide Non-Commercial Society and have no relevant convictions.

An application will be refused if any of the following apply;

- An applicant has held an operating licence that has been revoked in the preceding 5 years;
- they have applied for registration of an operating licence in the preceding 5 years that has been refused;

- The society in question cannot be deemed non-commercial;
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence, listed in Schedule 7 of the Act.
- Information provided in or with the application for registration is found to be false or misleading.

When an application is going to be refused the Society will have an opportunity to make representation against the decision. The Licensing Authority will notify the Society of the reasons for the refusal in writing.

This Licensing Authority will keep a register of all applications for Small Society Lotteries and will provide information to the Gambling Commission on all lotteries registered by the Licensing Authority.

## 7. Compliance and Enforcement

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**The main enforcement and compliance role for this Licensing Authority in terms of the Act is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for operating and personal licences.**

It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission. In circumstances where the Licensing Authority believes a premises requires a premises licence for gambling activities and no such licence is in force, the Licensing Authority will alert the Gambling Commission.

This Policy contains the principles to be applied by the Licensing Authority in exercising its powers of inspection under part 15 of the Act and instigating criminal proceedings in accordance with section 346 of the Act.

The Licensing Authority seeks to comply with statutory principles of good regulation and the Regulators' Code.

The Licensing Authority aims to promote efficient and effective regulatory approaches which improve outcomes without imposing unnecessary burdens on business during the course of exercising its enforcement powers.

This Licensing Authority will also keep itself informed of developments with regard to the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

### 7.1 - Inspection

This Licensing Authority inspects premises in the New Forest to ensure compliance using a risk-based approach based on:

- The licensing objectives;
- Relevant codes of practice;
- Guidance issued by the Gambling Commission; and
- The principles set out in this Policy

Premises that are a higher risk or have a history of complaints will be inspected more frequently than those premises with lower perceived risks. However, Licensing Officers will also be permitted to use their discretion.

Inspections may be carried out on Temporary Use Notices and Occasional Use Notices to ensure that the licensing objectives are being promoted.

Joint visits may take place with Responsible Authorities or other agencies, where relevant.

## 7.2 - Powers of entry

Licensing Officers are authorised to inspect Gambling Premises in order to assess the premises compliance with the terms and conditions of the Premises Licence.

Authorised Officers have a number of enforcement powers, including the power to;

- Enter any gambling premises or premises where gambling is believed to be taking place;
- Use reasonable force, in certain circumstances, in order to enter the premises for inspection purposes, should it be necessary;
- Inspect any part of the premises, any machine or other thing,
- Question any person on the premises;
- Access to any written or electronic record which is kept on the premises, or require that a copy is provided;
- Remove or retain anything if they reasonably believe that it constitutes or contains evidence of the commission of an offence under the Act, or a breach of a term or condition of the premises licence.

It should be noted that it is an offence if a person, without reasonable excuse, obstructs or fails to cooperate with an Authorised Officer who is exercising powers under Part 15 the Act.

It is also an offence to provide false information without reasonable excuse to the Authorised Officer.

## 7.3 - Complaints

This Licensing Authority will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Licensing Authority may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections or for any licence holder to decline to participate in a conciliation meeting.



## 7.4 - Enforcement

The Licensing Authority will work closely with the responsible authorities and will aim to promote the licensing objectives by targeting known high risk premises following government guidance around better regulation.

Specifically the Licensing Authority is subject to the Regulators' Code which provides the following six provisions which the Licensing Authority should follow in its enforcement activities, unless it concludes, on the basis of material evidence, that a specific provision of the Code is either not applicable or outweighed by another relevant consideration.

1. Regulators should carry out their activities in a way that supports those they regulate to comply and grow;
2. Regulators should provide simple and straightforward ways to engage with those they regulate and hear their views;
3. Regulators should base their regulatory activities on risk;
4. Regulators should share information about compliance and risk;
5. Regulators should ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply ; and
6. Regulators should ensure that their approach to their regulatory activities is transparent

In carrying out its enforcement duties with regards to the inspection of premises; and the powers to institute criminal proceedings in respect of certain offences under the Act the Licensing Authority 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.

In line with the Guidance this Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

Where there is a Primary Authority scheme in place, the Licensing Authority will seek guidance from the Primary Authority before taking any enforcement action. At the time of the publication of this policy there were four Primary Authority arrangements with host local authorities:

- Coral - London Borough of Newham
- William Hill - City of Westminster
- Ladbrokes - Milton Keynes
- Paddy Power - Reading

## Prosecutions

The Licensing Authority has the power to prosecute the offence of using premises for gambling without the requisite permissions.

Section 346 of the Act sets out all of the offences that the Licensing Authority may institute criminal proceedings in respect of.

In exceptional circumstances, such as repeated deliberate breaches of premises licence conditions, licensed operators or permit holders may be prosecuted without any prior regulatory action, such as warnings, cautions suspension or revocation of licence or removal of permit.

Otherwise, the Licensing Authority will follow a hierarchy of enforcement action.

The Licensing Authority will also consult with the Police as required by the Guidance where appropriate and consider if any other enforcement provisions under other legislation is appropriate.

### 7.5 - Review of premises licence

The review of a premises licence may be instigated by this Licensing Authority or at the request of a responsible authority or interested party. It is, however, for the Licensing Authority to decide whether the review is to be carried-out.

The Licensing Authority may review any matter connected with the use made of the premises if:

- it has reason to suspect that premises licence conditions are not being observed;
- the premises is operating outside of the principles set out in the licensing authority's statement of policy;
- there is evidence to suggest that compliance with the licensing objectives is at risk; or
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party.

The Licensing Authority will not hold a review if, in the opinion of the authority, the grounds on which a review is sought:-

1. are frivolous (see paragraph 3.10 above);
2. are vexatious (see paragraph 3.10 above);
3. are substantially the same grounds cited in a previous application for a review relating to the same premises;
4. are substantially the same as representations made at the time of an application for a premises licence;
5. are not relevant to the principles that must be applied by the Licensing Authority in accordance with:
  - the licensing objectives,
  - the Commission's codes of practice

- the Guidance, or
  - this Policy
6. 'will certainly not' cause the licensing authority to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence

In the case of grounds 3 and 4 above, the Licensing Authority will take into account the time, which has passed since the earlier application.

The Licensing Authority is mindful that the decision on whether to grant an application for review by a responsible authority or an interested person must not amount to pre-judging the outcome of a review.

A review can be held in relation to a class of premises or in relation to particular premises.

The outcome of such a review may be the introduction of default conditions attached to all premises licences within that class.

## **7.6 - Right of Appeal and Judicial Review**

The Licensing Authority will aim to provide reasons for all decisions. It will aim to:

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

These reasons will reflect the extent to which the decision has been made with regard to this Policy and the Guidance.

A right of appeal exists to the applicant or any person making a relevant representation against a decision of the Licensing Authority.

An application for an appeal has to be made to the Magistrates Court within the time specified in the Act, following written notification of the decision.

This Licensing Authority will ensure that attention is drawn to this right of appeal when decision notices are served.

## 8. Policy review

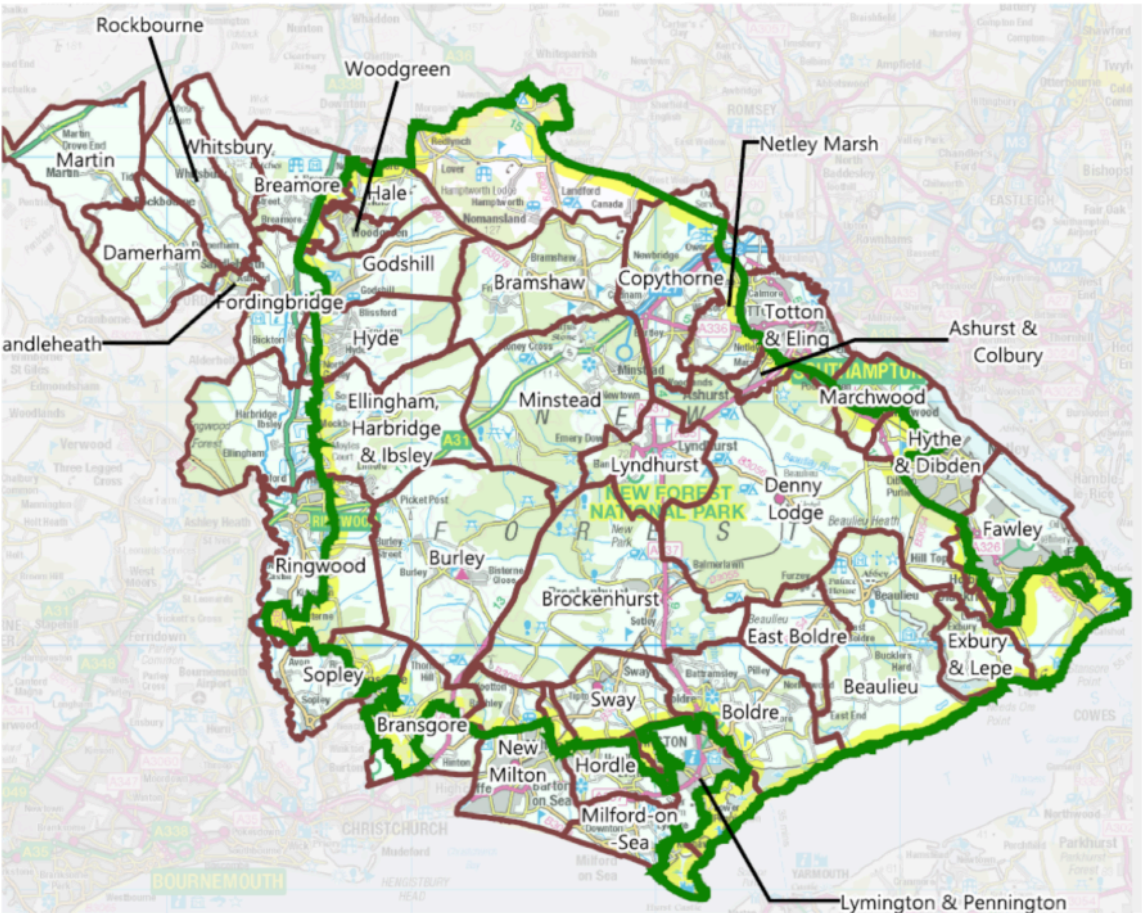
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**This policy takes effect on *date to be confirmed* and will remain in force until *date to be confirmed*. It will be subject to periodic reviews and further consultation in line with current Government guidance.**

When reviewing this policy account will be taken of any additional guidance issued by the Gambling Commission and the results of any consultations received.

# Appendix A

## Map of the District







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**New Forest**  
DISTRICT COUNCIL

Tel: 023 8028 5000    [www.newforest.gov.uk](http://www.newforest.gov.uk)

 NFDC Boundary
  NFPNA Boundary
  NFDC Parish Boundary



## Appendix B

### Responsible authorities contact details

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#### **New Forest District Council Licensing Services**

Appletree Court, Lyndhurst, Hampshire.  
SO43 7PA

**T** 023 8028 5505  
**E** [licensing@nfdc.gov.uk](mailto:licensing@nfdc.gov.uk)  
**W** [newforest.gov.uk](http://newforest.gov.uk)

#### **New Forest District Council Environmental Health**

Appletree Court, Lyndhurst, Hampshire.  
SO43 7PA

**T** 023 8028 5411  
**E** [env.prot@nfdc.gov.uk](mailto:env.prot@nfdc.gov.uk)  
**W** [newforest.gov.uk](http://newforest.gov.uk)

#### **The Gambling Commission Gambling Commission**

Victoria Square House, Victoria Square,  
Birmingham. B2 4BP

**T** 0121 230 6500  
**F** 0121 237 2236  
**E** [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

#### **HMRC - Her Majesty's Revenue and Customs**

Operational Team, HM Revenue and  
Customs, National Registration Unit  
Portcullis House, 21 India Street,  
Glasgow. G2 4PZ

**Please ensure that you copy  
your application to the correct  
planning authority**

#### **New Forest District Council Planning Control**

Appletree Court, Lyndhurst, Hampshire.  
SO43 7PA

**T** 023 8028 5311  
**E** [dev.control@nfdc.gov.uk](mailto:dev.control@nfdc.gov.uk)  
**W** [newforest.gov.uk](http://newforest.gov.uk)

#### **New Forest National Park Planning Authority**

Town Hall, Avenue Road, Lymington,  
Hampshire. SO41 9ZG

**T** 01590 646615  
**E** [dev.control@newforestnpa.gov.uk](mailto:dev.control@newforestnpa.gov.uk)  
**W** [newforestnpa.gov.uk](http://newforestnpa.gov.uk)

#### **Police Licensing Team (Western Area)**

Southampton Police Office, Southampton  
City Council, Civic Centre  
Southampton. SO14 7LY

**T** 023 8047 8373  
**E** [force.licensing@hampshire.pnn.police.uk](mailto:force.licensing@hampshire.pnn.police.uk)  
**W** [hampshire.police.uk](http://hampshire.police.uk)

#### **Hampshire Fire and Rescue Service HQ**

Business Fire Safety, Leigh Road,  
Eastleigh, Hampshire. SO50 9SJ

**T** 02392 664656  
**F** 02392 698123  
**E** [csprotection.admin@hantsfire.gov.uk](mailto:csprotection.admin@hantsfire.gov.uk)  
**W** [hantsfire.gov.uk](http://hantsfire.gov.uk)

#### **Hampshire County Council Children's Services Department Safeguarding Unit**

Falcon House, Monarch Way, Winchester.  
SO22 5PL

**T** 01962 876222  
**E** [Child.protection@hants.gov.uk](mailto:Child.protection@hants.gov.uk)

## Appendix C

**Table of delegations of licensing functions under the gambling act 2005**

Matter to be dealt with	Full Council	General Purposes and Licensing Committee	Delegated
Policy	X		
Policy not to permit casinos	X		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for gaming machine permits			X
Applications for other permits			X
Decisions as to whether representations are frivolous, vexatious or likely to have no Influence on a decision			X
Decisions as to whether to make representations against an application or review a premises licence.			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

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## GENERAL PURPOSES AND LICENSING COMMITTEE – 14 JUNE 2019

### SAFEGUARDING AWARENESS ASSESSMENTS FOR EXISTING DRIVERS

#### 1.0 INTRODUCTION

- 1.1 The purpose of the report is to update the Committee on the proposal to introduce mandatory safeguarding training to be completed by all existing drivers, prior to renewal and issue of their drivers licence.

#### 2.0 SAFEGUARDING CONSIDERATIONS

- 2.1 In recent years, awareness of the consequences of child sexual exploitation and abuse of vulnerable adults has been highlighted with several high profile cases across the country. Case reviews have identified the importance of licensing processes in order to prevent abuse and promote the safeguarding of the public.

#### 3.0 BACKGROUND

- 3.1 New Forest District Council as the Licensing Authority, issue approximately 500 dual drivers licenses which permit the licence holder to drive a New Forest licensed private hire or hackney carriage vehicle.
- 3.2 A Licensing Authority must not grant a licence unless it is satisfied that the applicant is a fit and proper person to hold such a licence. The test assesses that the applicant is safe and suitable. It involves reviewing the applicant's character, and health through medical assessments, DVLA licence checks and criminal convictions checks to enhanced level with the Disclosure and Barring Service.
- 3.3 In September 2017, Members of the General Purposes and Licensing Committee endorsed a knowledge test which included a safeguarding training module for all new applicants. Although there was no legal requirement or standardised format for the training, this amendment was implemented to ensure a robust scheme for new applicants that protected safety by driving up standards.
- 3.4 Members of the Committee also added their support for the future extension of the mandatory safeguarding training to all existing drivers and operators.

#### 4.0 RECENT GUIDANCE FOR SAFEGUARDING

- 4.1 In 2018, a Task and Finish Group with members from the Department of Transport, Parliament and Trade organisations undertook a review of existing taxi licensing legislation.
- 4.2 They published a report in 2018 titled "Taxis and Private Hire Vehicle Licensing - Steps towards a Safer and more Robust System". This contained 34 recommendations to assist Licensing Authorities in carrying out their duties to protect the public and address technological changes within the taxi trade.

- 4.3 Recommendation 25 in the report related to safeguarding and stated:  
*“Licensing authorities must use their existing powers to require all drivers to undertake safeguarding/child sexual abuse and exploitation awareness training including the positive role that taxi/PHV drivers can play in spotting and reporting signs of abuse and neglect of vulnerable passengers. This requirement must form part of future national minimum standards.”*
- 4.4 The Department of Transport responded to the report and fully supported the recommendations, particularly with reference to safeguarding.
- 4.5 Draft statutory guidance produced in February 2019, to aid consistency on the approach taken by Licensing Authorities, also provides a clear steer on how safeguarding should be addressed.
- 4.6 The guidance recommends that Licensing Authorities provide safeguarding advice to the trade and that drivers undertake safeguarding training. The training should help drivers and operators to:
- provide a safe and suitable service to vulnerable passengers of all ages;
  - recognise what makes a person vulnerable; and
  - understand how to respond, including how to report safeguarding concerns and where to get advice.

## **5.0 SAFEGUARDING AWARENESS TRAINING**

- 5.1 The safeguarding awareness training module has been successfully implemented with new applicants and positive feedback has been received from the Hampshire Safeguarding Children’s Board and other Hampshire Licensing Authorities.
- 5.2 The module has recently been reviewed by the Community Safety Team and consulted on with neighbouring Hampshire Authorities prior to making amendments to improve the user experience and ensure all key safeguarding points are raised in the training.
- 5.3 The revised e-learning safeguarding package will, once adopted, be compulsory for all existing licensed drivers to complete prior to renewal of their driver licence.
- 5.4 Existing drivers will receive safeguarding pre-reading information, before attending the training which is a 40 minute session, held at Appletree Court. Following successful completion of the training and demonstrating a good understanding by correctly answering 80% of the questions, the new licence will be issued.
- 5.5 Drivers who do not successfully complete the assessment will be given the opportunity to re-attend and undertake the safeguarding training again.
- 5.6 Drivers will be required to attend the training on a 3 yearly basis which ties in with their driver licence renewal.

## **6.0 CONCLUSION**

- 6.1 The need to raise awareness of safeguarding issues within the taxi trade is clearly recognised and the trade has an important role to play in conjunction with Licensing Authorities to protect the public.
- 6.2 All existing drivers will be required to attend the safeguarding training and new licences will only be issued on successful completion of the assessment module.

## **7.0 FINANCIAL IMPLICATIONS**

- 7.1 Costs for administering the driver safeguarding training will be included in the renewal driver licence fee.

## **8.0 CRIME AND DISORDER AND EQUALITY & DIVERSITY IMPLICATIONS**

- 8.1 There are no crime and disorder or equality and diversity implications for the committee to consider resulting from this report.

## **9.0 RECOMMENDATION**

- 9.1 The Committee endorses that the safeguarding training module is introduced for existing taxi drivers and recognises the positive outcome of implementing this with all new and existing applicants.

### **Environmental and Regulation Service**

Joanne McClay – Service Manager

### **Report Author:**

Christa Ferguson, Licensing Manager  
Tel: 023 8028 5505  
Email: [christa.ferguson@nfdc.gov.uk](mailto:christa.ferguson@nfdc.gov.uk)

### **Background Papers:**

NFDC Taxi and Private Hire Licensing Policy  
Taxis and Private Hire Vehicle Licensing, Steps towards a Safer and more Robust System.  
Draft Taxi and Private Hire Vehicle Licensing: Protecting Users Statutory Guidance for Licensing Authorities, February 2019

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## GENERAL PURPOSES AND LICENSING COMMITTEE – 14 JUNE 2019

### LICENSING PROCEDURE AND CHECKLIST

#### 1. INTRODUCTION

- 1.1 It is considered to be good practice to periodically review and update the Licensing Procedure in order to ensure that the procedure takes into account any changes to the legislation and/or new guidance.
- 1.2 The proposed updated Licensing Procedure is attached as Appendix 1. A checklist (attached as Appendix 2) has also been prepared and it is considered that this list could be used by the Chair of the Licensing Sub-Committee as a tool to ensure that the correct procedure is followed. The Sub-Committee does not meet on a regular basis. Indeed in the last municipal year only two Licensing hearings have taken place and, therefore, it is not necessarily a meeting that a member would chair on a regular basis.

#### 2. BACKGROUND

- 2.1 The Licensing Procedure is sent to all parties involved in a hearing under the Licensing Act 2003. Following the District Council elections in May 2019, it is timely to give the procedure some consideration and review.
- 2.2 The proposed changes to the Procedure are minor in nature and have been proposed to ensure that the procedure is clear, user friendly and is in line with the current licensing legislation and guidance. The order of business and process for hearings has not changed.
- 2.3 The Terms of Reference for the General Purposes and Licensing Committee state that the Committee shall: *“determine the procedure to be followed at the hearings of the Licensing Sub-Committee.”* The Committee is asked to consider and approve the revised draft Licensing Procedure and the checklist to be followed at a hearing, which is in line with the Licensing Procedure.
- 2.5 The Committee is also asked that in the future, if minor technical changes need to be made to the Licensing Procedure for any reason, authority be delegated to the Monitoring Officer (or the Deputy Monitoring Officer) to make these changes without the requirement for approval by the General Purposes and Licensing Committee. However, if major changes are needed, they would continue to be presented to the Committee for consideration.

#### 3. FINANCIAL/CRIME & DISORDER/ENVIRONMENTAL/EQUALITY & DIVERSITY/ DATA PROTECTION IMPLICATIONS

- 3.1 None.

#### 4. RECOMMENDATIONS

- 4.1 That the revised draft Licensing Procedure (Appendix 1) and checklist (Appendix 2) be approved.

- 4.2 That authority be delegated to the Monitoring Officer (or the Deputy Monitoring Officer), in consultation with the Chairman of the General Purposes and Licensing Committee to update the Licensing Hearing procedure to take account of any new legislation or guidance, provided that any changes are technical in nature.

**For further information contact:**

Karen Wardle  
Committee Administrator  
023 8028 5588  
[karen.wardle@nfdc.gov.uk](mailto:karen.wardle@nfdc.gov.uk)

**Background Papers:**

None



## LICENSING ACT 2003

### Procedure at hearings before the Licensing Sub-Committee

1. A hearing will be held to determine applications made under the Licensing Act 2003 where there have been relevant representations or the police have objected. All parties to the hearing will be given advance notice of the hearing by the Council. The parties to the hearing will have the chance to be heard. They are also entitled to be helped or represented by another person.
2. Hearings will take place before a Sub-Committee of 3 elected members of the General Purposes and Licensing Committee. One of these members will Chair the hearing.
3. All parties are encouraged to enter into preliminary discussions with the other parties with a view to seeking an agreement or compromise. For the avoidance of doubt, if a hearing proceeds to determination by a Sub-Committee, such agreements or agreed conditions will not be binding on any Sub-Committee. In the event that one party suggests or agrees to conditions or makes concessions which are later withdrawn in advance of or at the hearing, such conditions or concessions will not prejudice the party at the hearing and the Sub-Committee will make their determination as if such conditions or concessions had never been made.

### Preliminary matters

4. The Chairman will introduce those present.
5. The Chairman will check that none of the Sub-Committee has any pecuniary or non-pecuniary interest in the application.
6. The Chairman will check whether all the parties are present at the hearing. If any party who was expected to attend has not turned up for the hearing, the Sub-Committee will decide whether to hold the hearing in that party's absence, or to adjourn it to another date. Hearings will be adjourned if the Sub-Committee considers this necessary in the public interest. If the Sub-Committee decides to hold the hearing in a party's absence, they will still consider any written information received from him or her.
7. Normally, hearings will be open to the public. However, the Sub-Committee may exclude the public from the hearing (or part of it) if they think the public interest in doing so outweighs the public interest in having the hearing in public. If the public are excluded, any of the parties to the hearing, and/or anyone helping or representing them, may also be excluded.
8. A party may have asked for someone else to appear at the hearing to make a point or points that may help the Sub-Committee reach a decision. It is up to the Sub-Committee to decide whether that person should be heard, although permission will not be refused unreasonably. Such a person is referred to as a "witness" in this procedure.
9. A party may also be assisted or represented by another person.

10. Where multiple parties have submitted representations, the Chairman will invite a spokesperson to be nominated to avoid repetition.
11. The Chairman will ask that when addressing the Sub-Committee for the first time, each party identifies themselves.
12. The Chairman will then explain the procedure that will follow.

### **General information on the conduct of the hearing**

13. Each party is entitled to:
  - (a) Give further information in response to any point that the Council told them before the hearing they would like clarified;
  - (b) With the permission of the Chairman, question any other party; although cross examination will not be allowed; and
  - (c) Address the Sub-Committee.
14. Members of the Sub-Committee may question any party or witness at any time.
15. At the Chairman's discretion, the Sub-Committee's legal advisor may ask any questions he or she thinks are relevant at any time.
16. Unless the Council has requested that a particular point be clarified (paragraph 13 (a) above), new documentary or other information may not be submitted for the first time at the hearing without the agreement of all the other parties. In such circumstances, the new information will be circulated to all parties and their consent will be sought at the beginning of the hearing.
17. Members of the Sub-Committee will disregard any information given by a party, a representative or a witness which is not relevant to their application, representation or notice and the promotion of the licensing objectives.
18. Members of the Sub-Committee will have read all the papers included in the agenda for the hearing before the hearing starts. The parties are requested not to spend unnecessary time repeating evidence which is already in the papers and which is not disputed.
19. Members of the Sub-Committee will not enter into any discussions with any party prior to, during or following the hearing.
20. Evidence that is not relevant to the case, or to the promotion of the four licensing objectives, will be disregarded. Hearsay evidence may be allowed, but the Sub-Committee may not attach as much weight to it as direct evidence.

### **Procedure for the Hearing**

21. The Sub-Committee's Legal Advisor will clarify any legal issues at the beginning of the hearing.
22. If any party has asked permission for a witness or witnesses to appear, the Sub-Committee will decide whether they should be heard (see paragraph 8 above).
23. The length of time parties will be allowed to put their case, and (if permitted) question other parties, is at the Chairman's discretion. However, all parties will be allowed an equal maximum amount of time.



### The applicant's case

24. The applicant (or his / her representative) may present his / her case.
25. If the Sub-Committee permits, the applicant may call those witnesses whose names have been provided in advance to support his application.
26. Where a group of witnesses wish to speak in support of the application for similar reasons, one person should act as spokesperson for the whole group. The Sub-Committee may reasonably refuse permission for a witness to be heard if his or her evidence simply repeats points already made.
27. The Chairman will invite the objectors to question the applicant.
28. Members of the Sub-Committee may ask questions of the applicant (or his / her representative) or any of his / her witnesses.

### The objectors' case

29. Where there is more than one objector, and a spokesperson has not been nominated, the Chairman will decide the order in which the objectors may put their case. If there is an objection from one of the responsible authorities, their representative will normally be invited to put his or her case first.
30. The following procedure will apply to each objector in turn.
31. The objector (or his / her representative) may present his / her case.
32. If the Sub-Committee permits, the objector may call those witnesses whose names have been provided in advance to support his / her objection.
33. Where a group of witnesses wish to speak in support of the objection for similar reasons, one person should act as spokesperson for the whole group. The Sub-Committee may reasonably refuse permission for a witness to be heard if his or her evidence simply repeats points already made.
34. The Chairman will invite the applicant to question the objector.
35. Members of the Sub-Committee may ask questions of the objector or any witnesses.

### Summing up

36. The Chairman will invite the spokesperson (or in the event that there is not one, each objector) to make a final statement or sum up his / her case.
37. The Chairman will invite the applicant to make a final statement or sum up his / her case.

### Sub-Committee's decision

38. At the end of the hearing the Chairman will declare the hearing closed, and the public and the press will be excluded while the Sub-Committee retires to consider the matter.
39. The Sub-Committee's legal advisor and clerk will retire with the Sub-Committee to give any legal advice and to record the decision.

40. The parties will either be invited to wait to be informed of the outcome or will be informed that they will receive a copy of the decision in writing.
41. If the decision is to be given at the hearing, as soon as the decision is reached, the Sub-Committee will return to the room in which the hearing took place, and the Chairman will announce the decision and the reasons for it.
42. Otherwise, all parties will be formally notified in writing of the decision and reasons within 5 working days of the hearing.



## LICENSING ACT 2003

## HEARING PROCEDURE CHECKLIST

	Chair opens the meeting and introduces members and officers	
	Chair to check that members of the Sub-Committee do not have any pecuniary or non-pecuniary interests in relation to the application.	
	Chair to ask each party to introduce themselves, their representatives and any other person to the hearing, including witnesses and how that person will be able to assist (Advance notice should have been given).	
	If a party has asked permission for a witness or witnesses to appear, the Sub-Committee will decide whether they should be heard.	
	If any party who is expected to attend the hearing is not present, Chair to ask the Sub-Committee to decide whether the hearing can go ahead without the party or whether it is necessary in the public interest to adjourn	
	Chair to confirm with the parties that the documentary evidence circulated with the hearing papers, or if submitted afterwards, that it has been sent to all parties.	
	Chair to ask whether there is any additional evidence to be submitted at the hearing. <b>IF SO, ALL PARTIES MUST BE ASKED TO CONSENT TO THIS.</b>	
	Chair to explain the format of the hearing. All parties will be given an opportunity to present their case, ask questions and to sum up.	
	Chair to ask that where multiple parties have submitted representations on the same issue whether a spokesman could be nominated in order to avoid repetition.	
	Chair to invite the Sub-Committee's Legal Advisor to clarify any legal issues before the hearing commences.	
	Chair to invite the Applicant (or his / her representative) to present his / her case in support of the application.	
	If the Sub-Committee permits, the applicant may call on those witnesses whose names have been provided in advance to support the application.	
	The Chair will invite the other parties to ask questions of the Applicant.	
	Members will be invited to ask questions of the Applicant.	
	Chair will invite objectors to put forward their case. Any responsible authorities would normally be invited to put his / her case forward first.	

	If the Sub-Committee permits, the objector may call on those witnesses whose names have been provided in advance.	
	Chair to invite the Applicant to question the objector(s).	
	Members of the Sub-Committee may ask questions of the objector(s) or any witnesses.	
	Chair to invite the each objector (or spokesperson) to make a final statement or to sum up their case.	
	Chair to invite the Applicant to make a final statement or to sum up his / her case.	
	Chair to advise all parties about the decision making and when the decision will be announced.	