

# Agenda



**HYNDBURN**

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## Council

**Thursday, 10 January 2019 at 7.00 pm,**  
Council Chamber, Town Hall, Accrington

### Membership

Councillor Mohammad Ayub (Mayor) in the Chair,  
Councillors Judith Addison, Josh Allen, Lisa Allen, Noordad Aziz, Jean Battle, Sara Britcliffe,  
Stephen Button, Clare Cleary, Andrew Clegg, Loraine Cox, Paul Cox, Munsif Dad, Tony Dobson,  
Stewart Eaves, Diane Fielding, Melissa Fisher, Glen Harrison, June Harrison, Marlene Haworth,  
Stephanie Haworth, Eamonn Higgins, Terry Hurn, Abdul Khan, Michael Miller, Gareth Molineux,  
Jenny Molineux, Tim O'Kane, Dave Parkins, Bernadette Parkinson, Miles Parkinson,  
Joyce Plummer, Kath Pratt, Jeff Scales and Paddy Short

## AGENDA

1. **Apologies for absence**
2. **Declarations of Interest and Dispensations**
3. **Announcements**
4. **Confirmation of Minutes** (*Pages 5 - 12*)

To confirm as a correct record the Minutes of the Council meeting held on 15<sup>th</sup> November 2018.



Telephone Enquiries: Michael Cunliffe, Democratic Services (01254) 380109

Email: [monica.bell@hyndburnbc.gov.uk](mailto:monica.bell@hyndburnbc.gov.uk)

Published on Wednesday, 2 January 2019

Page 1 of 3

**5. Question Time** (Pages 13 - 14)

To deal with any questions submitted under Council Procedure Rule 2.2(vi).

**6. Minutes of Cabinet** (Pages 15 - 22)

To receive the Minutes of the Cabinet meeting held on the 5<sup>th</sup> December 2018 (attached).

Rules of Debate

- *The Leader of the Council will move the Minutes, the Deputy Leader of the Council second the Minutes.*
- *Non-Executive Members will be invited to make comment or ask questions on the Minutes (5 Minutes)*
- *Cabinet Members will be invited to make comment and respond to any points raised (5 Minutes).*
- *The Leader of the Council will be given up to 15 minutes to respond and to answer any questions raised.*

**7. Gambling Act 2005 - Review of Statement of Principles** (Pages 23 - 132)

Report Attached.

**8. Prudential Indicators Monitoring and Treasury Management Strategy Update**  
(Pages 133 - 138)

Report Attached.

**9. Minutes of Committees** (Pages 139 - 158)

To receive the Minutes of Committees and Sub-Committees, as set out below:-

Rules of Debate

- *The Leader of the Council will introduce the Minute Book as a whole.*
- *Any Member may raise any issue from the Minutes; the Chair of the relevant Committee may respond (5 Minutes).*
- *The Leader of the Council will close the debate (5 Minutes).*

<b>Meeting (Municipal Year 2018/19)</b>	<b>Date</b>
Communities and Wellbeing Overview & Scrutiny Committee	31 <sup>st</sup> October 2018
Resources Overview & Scrutiny Committee	1 <sup>st</sup> November 2018
Audit Committee	19 <sup>th</sup> November 2018

Licensing Sub-Committee	29 <sup>th</sup> November 2018
Planning Committee	12 <sup>th</sup> December 2018
Judicial Committee (Private Hire & Hackney Carriage Licensing)	19 <sup>th</sup> December 2018

**10. Motion(s) submitted on Notice** (*Pages 159 - 164*)

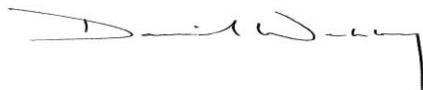
To consider any Motions for debate in accordance with Council Procedure Rule A9.

**11. Suspension of Council Procedure Rules** (*Pages 165 - 166*)

To suspend Council Procedure Rules for the purpose of receiving a presentation from the Director of Northern Powerhouse Partnership.

**12. Presentation by the Director of Northern Powerhouse Partnership**

To receive a presentation from the Director of Northern Powerhouse Partnership (Mr. Henri Murison) in respect of opportunities and investment for Hyndburn.



Chief Executive  
 Scaitcliffe House,  
 Ormerod Street,  
 ACCRINGTON BB5 0PF

Wednesday, 2 January 2019

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## COUNCIL

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**Thursday, 15th November, 2018**

**Present:** Councillor Mohammad Ayub (Mayor), Councillors Judith Addison, Josh Allen, Lisa Allen, Noordad Aziz, Jean Battle, Sara Britcliffe, Stephen Button, Andrew Clegg, Loraine Cox, Paul Cox, Munsif Dad, Tony Dobson, Stewart Eaves, Diane Fielding, Glen Harrison, June Harrison, Marlene Haworth, Eamonn Higgins, Michael Miller, Gareth Molineux, Jenny Molineux, Tim O'Kane, Dave Parkins, Miles Parkinson, Joyce Plummer, Kath Pratt, Jeff Scales and Paddy Short

**Apologies:** Councillors Clare Cleary, Melissa Fisher, Stephanie Haworth, Terry Hurn, Abdul Khan and Bernadette Parkinson

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### **208 Apologies for absence**

Apologies for absence were submitted from Councillors Clare Cleary, Melissa Fisher, Stephanie Haworth, Terry Hurn, Abdul Khan and Bernadette Parkinson.

### **209 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations.

### **210 Announcements**

#### 1) The late Douglas Deakin

The Mayor paid tribute to former Councillor Douglas Deakin who had passed away in September.

Mr Deakin had been a Hyndburn Conservative Councillor representing the residents of Huncoat from 1979 to 1980, 1982 to 1986 and 1999 to 2001. His funeral was held on the 12<sup>th</sup> October at Accrington Crematorium.

#### 2) The late Sheelagh Delaney

The Mayor also paid tribute to former Councillor Sheelagh Winifred Delaney who had died on the 7<sup>th</sup> November.

She was a former Labour Councillor for the Immanuel Ward in Oswaldtwistle between 1990 and 1998. Her funeral would take place on the 16<sup>th</sup> November at 3.00pm in Carlisle.

Councillors Jean Battle, Tony Dobson, Tim O'Kane, Dave Parkins and the Leader of the Council, Councillor Miles Parkinson also added tributes to both.

**A minutes silence was held as a mark of respect for both former Councillors.**

3) Pakistan Trip

The Mayor reported on his recent trip with fellow Councillors to Pakistan and Kashmir. The delegation from Hyndburn had met with the High Commissioner and Federal Minister to promote the borough of Hyndburn overseas and visit the Mayor's home village.

4) Remembrance Weekend

The Leader of the Council placed on record his thanks to volunteers and Council Officers for the World War 1 centenary events that had taken place at the weekend. The Accrington Pals Working Group had planned for the anniversary some years ago and it was fitting that the new square in Accrington town centre had been officially opened at the same time. The borough had received good news coverage in both the local and national media.

**211 Confirmation of Minutes**

The Minutes of the Council meetings held on the 20<sup>th</sup> September 2018 were submitted for approval as a correct record.

The Leader of the Council confirmed he had received a reply from Manchester Airport and would pass this onto the mover of the motion made at the meeting.

**Resolved - That the Minutes of the Council meeting held on the 20<sup>th</sup> September 2018 be approved as a correct record.**

**212 Question Time**

It was noted that no questions had been submitted under Council Procedure Rule 202 (vi)

**213 Report of Urgent Council Decision: Proposed new rail passenger service from Leeds to East Lancashire**

A report was submitted, advising Council that a letter had been sent to the Department for Transport and the Secretary of State for Transport strongly urging them to extend the planned direct service from Leeds to Burnley Rose Grove through to Accrington.

The key Department for Transport report about the Skipton to Colne line was presented to Ministers in early November and it was important that Hyndburn Borough Council wrote to them prior to the finalisation of the report.

**Resolved - That the decision be noted.**

**214 Minutes of Cabinet**

The Minutes of the meeting of the Cabinet held on 10<sup>th</sup> October 2018 were submitted.

The following issues were raised from the Minutes:

Cabinet Meeting, 10<sup>th</sup> October 2018 - Minute 167, Council Tax and National Non Domestic Rates Collection and Recovery Policies - Councillor Sara Britcliffe commented on the need for a vibrant High Street and that the former Co-op store now called McColls on Union Road, Oswaldtwistle would be closing in February 2019. There was a need for the store which housed Oswaldtwistle's Post Office and she had approached a national supermarket chain. Lancashire County Council's library service had also been contacted in relation to

the Post office operating inside the public library. Councillor Britcliffe called on both Cabinet and Council to support the need for a Post Office in Oswaldtwistle.

Response by Cabinet Portfolio Holder for Education, Leisure and Arts – Councillor Gareth Molineux reported that there was no exact figure available on how local authorities can obtain the percentage of rates and called on the Government to explain how much local authorities would receive in rates collections.

Cabinet Meeting, 10<sup>th</sup> October 2018 - Minute 168, National Non Domestic Rates Mandatory, Discretionary and Hardship Relief Scheme– Councillor Tony Dobson asked if the information about the hardship relief fund could be promoted via the local media to highlight that local businesses could make a claim

Response by Cabinet Portfolio Holder for Resources – Councillor Joyce Plummer reported that she had wrote to the relevant Council departments and asked Officers how the hardship fund can be advertised.

**Resolved - That the Minutes be received and noted.**

## **215 Minutes of Committees**

The Minutes of the following meetings were submitted:

<u>COMMITTEE</u>	<u>DATE</u>
Judicial Committee (Private Hire & Hackney Carriage Licensing)	5 <sup>th</sup> September 2018
Resources Overview and Scrutiny Committee	11 <sup>th</sup> September 2018
Planning Committee	12 <sup>th</sup> September 2018
Judicial Committee (Private Hire & Hackney Carriage Licensing)	1 <sup>st</sup> October 2018
Communities & Wellbeing Overview and Scrutiny Committee	5 <sup>th</sup> October 2018
Planning Committee	10 <sup>th</sup> October 2018
Standards Committee	16 <sup>th</sup> October 2018
Judicial Committee (Private Hire & Hackney Carriage Licensing)	30 <sup>th</sup> October 2018
Management Review Committee	31 <sup>st</sup> October 2018

The following issues were raised from the minutes:

Planning Committee, 12<sup>th</sup> September 2018 - Minute 127, Town & Country Planning Act 1990- Planning Applications for Determination– Councillor Judith Addison commented on Section 106 legal agreements and that as a planning committee member they were not aware of the full details when voting on planning applications. Reference was made to finance from S106 payments being allocated to the Parks Department for match funding projects and ward Councillors having no say where the S106 money should be allocated. Councillor Paul Cox commented that the Parks and Open Spaces budget had been greatly reduced in recent years and funding was harder to obtain to aid with improvements.

Management Review Committee, 31<sup>st</sup> October 2018 - Minute 194, Changes to Senior Management Structure Councillor Tony Dobson referred to the new management structure and town centre responsibility. He commented that the Remembrance Sunday event in the town centre during the evening was well run with the town looking clean and tidy and congratulated the controlling group. Councillor Paul Cox also thanked the street cleansing teams for all their hard work over the weekend.

**Resolved - That the Minutes be received and noted.**

## **216 Motion(s) submitted on Notice- Breaking Point Campaign**

The following **motion** was moved by the Leader of the Council and seconded by Councillor Paul Cox under Council Procedure Rule A9:-

“That this Council notes that many council budgets are now at breaking point. Austerity has caused huge damage to communities up and down the UK, with devastating effects on key public services that protect the most defenceless in society – children at risk, disabled adults and vulnerable older people – and the services we all rely on, like clean streets, libraries, and children’s centres;

- Tory cuts mean councils have lost 60p out of every £1 that the last Labour Government was spending on local government in 2010;
- Councils had to spend an extra £800m last year to meet the demand on vital services to protect children by over;
- With an aging population and growing demand adult social care faces a gap of £3.5 billion – with only 14% of council workers now confident that vulnerable local residents are safe and cared for
- Government cuts have seen over 500 children’s centres and 475 libraries close, potholes are left unfilled, and 80% of councils workers now say have no confidence in the future of local services
- Northamptonshire has already gone bust due to Tory incompetence at both national and local level, and more councils are predicted to collapse without immediate emergency funding
- Councils now face a further funding gap of £7.8 billion by 2025 just to keep services ‘standing still’ and meeting additional demand. Even Lord Gary Porter, the Conservative Chair of the Local Government Association, has said ‘Councils can no longer be expected to run our vital local services on a shoestring’

This Council condemns Chief Secretary to the Treasury Liz Truss for stating on BBC Newsnight on 1<sup>st</sup> October 2018 that the government is ‘not making cuts to local authorities’, when all independent assessments of government spending show that this is entirely false; and that this Council further notes that Prime Minister Theresa May has also claimed that ‘austerity is over’ despite planning a further £1.3bn of cuts to council budgets over the next year;

This Council agrees with the aims of the ‘Breaking Point’ petition signed by labour councillors across the country, in calling for the Prime Minister and Chancellor to truly end austerity in local government by”:

- Using the Budget to reverse next years planned £1.3bn cut to council budgets;
- Immediately investing £2bn in children’s services and £2bn in adult social care to stop these vital emergency services from collapsing;
- Pledging to use the Spending Review to restore council funding to 2010 levels over the next four years

After a debate, the **motion** was put to the vote and declared carried.

- Resolved**
- (1) That this Council supports the ‘Breaking Point’ campaign, recognising the devastating impact that austerity has had on our local community;**
  - (2) That the Leader of the Council writes to the Chancellor of the Exchequer, the Prime Minister, and the Secretary of State for Housing, Communities and Local Government setting out the funding pressures faced by our local council, and calling on the Government to truly end austerity in local government.**

**217 Motion(s) submitted on Notice- Implement the modern day slavery charter at Hyndburn Borough Council**

The following **motion** was moved by Councillor Glen Harrison and seconded by Councillor Stewart Eaves under Council Procedure Rule A9:-

“That this Council will implement the modern day slavery charter, as modern day slavery is a scourge on our society, and together, we will end it, holding the Government on its implementation and enforcement of the Modern Slavery Act, and in particular, section 54 which requires businesses to publish a statement on modern slavery. Collectively, local authorities in England spend more than £40bn per year procuring goods and services on our behalf. From car washes to cleaning and construction, councils do business with literally hundreds of different suppliers—both big and small. Many of those firms will have contractors and suppliers of their own too.

This motion moved that Hyndburn Borough Council will”;

- Train its corporate procurement team to understand modern slavery through the Chartered Institute of Procurement and Supply’s (CIPS) online course on Ethical Procurement and Supply.
- Require its contractors to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.
- Challenge any abnormally low-cost tenders to ensure they do not rely upon the potential contractor practising modern slavery.
- Highlight to its suppliers that contracted workers are free to join a trade union and are not to be treated unfairly for belonging to one.
- Publicise its whistle-blowing system for staff to blow the whistle on any suspected examples of modern slavery.
- Require its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery.
- Review its contractual spending regularly to identify any potential issues with modern slavery.
- Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed.
- Refer for investigation via the National Crime Agency’s national referral mechanism any of its contractors identified as a cause for concern regarding modern slavery.
- Report publicly on the implementation of this policy annually.

After a debate, the **motion** was put to the vote and declared carried.

**Resolved** - That this Council will implement the modern day slavery charter.

**218 Motion(s) submitted on Notice- Universal Credits**

The following **motion** was moved by Councillor Glen Harrison and seconded by Councillor Stewart Eaves under Council Procedure Rule A9:-

“That this Council notes that despite knowing Universal Credit causes serious problems for claimants, this Conservative government is pressing ahead and rolling it out to thousands of people who will have to wait to receive any money. Claimants are descending into debt, relying on food banks, getting into rent arrears and in many cases getting evicted from their homes because of in built problems with universal credit.

Universal credit replaces five benefits; child tax credit, housing benefit, income support, income based jobseekers allowance, income related employment and support allowance and working tax credit.

According to Citizens advice in Hyndburn they state that 33% of all cases are around benefits with 34% dealing with debt. In Hyndburn there is a significant increase in problems arising from Universal credit, people whom are experiencing financial difficulty can invariably lead to homelessness. Only 1% of people requiring support from citizen’s advice contacts them via email, with 73% contacting them face to face. 17% of UC claimants are still waiting more than 5 weeks to receive their full payment.

People not being paid on time are 23% more likely to get into debt Online claiming process is problematic, 25% of the people Citizens advice help take a week or more to complete the claim online

Complexity of managing online journal can lead to delays in payments, sanction and suspensions in payments especially for people who are disadvantaged. 2 out of 5 people find that providing evidence of housing costs is difficult. Advance payments are available but claimants can have difficulty managing their finances going forwards.”

After a debate, the **motion** was put to the vote and declared carried.

**Resolved**

- That this Council calls on the government to:
  - Abandon the long waits for claimants to receive money;
  - Allow people to apply for universal credits at the job centre, not just online;
  - Provide people with better help when the system fails them;
  - Pay landlords directly to stop people getting into rent arrears and losing their homes;
  - End benefit sanctions for in work and out of work claimants;
  - Stop payments going to one named person of a household;
  - Make work pay-universal credit takes 63p in every £1 people earn.

## 219 Motion(s) submitted on Notice- Transport

The following **motion** was moved by Councillor Noordad Aziz and seconded by Councillor Munsif Dad under Council Procedure Rule A9:-

“That this council resolves to write to the Department of Transport and Transport for the North to highlight to them the recent report by the National Infrastructure Commission that placed Accrington and Rossendale as 26th most congested place in the country and the first non-city in the list.

This council has been at the forefront for calling infrastructure investment in East Lancashire through a rail and road Infrastructure programme. The lack of infrastructure investment is having a detrimental impact on the area as this report highlights and reinforces the message transport connectivity is key in driving economic growth and area regeneration.

We, the council, reinforce our messages that the following infrastructure projects be given serious consideration”:

1. The re-establishment of the Skipton to Colne Rail Line.
2. The expansion of the M65 to linking into Yorkshire and to the A1 (M) including a link to Leeds Bradford Airport.
3. The upgrade of the A56 from the M65 to the M66 into full motorway with upgrade capacity of 3 lanes.

After a debate, the **motion** was put to the vote and declared carried.

**Resolved** - **That this council resolves to write to the Department of Transport and Transport for the North to highlight to them the recent report by the National Infrastructure Commission. It placed Accrington and Rossendale as 26th most congested place in the country and the first non-city in the list and reinforce the message about infrastructure projects listed in the motion to be given serious consideration.**

## 220 Motion(s) submitted on Notice- Blackpool Airport

The following **motion** was moved by Councillor Noordad Aziz and seconded by Councillor Munsif Dad under Council Procedure Rule A9:-

“That this council resolves to write to the Department of Transport and Blackpool Airport in support of Blackpool Airport recommencement as a commercial airport and operating passenger flights, intercity hops to European destinations as well as for freight. This should be considered as a way of making the airport viable.

This council has been at the forefront for calling infrastructure investment in East Lancashire through a rail and road Infrastructure programme and this now needs to encompass air transport for Lancashire.

The lack of infrastructure investment is having a detrimental impact on the area and we need additional ways of improving transport connectivity as this is key in driving economic growth and area regeneration.”

After a debate, the **motion** was put to the vote and declared carried.

**Resolved**

- That this council resolves to write to the Department of Transport and Blackpool Airport in support of Blackpool Airport recommencement as a commercial airport operating passenger and freight flights.

Signed:.....

Date: .....

Chair of the meeting  
at which the minutes were confirmed

# Agenda Item 5.

<b>REPORT TO:</b>	Council		
<b>DATE:</b>	10 January 2019		
<b>REPORT AUTHOR:</b>	Susan Gardner, Senior Corporate Support Officer		
<b>TITLE OF REPORT:</b>	<b>Question Time</b>		
<b>EXEMPT REPORT:</b>	<b>No</b>		
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:	n/a

## **Question to Council**

The following question has been submitted under Council Procedure 2.2(vi):-

### **To the Leader of the Council (Councillor Miles Parkinson):-**

#### **QUESTION:**

“Although currently classed as brownfield land, Huncoat Colliery is more like a nature reserve and the local community want this valuable habitat to be given protected status not developed. Huncoat Colliery is one of the best places in Hyndburn to see butterflies, wildflowers and other wildlife.

Since the Colliery stopped operating in the 1960s, the land has been reclaimed by nature and is now a haven for wildlife. Recently Hyndburn Butterfly Project has recorded sightings of 21 butterfly species at Huncoat Colliery, 13 of which are in decline, including 2 species classed as a priority in the UK Biodiversity Action Plan (Small Heath and White-letter Hairstreak). Butterflies are attracted to Huncoat Colliery by large areas of wildflowers, including stunning patches of wild orchids. Huncoat Colliery is an accessible site which gives local people easy access to nature, as well as providing educational interest.

That, Huncoat Colliery has been earmarked for housing development is terrible news for local biodiversity, as we stand to lose an area rich in wildlife at a time when it's more important than ever to protect the precious habitat we have left. In 2014 WWF-UK reported in its Living Planet report that Earth has lost half its wildlife in the last 40 years. However, worse is to come as climate change and habitat loss are leading us into the Sixth Mass Extinction. In the 40 years that the world has witnessed critical losses of species, the former colliery site has become a haven for thriving nature. This site has the potential to be a destination and a contribution to tourism in the Borough.

With other less biodiverse lands available in and around Huncoat we ask that this site is given special protection and that The Leader of Hyndburn Borough Council calls a special full council meeting where experts and local people can present their case as to why this habitat needs to be saved from development. Can he do this?”

(submitted by Kerry Gormley)

Procedural Note

- *The question will be read out by the Mayor*
- *The Leader of the Council will give an oral answer*

Date: 19<sup>th</sup> November 2018

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## CABINET

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**Wednesday, 5th December, 2018**

**Present:** Councillor Miles Parkinson (in the Chair), Councillors Munsif Dad and Joyce Plummer

**Apologies:** Clare Cleary, Paul Cox and Gareth Molineux

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**234 Apologies for Absence**

Apologies for absence were submitted on behalf of Councillors Clare Cleary, Paul Cox and Gareth Molineux.

**235 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations.

**236 Minutes of Cabinet**

The Minutes of the meeting of Cabinet held on 10<sup>th</sup> October 2018 were submitted for approval as a correct record.

The Deputy Leader of the Conservative Group expressed concern about the recent crime and security issues on Warner Street. The Leader of the Council reported that the Business & Marketing Co-ordinator would be liaising with local businesses and the Police in the town centre and that there would a report submitted at a future meeting.

The Deputy Leader of the Conservative Group reported that she had raised questions about the Town Centre Events Programme at a previous Cabinet meeting and had had no response. The Leader of the Council indicated that he would ask the Business & Marketing Co-ordinator to provide an update.

**Resolved** - That the Minutes be received and approved as a correct record.

**237 Minutes of Boards, Panels and Working Groups**

The Minutes of the following meetings were submitted for noting:

Regeneration and Housing Panel Held on 17<sup>th</sup> September 2018  
Cabinet Waste and Recycling Group on 4<sup>th</sup> October 2018  
Local Plan Member Working Group on 15<sup>th</sup> October 2018

The Deputy Leader of the Conservative Group referred to page 2 of the Cabinet Waste and Recycling Group minutes and the use of I-phones by Enforcement Officers and asked for further information. The Executive Director of Environmental Services and Town Centres reported that technology had been introduced to record evidence and reduce administration.

**Resolved** - That the Minutes be received and noted.

**238 Reports of Cabinet Members**

There were no reports submitted by Cabinet Members.

**239 Quantity Restrictions - Hackney Carriage Vehicles**

The Cabinet Portfolio Holder for Resources submitted a report to enable Members to consider the findings of the survey conducted by Licensed Vehicle Surveys and Assessment (LVSA). She asked Cabinet to consider the report be LVSA and to consider what action to take in light of the findings of the survey.

Approval of the report was not deemed a key decision.

*Reasons for Decision*

The Council currently has a policy of restricting the number of hackney carriage licences issued. However in maintaining such a policy the Council has to provide evidence that there is no significant unmet demand for hackney carriage services in the area in order to be in a position to refuse any new applications for additional licences. For this purpose it has been considered necessary to commission an independent survey to assess the level of demand for hackney carriage services, and that the survey should be carried out by an organisation specialising in that area.

The present legal provision on quantity restrictions outside London is set out in section 16 of the Transport Act 1985. This provides that the grant of a taxi (hackney carriage) licence may be refused, for the purpose of limiting the numbers of licensed taxis 'if, but only if, the [local licensing authority] is satisfied that there is no significant demand for the services of hackney carriages (within the area to which the licence would apply) which is unmet.'

Around three quarters of local licensing authorities do not impose quantity restrictions. The Department for Transport Best Practice Guidance states that 'Where restrictions are imposed, the department would urge that the matter should be regularly reconsidered. The Department further urges that the issue to be addressed first in each reconsideration is whether the restrictions should continue at all. It was suggested that the matter should be approached in terms of the travelling public - that is to say, the people who use taxi services. What benefits or disadvantages would result for the public if the controls were removed? Was there evidence that the removal of controls would result in deterioration in the amount or quality of taxi service provision?'

Members were informed that if they took the view that a quantity restriction could be justified, the question of the level at which it should be set should be considered.

During the summer of 2018 LVSA carried out a survey on the demand for hackney carriage services in the Borough. During the survey the number of hackney carriage vehicles that were actually licensed was 60, although the current limit on the issue of hackney carriage plates had been set at 62. Two plates had been allowed to expire and had not been renewed and it was decided that the Council should await the outcome of the survey so that members could determine whether there was a need to re issue the plates.

The findings of the survey have been presented by LVSA and are contained in the report. Members were requested to note that even with the hackney carriage fleet running at the reduced number of 60 instead of 62 the survey had included that there was no significant unmet demand for hackney carriage services at this time.



Approval of the report was not deemed a key decision.

*Reasons for Decision*

The spend for the first 7 months of the financial year to the end of October 2018 is £6,206,244 compared to a budget of £6,223,269 giving a small positive variance of £17,000 over the first seven months of the year.

The current forecast spend to the end of the financial year in March 2019 is £11,107,000 compared to a budget of £11,174,000. This forecast produces a positive variance of £67,000. Environmental Services are predicting a positive variance for the year. Culture & Leisure Services are predicting a small adverse variance. There are more significant adverse variances on Planning & Transportation and Regeneration & Property Services along with Policy & Corporate Governance.

*Alternative Options Considered and Reasons for Rejection*

Not applicable.

**Resolved**

- (1) That the report be noted; and**
- (2) That Corporate Management Team continues to work to reduce costs and increase income over the remainder of the year to help improve the overall financial position of the Council.**

**242 Capital Spend Report 2018/19**

The Cabinet Portfolio Holder for Resources submitted a report to inform Cabinet of the progress of the 2018/19 Capital Programme.

Approval of the report was not deemed a key decision.

*Reasons for Decision*

The Council approved Its Capital Programme for 2017/18 at its meeting on the 22<sup>nd</sup> February 2018.

The total value of spend authorised in the budget in February 2018 was £4.9m and this has been increased to £10.6m with carry forward projects from the previous year and new in-year authorisations. The current predicted outturn is £10.3m. There is underspend of £324,000 (3%) currently predicted for the year.

*Alternative Options Considered and Reasons for Rejection*

Not applicable.

**Resolve - That Cabinet noted the progress on capital expenditure to date.**

*The following item was submitted as urgent business with the Chair's agreement in accordance with Section 100B(4) of the Local Government Act 1972, the reason being to ensure the most up to date information was provided.*

**243 Public Space Protection Order Relating to Dog Control**

The Deputy Leader of the Council, Environmental Services submitted a report seeking authority from Cabinet to make a Public Spaces Protection Order (PSPO) pursuant to sections 60(2) and 61(1) (a) of the Anti-Social Behaviour, Crime and Policing Act 2014 ("The Act") which varies the borough of Hyndburn (Control of Dogs) Public Spaces Protection Order (No 2 of 2015) by adding the grounds of Churchfield House in Great Harwood and the extension to Great Harwood Cemetery to the areas which will be governed by the proposed order in so far as it required dogs to be held on leads and extended the period during which the said order was effected by a period of three years.

Approval of the report was deemed a key decision.

#### *Reasons for Decision*

The Act required local authorities to use PSPOs instead of dog control orders. To make a PSPO a local authority had to be satisfied that activities carried on in a public place had or were likely to have a detrimental effect on the quality of life of those in the locality (s 59 (2) of the Act) and that those activities were unreasonable, likely to persist or continue and justified the making of the PSPO. Similar considerations have to be taken into account if the local authority wished to extend the area governed by an existing PSPO (s 61(1) (a) and 61(2) of the Act.

PSPO's are live for a maximum of three years and at that point have to be extended and varied if necessary, for them to remain in force. To extend and/or vary a PSPO a consultation exercise needs to be undertaken and a decision taken by Cabinet.

A consultation exercise was undertaken during September and October 2018. Key stakeholders such as the Police & Dogs Trust and user groups such as Sports Teams & local 'Friends Of' groups were consulted to ensure those most invested had a chance to comment. As part of the consultation an online survey was available for Borough residents to indicate which of the proposals for inclusion within the PSPO they were for or against. A total of 339 responses were received via the on-line survey. The results are available in Appendix 1 of this report.

As part of the consultation an email address ([pspo@hyndburnbc.gov.uk](mailto:pspo@hyndburnbc.gov.uk)) was available for anyone wishing to make a specific point or comment about the proposals. Nine responses were received in total relevant to the consultation exercise. Eight responses were received from Borough residents, all of which objected to the proposal to exclude dogs from designated areas of Council owned sports pitches. One response was received from the Dogs Trust, this response commented on a more broad range of issues (refer to Appendix 2).

#### *Alternative Options Considered and Reasons for Rejection*

An alternative option was to not extend and vary the current Borough of Hyndburn (Control of Dogs) PSPO (No 2 of 2015). This has been rejected as evidence and experience has shown that practical measures, like the current PSPO help balance the needs of dog owners with the wider use of public spaces.

**Resolved - (1) That a Public Spaces Protection Order be agreed, having taken into consideration the outcome of the consultation exercise and all other relevant matters in conditions set out in section 59 (2) and (3) of the Act, in respect of the grounds of Churchfield House and the extension to Great Harwood Cemetery by reason of dogs being allowed by their owners to roam in those areas without being held on leads; and further**

satisfied having given due consideration to the above mentioned consultation exercise and other relevant matters that the conditions in section 60( 2) are satisfied to the extent that the period during which the Borough of Hyndburn ( Control of Dogs) Public Spaces Protection Order (No 2 of 2015) applies should be extended

- (2) That it be agreed for a Public Spaces Protection Order which imposes the following requirements:
- i. The exclusion of dogs from Council owned children's play facilities.
  - ii The requirement for dogs to be kept on leads within Hyndburn's main townships.
  - iii The continuation of the requirement for dogs to be kept on leads in the Borough's cemeteries.
  - iv The exclusion of dogs from designated Council owned bowling greens.
  - v. The requirement for dogs to be kept on leads within the grounds of Churchfield House in Great Harwood
- (3) That, having considered the results of the consultation exercise, it be agreed not to include the proposed exclusion of dogs from designated areas of Council owned sports pitches and the proposal requiring dogs to be kept on leads within Foxhill Local Nature Reserve within the PSPO.
- (4) That the level of any Fixed Penalty Notices (FPN) issued for contravening a PSPO (recommended at £80 with no discount) be agreed and authority be delegated to the Head of Environmental Services to amend the level of FPN in the future in consultation with the relevant Cabinet Portfolio Holder and the Executive Director Legal and Democratic Services.

#### **244 Exclusion of the Public**

Resolved

- That, in accordance with Section 100A(4) Local Government Act 1972, the public be excluded from the meeting during the following items, when it was likely, in view of the nature of the proceedings that there would otherwise be disclosure of exempt information within the Paragraph at Schedule 12A of the Act specified at the items.

#### **245 Report of Urgent Cabinet Decision - Land at Nook Lane, Oswaldtwistle**

*Exempt Information under the Local Government Act 1972, Schedule 12A, Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)*

The Leader of the Council submitted a copy of an exempt signed Urgent Cabinet Decision form and accompanying exempt report relating to use of the Urgent Cabinet Procedure in

respect of the land at Nook Lane, Oswaldtwistle. The reason for urgency is that timescales are short due to the auction date.

Approval of the report was not deemed a key decision.

*Reasons for Decision*

The reasons for the decision were set out in the exempt decision form and accompanying exempt report.

*Alternative Options Considered and Reasons for Rejection*

The alternative options considered and reasons for rejection were set out in the exempt report.

**Resolved** - **That the use of the Urgent Cabinet Decision Procedure be noted.**

**246 Report of Urgent Cabinet Decision - Purchase of Loan**

*Exempt Information under the Local Government Act 1972, Schedule 12A, Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)*

The Cabinet Portfolio Holder for Resources submitted a copy of an exempt signed Urgent Cabinet Decision form and accompanying exempt report relating to use of the Urgent Cabinet Procedure in respect of the purchase of a loan. The reason for urgency is that bids for the acquisition of the loan must be submitted by 12<sup>th</sup> November 2018.

Approval of the report was not deemed a key decision.

*Reasons for Decision*

The reasons for the decision were set out in the exempt decision form and accompanying exempt report.

*Alternative Options Considered and Reasons for Rejection*

The alternative options considered and reasons for rejection were set out in the exempt report.

**Resolved** - **That the use of the Urgent Cabinet Decision Procedure be noted.**

**247 Proposed Disposal of the Steiner Street Site, Accrington**

*Exempt Information under the Local Government Act 1972, Schedule 12A, Paragraph 3 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)*

The Cabinet Portfolio Holder for Housing and Regeneration submitted an exempt report on the proposed disposal of the Steiner Street Site, Accrington and to seek Cabinet's approval to amend the conditions previously imposed on the sale.



# Agenda Item 7.

<b>REPORT TO:</b>	Council		
<b>DATE:</b>	10 January 2019		
<b>PORTFOLIO:</b>	Cllr Joyce Plummer - Resources		
<b>REPORT AUTHOR:</b>	Wendy Peck – Licensing Manager		
<b>TITLE OF REPORT:</b>	Gambling Act 2005 - Review of Statement of Principles		
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>Options</b>	Not applicable	
<b>KEY DECISION:</b>	<b>Options</b>	If yes, date of publication:	

## 1. **Purpose of Report**

- 1.1 To advise members of the responses received to the consultation in respect of the Council's draft revised Gambling Act 2005 Statement of Principles and to propose a policy for approval, having regard to the responses received.

## 2. **Recommendations**

- 2.1 Members are asked to consider and agree the final draft of the revised Gambling Act 2005 Statement of Principles. All recommended amendments to the draft report following the consultation period are highlighted for ease of reference. A copy of the amended Draft policy is attached at Appendix 1.

## 3. **Reasons for Recommendations and Background**

- 3.1 Section 349 of the Gambling Act 2005 requires that the Licensing Authority (the Council) prepare and publish a Statement of Principles (the Policy) every three years.
- 3.2 The existing Policy has been kept under review since coming into force in January 2017.
- 3.3 In producing the draft policy the Licensing Authority has had due regard to –
- The Gambling Act 2005 licensing objectives,
  - The Guidance to Licensing Authorities issued by the Gambling Commission (5<sup>th</sup> edition)
  - Responses from those consulted on the Gambling Policy.

#### **4. Alternative Options considered and Reasons for Rejection**

- 4.1 The Gambling Act 2005 requires that the Licensing Authority must review and publish its policy every three years; consequently any decision not to review or publish the policy would be contrary to the Act.

#### **5. Consultations**

- 5.1 The draft proposals were advertised on the Council's website, with the consultation period running for 12 weeks from 27th July 2018 to 28th October 2018. Letters were sent out to the gambling trade and a public notice and information about the policy and consultation was placed in all of Hyndburn's public libraries. The consultees comprised:

- Council chief officers and service heads
- Gambling Commission
- HM Revenue and Customs
- Lancashire Constabulary
- Lancashire Fire and Rescue Service Authority
- Lancashire County Council – including Lancashire Area Child Protection Committee and Trading Standards Section
- All neighbouring Councils
- Accrington Magistrates Court
- Blackburn Magistrates
- Licensing Solicitors
- The British Casino Association
- Casino Operators Association of the UK
- Company Secretary, Casino Operators Association of the UK
- Business in Sport and Leisure
- Racecourse Association Ltd
- British Holiday & Home Parks Association
- Community Trade Union
- All Gambling and Licensing Premise Licence Holders
- All Small Lottery Licence Holders
- All voluntary groups in Hyndburn, including resident associations, HARV, disability organisations, community groups etc.,
- The general public by way of the Councils website

- 5.2 A copy of the Draft policy that was subject to consultation is attached at appendix 2 to this report.

### 5.3 **Response to consultation**

There were 3 representation received during the consultation period. Copies of the comments received in response to the consultation are set out in Appendix 3.

5.4 A summary of the points raised during the statutory consultation period and any subsequent changes made to the Draft policy is attached at appendix 4 to the report.

## 6. **Implications**

<b>Financial implications (including any future financial commitments for the Council)</b>	None
<b>Legal and human rights implications</b>	<p>The proposals are within the Council's licensing powers under the Gambling Act 2005.</p> <p>A statement of principles must be reasonable and proportionate. However, the proposed statement of principles cannot fetter the Council's discretion and each matter will be judged on its own merits, but having regard to the statement of principles. Any statement of principles introduced will, therefore, guide the Council, but cannot bind it in every case.</p> <p>The Council is subject to the public sector equality duty introduced by the Equality Act 2010. When making a decision in respect of the recommendations in this report Cabinet must have regard to the need to:</p> <ul style="list-style-type: none"><li>• eliminate unlawful discrimination, harassment and victimisation; and</li><li>• advance equality of opportunity between those who share a relevant protected characteristic and those who don't; and</li><li>• foster good relations between those who share a relevant protected characteristic and those who don't.</li></ul> <p>For these purposes the relevant protected characteristics are: age, disability, gender</p>

	<p>reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.</p> <p>To assist the Members in this regard a Customer First Analysis has been prepared in respect of the proposed new policy and is attached as Appendix 2 to this report. The members are advised to consider the Customer First Analysis and its obligations in respect of the public sector equality duty when making a decision in respect of the recommendations contained in this report.</p> <p>The final decision as to the adoption of the proposed statement of principles is to be determined by the Council.</p>
<b>Assessment of risk</b>	Adoption of the draft statement of principles outlined in this report should not result in any adverse implications or risk for the Council
<p><b>Equality and diversity implications</b>  <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i></p>	Customer First Analysis attached.

**7. Local Government (Access to Information) Act 1985:**

**List of Background Papers**

**Appendix 1 Gambling Act 2005 Statement of Principles Draft - post consultation**

**Appendix 2 Gambling Act 2005 Statement of Principles Draft - pre consultation**

**Appendix 3 - Responses received during the consultation period**

**Appendix 4 - Summary of points raised during the statutory consultation**

**Customer first analysis.**



**BOROUGH OF HYNDBURN  
HOME OF THE ACCRINGTON PALS**

# **GAMBLING ACT 2005**

## **STATEMENT OF PRINCIPLES**

**2019 - 2021**

**If you require this information in a different format, for example large print, audio or in different languages please let us know by calling 01254 380111**

## Table of Contents

Item	Page
Foreword	3
<b>Part A</b>	
1. The licensing objectives	4
2. Introduction	4
3. A Profile of Hyndburn	5
4. The Statement of Principles and Consultation	6
5. Declaration	7
6. Responsible Authorities	8
7. Interested parties	8
8. Exchange of information	10
9. Enforcement	11
10. Licensing authority functions	12
11. Safeguarding against CSE	13
<b>Part B - Premises licences</b>	
12. General Principles	14
13. Adult Gaming Centres	23
14. (Licensed) Family Entertainment Centres	24
15. Casinos	24
16. Bingo	25
17. Betting premises	26
18. Tracks	27
19. Travelling fairs	29
20. Provisional Statements	31
21. Reviews	30
<b>Part C - Permits / Temporary and Occasional Use Notices</b>	31
22. Unlicensed Family Entertainment Centre gaming machine permits	31
23. (Alcohol) Licensed premises gaming machine permits	33
24. Prize Gaming Permits	34
25. Club Gaming and Club Machines Permits	35
26. Temporary Use Notices	36
27. Occasional Use Notices	37
<b>Appendices</b>	
Appendix A Consultees	38
Appendix B Responsible Authorities	40
Appendix C Summary of Delegation	42

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 6th Edition, published September 2016.

## **FOREWORD**

**To be inserted**

## **PART A**

## 1. The Licensing Objectives

1.1 In exercising most of their functions under the Gambling Act 2005 (“the act “), licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act. The licensing objectives are:

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

1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

1.3 The licensing authority is aware that, as per Section 153 of the act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- reasonably consistent with the licensing objectives and
- in accordance with the authority’s statement of licensing policy.

## 2. Introduction

2.1 All references to the Gambling Commission’s Guidance for local authorities refer to the Guidance published in September 2016 available from [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

2.2 Hyndburn Borough Council is the Licensing Authority. We will regulate gambling with integrity in the public interest.

2.3 We are committed to avoid duplication with other legislation and regulatory regimes as far as possible, and will not replicate issues in this policy which are already legal requirements under other legislation such as health and safety and fire precautions.

2.4 This DRAFT policy has been developed after having regard for the statutory guidance from the Gambling Commission and we will also give appropriate weight to the views of persons and organisations consulted.

2.5 The Council delegates all functions under the Act to the Licensing Committee, except those functions which by law must be dealt with by the Council as a whole, such as the approval of this policy statement.

2.6 Section 349 of the Act requires the Licensing Authority to publish a statement of principles that we will apply in exercising our functions under the Act. This statement fulfils that statutory requirement.

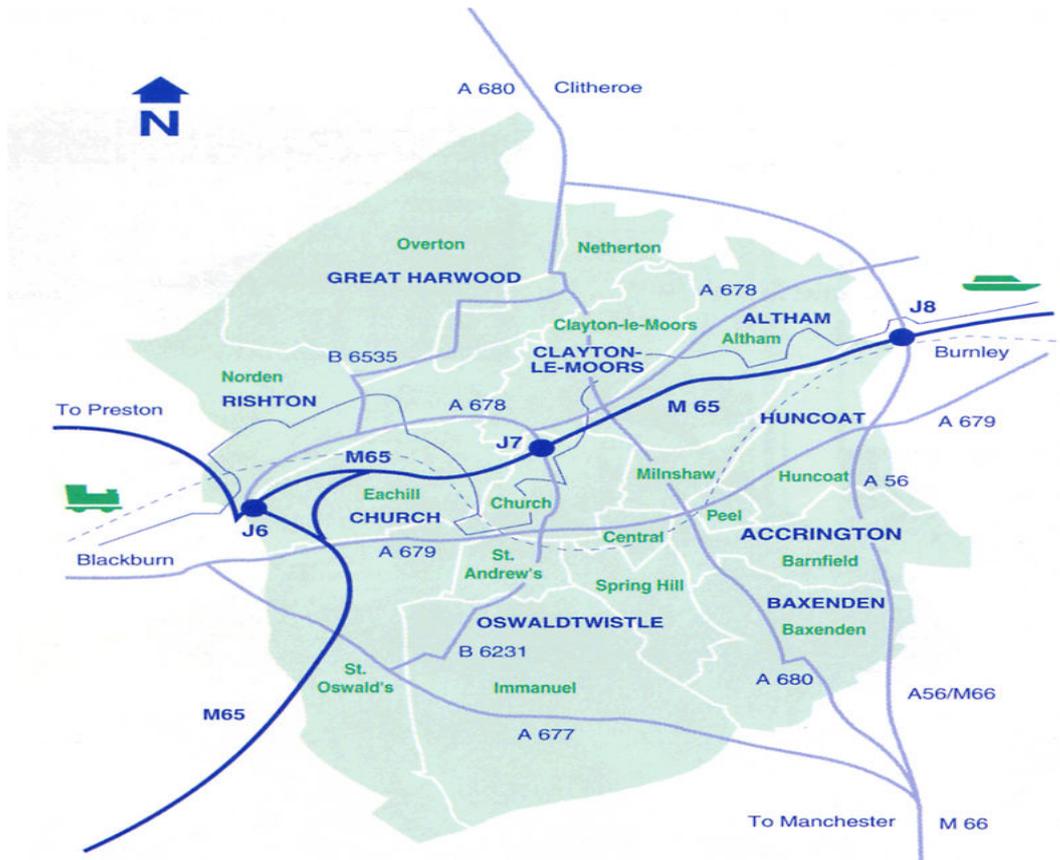
- 2.7 The approved statement of principles will be applied during the 3 year period ‘at a date to be confirmed’ and during that time will be kept under review and revised when and if appropriate, during that 3 year period.
- 2.8 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. This statement is designed to be a strategic gambling policy, not an operational guide to the Act.
- 2.9 Nothing in this policy will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in this policy will undermine the right of any person to make representations on an application, or seek a review of a licence where there is a legal power to do so.
- 2.10 Previous legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. We acknowledge that under this legislation, unmet demand is not a criterion for a Licensing Authority in considering an application.
- 2.11 We appreciate that gambling can be an emotive subject but acknowledge that in accordance with Gambling Commission Guidance for Local Authorities, “moral objections to gambling are not a valid reason to reject applications for premises licences “. except in respect of a Casino resolution in Section 13, and also that unmet demand is not a criterion for a Licensing Authority.
- 2.12 We will therefore consider any application in accordance with the Act, on its individual merits without regard to demand or moral objection to gambling in general.

**3. A Profile of Hyndburn Borough Council**

- 3.1 Hyndburn Council is situated in the County of Lancashire and is one of 14 Councils within the County.
- 3.2 Hyndburn has an estimated population of 80,734 (information from the census 2011)
- 3.3 The population profile is illustrated below;

Years of Age	0-14	15-64	65+
Percentage of Population	19.2%	64.9%	15.9%

- 3.4 The Borough in population number is the 4<sup>th</sup> smallest in Lancashire.
- 3.5 The Borough by area covers 73 square kilometres and has 16 wards. The number of people per km<sup>2</sup> is around three times the England and Wales average. The Council area is mainly urban, illustrated on the map below.



- 3.6 Accrington forms the heart of the Borough, with Oswaldtwistle, Clayton Le Moors, Rishton, Great Harwood, Church, Baxenden, Altham and Huncoat being areas of residential and commercial importance, supporting the main town.
- 3.7 The Council is working hard with its partners and the community in order to regenerate Hyndburn’s social, economic and physical infrastructure.

**4. The Statement of Principles and Consultation**

- 4.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 4.2 Hyndburn Council wil consult widely upon this statement before finalising and publishing. A list of those persons consulted is illustrated at **Appendix A**
- 4.3 The Gambling Act requires that the following parties are consulted by licensing authorities:
  - The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;

- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

4.4 Consultation took place between 25<sup>th</sup> July 2018 and 20<sup>th</sup> October 2018 and I followed the Cabinet Office consultation principles guidance document published in January 2016, which is available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

4.5 A copy of this statement is available on the Council's website.

4.6 It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## **5. Declaration**

5.1 In producing the final statement, this licensing authority declares that it will have regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on this statement.

## **6. Responsible Authorities**

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

6.2 The principles are:

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

6.3 In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Lancashire Safeguarding Children Board for this purpose.

6.4 The body has county wide responsibility, is democratically accountable.

6.5 The Responsible Authorities under the Gambling Act 2005 are:

- Hyndburn Borough Council Licensing Authority
- The Gambling Commission;
- The Chief Constable, Lancashire Constabulary
- Lancashire Fire and Rescue Service Authority
- Hyndburn Borough Council Planning and Transportation Section
- Hyndburn Borough Council Environmental Health Section
- Lancashire Area Child Protection Committee, Lancashire County Council Social Services Section
- H.M. Revenue & Customs

subject to any other person being prescribed in Regulation by the Secretary of State. The contact addresses for these authorities are set out in **Appendix B**.

## **7. Interested Parties**

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

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

7.2 We will have regard to anything people say about their status to make representations as an interested party.

7.3 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

7.3 Each case will be decided upon its merits. This authority will adopt the principles of natural justice and decide each case on its merits. We will not apply a rigid rule to our decision making. We will have regard to the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities

7.4 The following gives further advice on how we can determine whether someone is an interested party.

### **People living close to the premises**

7.5 When considering whether persons are interested parties in relation to any individual application we will consider issues such as:

- The size of the premises;
- The nature of the premises;
- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- The type of complainant
- The catchment area of the premises (i.e. how far people to travel to visit it)

7.6 Relevant factors will depend on the particular application. For example, we

believe it is reasonable for us to consider that living sufficiently close to the premise so as to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

### **The nature and scope of business interests that could be affected.**

7.7 It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being „a person with business interests that might be affected by the premises“ under consideration. For example, an operator in a particular sector be it casino, bingo, betting etc, should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. Specifically, we recognise that the “demand test” from previous gambling legislation does not apply under the Act.

7.8 We must be satisfied that the relevant business is likely to be affected. Factors that are likely to be relevant include:

- The size of the premises
- The catchment area of the premises, that is, how far people travel to visit the premises
- Whether the person making the representation has business interests in that catchment area that might be affected.
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the premises)

### **People representing those in the above categories**

7.9 Interested parties can be people who are democratically elected, as persons representing individuals in the other categories, such as councillors and MP's. This would include county, parish and town councillors. Other representatives might include bodies such as trade associations and trade unions, and residents' and tenants' associations. A school head or governor might act to represent the interests of pupils or parents in their school and a community group might represent vulnerable people living near to the proposed premises.

Save for democratically elected persons, licensing authorities should satisfy themselves on a case by case basis that a person does represent interested parties, and request written evidence where necessary. A letter from the interested person(s) they are representing would be sufficient.

7.10 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee which will deal with the licence application. If there are any doubts then please contact the licensing department at:

Hyndburn Borough Council  
Licensing Authority  
Scaitcliffe House  
Ormerod Street  
Accrington  
Lancs

## **8. Exchange of information**

- 8.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 8.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened.
- 8.3 The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 8.4 Should any protocols be established in respect of information exchange with other bodies, then they will be made available.

## **9. Enforcement**

- 9.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising its functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 9.2 Where appropriate, we will work with the Gambling Commission and other responsible authorities in our enforcement activity.
- 9.3 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:
- Proportionate: we will only intervene when necessary: remedies will be appropriate to the risk posed, and costs identified and minimised
  - Accountable: we will must be able to justify our decisions, and be subject to public scrutiny;
  - Consistent: our rules and standards will be joined up and implemented fairly;
  - Transparent: we will should be open, and keep regulations simple and user friendly; and
  - Targeted: regulation will be focused on the problem, and will seek to minimise side effects.
- 9.4 As per the Gambling Commission's Guidance to Licensing Authorities, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

- 9.5 This licensing authority has adopted and implemented a risk-based inspection programme, based on;
- The licensing objectives
  - Relevant codes of practice
  - Part 36 of the guidance issued by the Gambling Commission
  - The principles set out in this statement of licensing policy
- 9.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.
- 9.7 The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority and should be notified to the Gambling Commission.
- 9.8 This licensing authority also keeps itself informed of developments arising from the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 9.9 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon written request to the Licensing Manager.
- 9.10 Any prosecution will only be commenced in accordance with the sufficiency of evidence and public interest criteria referred to in the Prosecution of Offences Act 1985.
- 9.11 The Licensing Authority will liaise with a qualified solicitor of the authority prior to the commencement of criminal proceedings to seek a second objective opinion prior to a prosecution being instigated by this authority.

## **10. Licensing Authority Functions**

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

- Provide information to the Gambling Commission regarding details of licences issued (see Section 7 above on 'information exchange')
  - Maintain registers of the permits and licences that are issued under these functions
  - Exercise its powers of compliance and enforcement under the Act, in partnership with the Gambling Commission via Operating Licences.
- 10.2 We as the licensing authority will not be involved in licensing remote gambling. Regulation will fall to the Gambling Commission by the grant of Operator Licences.
- 10.3 In accordance with the Act and Guidance, this authority will :
- Refer the decision whether to make a resolution not to issue casino licences within the Borough to Full Council.
  - Refer approval of this three-year licensing policy to Full Council
  - Refer any delegated power under forthcoming Regulations to set fees to Cabinet.
  - Delegate all decisions relating to premises licences to the Licensing Committee where representations have been received and not withdrawn.
  - Further delegate decision making to officers in accordance with the law and guidance, attached at Appendix C.

## **11. Safeguarding against Child Sexual Exploitation (CSE)**

- 11.1 The Council acknowledges children are not permitted access to most gambling premises. However where children are permitted access to for example Family Entertainment Centres, Tracks etc. applicants should ensure that suitable management controls are in place to safeguard children against the risk of CSE. Applicants should be equally aware of children in the proximity of the premises that may be waiting for, or seeking, older persons.
- 11.2 Suitable management controls which could be put in place to safeguard children against the risk of CSE, may include, but are not limited to:
- awareness training for staff;
  - recording concerns and reporting these to the police.
- 11.3 The Council expects applicants to be aware of 'risk indicators' of CSE which include, but are not limited to:
- developing relationships between a child and an older person;
  - children in the company of a group of older persons;
  - children regularly attending premises and meeting with a number of different older persons, particularly where older persons may be facilitating gambling for children;
  - children outside of licensed premises developing relationships with an older person, particularly an older person facilitating gambling for children;
  - children leaving the locality of the premises with older people, particularly with a group of older persons;
  - children looking uncomfortable in the company of, or leaving with, older people, particularly groups of older persons.
- 11.4 Whilst the Council does not wish to create the impression that all contact between children and older people is inappropriate, it is strongly of the view

that licence holders should be aware of the risks of CSE and should proactively manage their premises to minimise the risks.

- 11.5 Whilst the licensing authority acknowledges that CSE falls outside of the requirement of the licensing objective which is to protect children from the harm of gambling, the authority considers that we all have a moral duty to protect children from CSE and regard should be given to this in areas where children and adults may congregate together socially. The licensing authority are requesting that operators consider this matter when dealing with staff training etc.

## **PART B**

### **Premises Licences**

#### **12 General Principles**

- 12.1 Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State.
- 12.2 We as the licensing authority will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 12.3 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of licensing policy.
- 12.4 In accordance with the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences", except in respect of a Casino resolution and also that unmet demand is not a criterion for a Licensing Authority. Issues of nuisance and the likelihood of planning permission or building regulations approval being obtained are not issues that can be taken into account when considering an application for a premises licence.
- 12.5 Licence conditions are one method by which it is possible to mitigate risks associated with particular premises. The imposition of licence conditions might be prompted by locality specific evidence based risks. If additional conditions are to be imposed, they will be imposed in response to evidence of risk to the licensing objectives not already addressed by the mandatory and default conditions.
- 12.6 Wherever possible and where there are justifiable concerns the licensing authority will have proactive engagement with local operators to encourage them to mitigate risks to the licensing objectives effectively. Such engagement can facilitate an open and constructive partnership which, in turn, can improve compliance and reduce regulatory costs.

- 12.7 The Gambling Commissions Licensing Conditions and Code of Practice (LCCP) document contains two types of code provisions:
- Social responsibility code provisions: compliance with these is a condition of licences
  - Ordinary code provisions: These do not have the status of operator licence conditions but set out good practice. Operators may adopt alternative approaches to those set out in ordinary code provisions if they have actively taken account of the ordinary code provisions and can demonstrate that an alternative approach is reasonable in the operator's particular circumstances; or that to take an alternative approach would be acting in a similar effective manner.
- 12.8 To improve the exchange of information between licensing authorities and operators, the Commission has introduced social responsibility code provisions that require operators of premises-based businesses to conduct local risk assessments (SR 10.1.1), and an ordinary code provision that says licensees should share their risk assessments with licensing authorities in certain circumstances (OC 10.1.2).
- 12.9 SR 10.1.1 which came into force on 6th April 2016 applies to non-remote licensees who hold or are applying for premise licences. The provision requires licensees to assess and have policies, procedures and control measures to mitigate local risks to the licensing objectives, taking account of the licensing authority's statement of licensing policy. It goes on to require local risk assessments to be reviewed when there are significant changes in local circumstances or at the premises, or when applying for a new licence or a variation of a licence. The risk assessments should be carried out to identify specific risks to the licensing objectives in the local area and to assess whether control measures going beyond standard control measures are needed.
- 12.10 The licensing authority when considering an application in relation to the grant or variation of the premise licence will expect to see a risk assessment that has been carried out as per the above provision and will give consideration to that risk assessment before making a decision.
- 12.11 This licensing authority will expect applicants for a new licence to submit the completed assessment with their application. It must identify risks and state what control mechanisms are to be employed at the premises to ensure that the licensing objectives are being met having regard to the local area profiles produced by this Authority. The assessment must consider as a minimum –
- The local area, including but not restricted to; the types of premises and operation in the area surrounding the gambling premises; the character of the area (for example is it predominantly residential or commercial, is it a family orientated area); transport links, educational facilities; centres for vulnerable people; ethnicity, age, economic make-up of the local community; high crime area; high unemployment area; or not a pawn broker/pay day loan businesses in the vicinity, other gambling premises in the vicinity
  - The gambling operation, including but not restricted to: what gambling products it provides in the premises, the staffing levels within the

premises; the level and requirement for staff training; whether loyalty or account cards are used or not; the security and crime prevention arrangements it has in place; how it advertises locally and on the premises, the marketing material within the premises; the display and provision of information.

- The design and layout of the premises, including but not restricted to: whether the staff have obstructed views of gaming machines or entrances; whether the design is such that gambling can't take place.
- Measures that could be considered to be put in place to mitigate the risks where necessary could be for example the use of CCTV cameras, the provision of magnetic door locks, employment of door supervisors, employing a challenge 25 scheme, number of trained staff.

12.12 Operators are required to review their local risk assessments if significant changes in local circumstances occur, when there are significant changes at a licensee's premises that may affect their mitigation of local risks and when applying for the variation of a licence. The following list sets out what are considered to be significant changes in local circumstances-

- Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors.
- A new pay day loan or pawn broker opening in the local area.
- An increase in educational facilities in the local area, e.g. the opening of new schools, colleges or the extension of an existing establishment.
- The local area is identified as a crime hotspot by the police and/or Licensing Authority
- Venues serving or supporting vulnerable groups are opened in proximity to the gambling premises.
- New gambling premises open in the local area.

12.13 An operator submitting a variation application to the licensing authority will be expected to provide a copy of the reviewed local risk assessment with the application.

12.14 When a completed assessment is provided with a new application or with a variation application, the licensing authority will consider the assessment in the course of determining whether to grant the application or not. Some control mechanisms identified in the assessment may be added to the licence as conditions to address any significant local concerns. The licensing authority is particularly concerned –

- to ensure that staff are trained and supported to identify and work with problem gamblers.
- to ensure that measures are in place to prevent underage gambling

12.15 The list above is not exhaustive and every risk assessment should be based on the individual premises and the issues in the local area.

12.16 The Council will expect a copy of the risk assessment to be kept on the premises when open for business and made available for inspection by an authorised officer upon reasonable request.

## Definition of 'premises'

- 12.18 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.
- 12.19 This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, we will pay particular attention if there are issues about sub-divisions of a single building or plot and we will ensure that mandatory conditions relating to access between premises are observed.
- 12.20 The Gambling Commission states in the fifth edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and licensing. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions can properly be regarded as different premises."
- 12.21 The licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling (with the exception of the access and permitted use of Category D machines in UFEC's and FEC's), but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
  - Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not "drift" into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
  - Customers should be able to participate in the activity named on the premises licence.
- 12.22 The Guidance also gives a list of factors which we the licensing authority should be aware of, which may include:
- do the premises have a separate registration for business rates?

- is the premises' neighbouring premises owned by the same person or someone else?
- can each of the premises be accessed from the street or a public passageway?
- can the premises only be accessed from any other gambling premises?

12.23 This licensing authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

12.24 The Gambling Commission's relevant access provisions for each premises type are reproduced below -

#### Casinos

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

#### Adult Gaming Centre

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

#### Betting Shops

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

#### Tracks

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

#### Bingo Premises

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

#### Family Entertainment Centre

- No customer must be able to access the premises directly from:

- a casino
- an adult gaming centre
- a betting premises, other than a track

The Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which the licensing authority will also take into account in its decision-making.

### **Premises 'ready for gambling'**

12.25 In determining applications, the licensing authority will not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. We will bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, a licence to use premises for gambling will only be issued in relation to premises that the licensing authority 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. (Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence). This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them.

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

12.27 For example, where the operator has still to undertake final fitting out of the premises but can give a reasonably accurate statement as to when the necessary works will be completed, it may be sufficient to simply issue the licence with a future effective date, as is possible under the Regulations. The application form allows the applicant to suggest a commencement date and the notice of grant allows the licensing authority to insert a date indicating when the premises licence comes into effect. In other cases, it may be appropriate to issue the licence subject to a condition that trading in reliance on it shall not commence until the premises have been completed in all respects in accordance with the scale plans that accompanied the licence application. If changes to the pre-grant plans are made, then parties who have made representations will be able to comment on the changes made.

12.28 If the plans submitted at the time of the application for a premises licence are changed in any material respect during the fitting out of the premises after the grant of the licence, then the applicant will be in breach of the licence. If the applicant wishes to change the proposed plans after grant then, in order to avoid breaching the licence, it will be necessary for the applicant to either

make a fresh application under s.159 or seek an amendment to a detail of the licence under s.187 of the Act. If there are substantive changes to the plans then this may render the premises different to those for which the licence was granted. In such a case, variation of the licence under s.187 is not possible. For this reason it would be more appropriate in the case of any material post grant change, for the applicant to make a fresh application under s.159 to preserve the rights of interested parties and responsible authorities to make representations in respect of the application.

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

### **Location**

12.31 The licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making.

12.32 As per the Gambling Commission's Guidance to Licensing Authorities, we 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.

12.33 The statement will be updated if the licensing authority designates any part of the Borough as unsuitable for gambling premises. It should be noted however that any such policy does not preclude an application being made in respect of such locality and each application will be decided on its merits, with the onus being upon the applicant to show how potential concerns can be overcome.

### **Planning**

12.34 The Gambling Commission Guidance to Licensing Authorities states:

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

12.35 The licensing authority will not take into account irrelevant matters as per the above guidance. In addition the licensing authority notes the following excerpt from the Guidance:

7.63 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence.

- 12.36 Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

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

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

- 12.38 When dealing with a premises licence application for finished buildings, the licensing authority will not take into account whether those buildings comply with the necessary planning or buildings consents. Fire or health and safety risks will also not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations.

### **Licensing Objectives**

- 12.37 Premises licences must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

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

- 12.39 The licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.

- 12.40 Therefore, where an area has known high levels of organised crime the Licensing authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

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

12.41 The licensing authority notes that the Gambling Commission generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed by operating and personal licences. *For Local Authorities with tracks*: There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section– see page 28).

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

12.42 The licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (save for the use of Category D machines in FEC's, UFEC's, etc.)

12.43 The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

12.44 Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

12.45 We will also take into account the codes of practice as regards to this licensing objective, in relation to specific premises.

12.46 The term “vulnerable persons” is not defined by the Gambling Commission or statute law does, but the Commission states that “it will for regulatory purposes assume that this group includes:

- people who gamble more than they want to;
- people who gamble beyond their means;
- and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”

12.48 The licensing authority will consider promotion of this licensing objective on a common sense, case by case basis. Should this term be further defined the Commission or case law in the future then this policy statement will be updated accordingly.

## **Conditions on Premises Licences**

12.49 Any conditions we attach to licences will be proportionate and If additional conditions are to be imposed, they will be imposed in response to evidence of risk to the licensing objectives not already addressed by the mandatory and default conditions. Any conditions imposed will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises: and
- reasonable in all other respects.

12.50 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of conditions the licensing authority will consider utilising should there be a perceived need, such as the use of door

supervisors, appropriate signage for adult only areas etc., There are specific comments made under some of the licence types below. The licensing authority will also expect the licence applicant to offer their own suggestions about how the licensing objectives can be met effectively.

- 12.51 The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.
- 12.52 We will, where considered necessary, also consider specific measures for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, in accordance with Gambling Commission Guidance.
- 12.53 The licensing authority will ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
  - only adults are admitted to the area where these machines are located
  - access to the area where these 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 years of age.
- 12.54 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 12.55 We are aware that tracks may be subject to one or more premises licences, provided that each licence relates to a specified area of the track.
- 12.56 We will, in accordance with the Gambling Commission's Guidance, consider the impact upon the third licensing objective and the need to ensure that the entrances to each type of premises are distinct from each other and that children are excluded from gambling areas where they are not permitted by law or condition, to enter.
- 12.57 It is noted that there are conditions which the licensing authority cannot by law 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 (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs) and
  - conditions in relation to stakes, fees, winning or prizes

## Door Supervisors

- 12.58 The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.
- 12.59 Where it is decided that supervision of entrances/machines is appropriate we will consider whether the supervisors need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).
- 12.60 This licensing authority therefore has specific requirements for door supervisors working at casinos or bingo premises which are that a book is maintained in which is recorded:-
- the identity of the door staff deployed
  - the time they commenced duty and left duty, and
  - any incidents that they dealt with

each day, and such a book shall be maintained and available for inspection for a period of 3 months from the date of the record entry.

- 12.61 This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive, young and vulnerable persons, etc.

## 13. Adult Gaming Centres

- 13.1 The licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy it that there will be sufficient measures in place to, for example, ensure that under 18 year olds do not have access to the premises.
- 13.2 The licensing authority may consider imposing conditions to meet the licensing objectives such as:
- proof of age schemes
  - CCTV
  - supervision of entrances / machine areas
  - physical separation of areas
  - location of entry
  - notices / signage
  - specific opening hours
  - self-exclusion schemes
  - provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not exhaustive, and is merely indicative of possible conditions.

## **14. (Licensed) Family Entertainment Centres**

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

14.2 The licensing authority may consider imposing conditions to meet the licensing objectives such as:

- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.
- measures / training for staff on how to deal with suspected truant school children on the premises

This list is not exhaustive, and is merely indicative of possible conditions.

14.3 The licensing authority will consider any conditions published from time to time on the Gambling Commission's website in respect of the way in which the area containing the category C machines should be delineated.

14.4 The licensing authority will also take account of any mandatory or default conditions on these premises licences, when they have been published.

## **15. Casino**

Proposal for a casino

15.1 This licensing authority does not have an existing licensed casino within the Borough. We did not submit a proposal for a premises licence for any new type of casino to the Independent Casinos Advisory Panel.

### **No Casino Resolution**

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

### **Casinos and competitive bidding**

15.3 This licensing authority is aware that where a licensing authority is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino.

- 15.4 Should these circumstances arise, we will address the matter by running a 'competition' in line with any Regulations and/or Code of Practice under the Gambling Act 2005.

#### **Licence considerations/conditions**

- 15.5 This Licensing Authority will attach conditions to casino premises licenses according to principles set out in the Gambling Commissions Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the licence conditions and Codes of Practice published by the Gambling Commission.

#### **Betting machines**

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

### **16. Bingo Premises**

- 16.1 This licensing authority notes that the Gambling Commission's Guidance states:

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded premises.

S.172(7), as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premise. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3<sup>46</sup> (but not B3A) and B4 machines.

- 16.2 The licensing authority also notes the Commissions Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and, in particular that it is not permissible to locate eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.
- 16.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

- 16.4 Gaming machines on Bingo premises – There is a requirement that gaming machines are only made available in combination with the named non – remote activity of the operating licence. So unless a bingo operator offers substantive facilities for non- remote bingo it should not be making gaming machines available for use on the premises in question. To control the risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.
- 16.5 In carrying out our functions under the act the Licensing Authority will satisfy ourselves that a premise applying for, or licensed for bingo is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premise licensed for the purpose of providing facilities for bingo. The Licensing Authority will always aim to ensure that a premise that is licensed for the purpose of providing facilities for bingo is operating as such and is not merely a vehicle to offer high stake and prize gaming machined.
- 16.6 In exercising our functions under the Act the licensing authority will take account of the relevant code of practice on ‘controlling where gaming machines may be played’. The Licensing Authority is specifically obliged to do so when exercising its functions under section 153 of the Act. In circumstance where the licensing authority considers that an existing premise is not compliant with these general requirements, we will report the matter to the Gambling Commission.
- 16.7 Both the Commission and the licensing authority have the power to attach specific conditions to premise or operator licences where additional assurance is required. However the licensing authority is aware that the Commission favours the approach of general conditions for all supplemented by operator specific conditions where contentious operating models are used which include the provision of gaming machines. The approach of adding case specific conditions can equally be deployed in the respect of an existing unit where concerns arise or when changes are made to the operating model.
- 16.8 The licensing authority may consider imposing conditions 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.

## 17. Betting Premises

- 17.1 Anyone wishing to operate a betting office will require a betting premises licence from the licensing authority. Children and young persons will not be able to enter premises with a betting premise licence.

## **Betting/Gaming machines**

- 17.2 Betting premises will be able to provide a limited number of gaming machines and some betting machines
- 17.3 Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. The Gambling Commission have introduced some social responsibility codes and the one in relation to the provision of gaming machines in licensed betting premises is set out below:-
- 17.4 **Social responsibility code provision 9.1.1 Gaming machines in gambling premises – betting**

### **All non-remote general betting operating licences, except where betting is offered under a 2005 Act casino premises licence**

- 1 Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non-remote betting, provided in reliance on this licence, available in the premises.
- 2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.
- 3 Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can reasonably be expected to recognise that it is a premises licensed for the purposes of providing betting facilities.

- 17.5 B2 gaming machines (commonly referred to as fixed odds betting terminals (FOBT'S), where provided, should be situated in locations where they can be effectively supervised at all times.

Leaflets and posters aimed at customers and their families/friends. These posters and leaflets must give advice about identifying signs of problem gambling and pathways to advice and assistance e.g. helpline number and information about online counselling facility and shall be provided in close proximity to the location of any FOBT'S.

### Number, type and availability of betting machines

The licensing authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available (as per s181 Gambling Act 2005). This may be done by attaching a licence condition to a betting premise, licence or to a casino premises licence. By virtue of S172(8) of the Gambling Act 2005 the holder of a Betting Premise Licence may make available for use up to 4 gaming machines.

In determining whether the application meets the licensing objectives or other policies consideration will be given to appropriate measures/licensing conditions to address the matters listed below.

- size of the premises
- the physical layout of the premise

- the number of counter positions available for person to person transactions
- the ability of staff to monitor the use of machines by vulnerable persons
- proof of age schemes
- CCTV
- entry control system
- 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 exhaustive, and is merely indicative of examples of measures and possible licence conditions the licensing authority will expect applicants to offer their own measures to meet the licensing objectives:

## **18. Tracks**

- 18.1 S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.
- 18.2 The licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specific area of the track.
- 18.3 When dealing with applications relating to tracks this licensing authority will give particular attention to the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 18.4 The licensing authority will expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
- 18.5 Children and young persons will by law be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 18.6 The licensing authority may consider measures/licence conditions to meet the licensing objectives such as:
- proof of age schemes
  - CCTV
  - supervision of entrances / machine areas
  - physical separation of areas
  - location of entry
  - notices / signage
  - specific opening hours

- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not exhaustive, and is merely indicative of example measures/possible licence conditions.

### **Gaming machines on tracks**

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

### **Betting machines on tracks**

- 18.8 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premise licence.
- 18.9 Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines.
- 18.10 The licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

### **Condition on rules being displayed**

- 18.11 A condition will normally be attached to track premises licences requiring the track operator to ensure that the rules relating to tracks which are contained in the Act are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race card or made available in leaflet form from the track office.

### **Applications and plans**

- 18.12 The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.43).
- 18.13 Plans for tracks do not need to be to a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

18.14 We appreciate that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information to enable the licensing authority to satisfy itself that the plan indicates the main areas where betting might take place.

## **19. Travelling Fairs**

19.1 Where category D machines and / or equal chance prize gaming without a permit is to be made available at travelling fairs, the licensing authority will determine whether the facilities for gambling amount to no more than an ancillary amusement.

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

For the purposes of the Act –

(a) “fair” means a fair consisting wholly or principally of the provision of amusements, and

(b) a fair held on a day in a calendar year is a “travelling fair” if provided-

(i) wholly or principally by persons who travel from place to place for the purpose of providing fairs, and

(ii) at a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.

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

## **20. Provisional Statements**

20.1 Developers may wish to apply to the authority for provisional statements before entering into a contract to buy or lease property. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

20.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

-expects to be constructed;

-expects to be altered; or

-expects to acquire a right to occupy.

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

- 20.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 20.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement and 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.
- 20.6 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 licensing 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 the licensing authority may discuss any concerns it has with the applicant before making a decision

## **21. Reviews**

- 21.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out.
- 21.2 This will be on the basis of whether the request for the review is relevant to the matters listed below;
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the licensing authority's statement of principles.
- 21.3 The licensing authority, whether the request is frivolous, vexatious, or whether it will certainly not cause it to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 21.4 Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full scale review being conducted, but the review itself, if necessary will be heard by elected members.

- 21.5 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 21.6 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 21.7 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- (a) add, remove or amend a licence condition imposed by the licensing authority;
  - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 21.8 In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 21.9 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 21.10 Once the review has been completed, the licensing authority will, as soon as possible, notify its decision to:
- the licence holder
  - the applicant for review (if any)
  - the Commission
  - any person who made representations
  - the chief officer of police or chief constable; and
  - her Majesty's Commissioners for Revenue and Customs

### **PART C**

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

#### **22. Unlicensed Family Entertainment Centre gaming machine permits**

- 22.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use as required by Section 238 of the act.
- 22.2 The Gambling Act 2005 states that a licensing authority may prepare a *Statement of Principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or

considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 24 of the act.

- 22.3 The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues". (para 24.8)
- 22.4 The Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....licensing authorities might wish to consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
  - that staff are trained to have a full understanding of the maximum stakes and prizes. (para 24.7)

### **Statement of Principles**

- 22.5 The licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm and will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Notices and signage on the machines or in the premises may also be help. Applicants may also wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 22.6 The efficiency of such policies and procedures will each be considered on their merits, but policies and procedures may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.
- 22.7 Applicants must also demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.
- 22.8 The licensing authority when considering a permit application for an unlicensed family entertainment centre, may request further information from an applicant regarding any matters of concern which may include:
- the suitability of the applicant
  - the suitability of members of staff
  - the location and plan of the premises
  - evidence that a premises will only operate as an unlicensed family entertainment centre

- the applicant's understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre
- confirmation of intended opening hours
- details of procedures for entry to the premises
- CCTV provisions at the premises and surveillance of the premises
- evidence that members of staff are appropriately trained and fully understanding the maximum stakes and prizes of the gambling that is permissible in an unlicensed Family Entertainment Centre
- evidence of policy and procedures in respect of unsupervised very young children on the premises, or children causing perceived problems on/or around the premises
- Display of posters and information leaflets about organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare
- Any other factors that are within the control of the permit holder or designated management.

22.9 The licensing authority will give significant weight to issues relating to the protection of children and young persons.

22.10 A permit will only be issued if the licensing authority is satisfied that there are no matters of concern.

22.11 The licensing authority will not refuse an application for a permit unless it has notified the applicant of its intentions to refuse the application and of its reasons and given the applicant an opportunity to make representations.

22.12 The licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit

### **23. (Alcohol) Licensed premises gaming machine permits**

#### **Automatic entitlement: 2 machines**

23.1 Section 282 of the Act provides an automatic entitlement to make available up to two gaming machines (of category C or D) for use in alcohol licensed premises.

23.2 To take advantage of this entitlement, the person who holds the on-premises licence must pay the prescribed fee and give notice to the licensing authority of their intention to make up to 2 Category C or D gaming machines available for use.

23.3 The automatic entitlement ceases if the holder of Licensing Act 2003 premises licence changes or ceases

23.4 We are not permitted by law to reject such a valid application or engage discretion in such an authorisation, but we can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of

practice issued by the Gambling Commission about the location and operation of the machine has been complied with);

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

### **Permit: 3 or more machines**

- 23.5 If a premises licence holder wishes to have more than 2 machines, they are required to apply for a permit. A licence holder can apply for any number of machines, but the number of machines granted in a permit will be in addition to the automatic entitlement under Section 282.
- 23.6 We will determine any such application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
- 23.7 Each case will be decided on its merits, but the licensing authority will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. This may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage on the machines or in the premises may also be help. Applicants may also wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 23.8 The licensing authority will take account of an applicants intended compliance with the Gambling Commission publication “Licence Conditions and Code of Practice”
- 23.9 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 23.10 The licensing authority may grant a licence for a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached to a permit.
- 23.11 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 23.12 Where there are no representations, permits for up to 4 additional machines will be granted by officers under delegated powers.

### **24. Prize Gaming Permits**

- 24.1 Schedule 14 Paragraph 8 of the Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.

- 24.2 In this regard the licensing authority has determined that the applicant must set out the types of gaming that he or she is intending to offer and must be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in regulations
  - and that the gaming offered is within the law
  - clear policies that outline the steps to be taken to protect children from harm.
- 24.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives, but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3).
- 24.4 There are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach further conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with
  - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
  - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - participation in the gaming must not entitle the player to take part in any other gambling

## **25. Club Gaming and Club Machine permits**

- 25.1 Bona fide members clubs and miners' welfare institutes (but **not** commercial clubs) may apply for a club gaming permit or a clubs gaming machines permit.
- 25.2 The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B, C, or D), and equal chance gaming.
- 25.3 The Gambling Commission guidance states: "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 restricted to bridge or whist".
- 25.4 The Gambling Commission's Guidance states:
- "The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.44 - 25.48 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is restricted to bridge and whist.

A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

- 25.5 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 25.6 As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:
- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 25.7 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.

## **26. Temporary Use Notices**

- 26.1 Part 9 of the Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres, and sporting venues.

- 26.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 26.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 26.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 26.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 26.6 The licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities

## **27. Occasional Use Notices**

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

## **SCHEDULE OF CONSULTEES TO THIS DRAFT POLICY STATEMENT INCLUDES**

- All Elected Councillors, Hyndburn Borough Council
- Gambling Commission, Regional Compliance Manager
- Gambling Commission, Regional Inspector
- Chief Constable, Lancashire Constabulary, Police Headquarters, Hutton, Preston.
- Licensing Officer, Lancashire Constabulary, East Division Licensing, Clitheroe Police Station
- Lancashire Fire and Rescue Service, E71 Blackburn Fire Station, Fire Safety Department, Blackburn
- Lancashire Area Child Protection Committee, Lancashire County Council
- H M Revenue & Customs
- Blackburn with Darwen Borough Council
- Burnley Borough Council
- Ribble Valley Borough Council
- Rossendale Borough Council
- The British Casino Association
- Casino Operator's Association of the UK
- Racecourse Association Ltd
- British Holiday & Home Parks Association
- GA05 Licence Holders in the Borough
- All Small Lottery Licence Holders

The following officers of Hyndburn Borough Council

- Chief Executive
- Deputy Chief Executive

- Executive Director (Legal & Democratic Services)
- Head of Environmental Services
- Head of Human Resource
- Team Leader - Public Health and Housing
- Head of Planning and Transportation
- Waste Services Manager

**In addition the draft policy and invitation to submit views on that policy have been available on the Council's website to facilitate observations from other persons**

**APPENDIX B**  
**GAMBLING ACT 2005**  
**SCHEDULE OF RESPONSIBLE AUTHORITIES**

**LICENSING DEPARTMENT & AUTHORITY**

Hyndburn Borough Council Licensing Authority, Scaitcliffe House, Ormerod Street, Accrington, BB5 0PF  
Tel: 01254 380616/380140

**THE GAMBLING COMMISSION**

The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4PB  
Tel: 0121 230 6500 Fax: 0121 230 6720

**POLICE**

Lancashire Constabulary, East Division Licensing, Clitheroe Police Station, King Street, Clitheroe, Lancashire. BB7 2EU

**FIRE AUTHORITY**

Lancashire Fire and Rescue Service, E71 Blackburn Fire Station, Fire Safety Department, Byrom Street, Blackburn, Lancashire, BB2 2LE

**PLANNING**

Planning and Transportation Department, Hyndburn Borough Council, Scaitcliffe House, Ormerod Street, Accrington, BB5 0PF

**CHILD PROTECTION**

Lancashire Safeguarding of Children Board  
Room B52  
County Hall  
Preston PR1 8RJ

**H M REVENUE AND CUSTOMS**

H M Revenue & Customs  
Boundary House  
Cheadle Point, Cheadle  
Cheshire  
SK8 2JZ

**APPENDIX C**

**SUMMARY OF THE DELEGATION OF POWERS UNDER THE  
GAMBLING ACT 2005**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-committee of licensing committee</b>	<b>Officers</b>
Final approval of three year licensing policy	<b>X</b>		
Policy not to permit casinos	<b>X</b>		
Fee setting (when appropriate)			<b>X</b>
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		<b>X</b>	
Application for club gaming/ club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/ objections have been withdrawn
Cancellation of club gaming/ club machine permits		<b>X</b>	
Applications for other permits			<b>X</b>
Cancellation of licensed premises gaming machine permits			<b>X</b>
Consideration of temporary use notice			<b>X</b>
Decision to give a counter notice to a temporary use notice		<b>X</b>	

**X** Indicates at the lowest level to which decisions can be delegated



**BOROUGH OF HYNDBURN  
HOME OF THE ACCRINGTON PALS**

# **GAMBLING ACT 2005**

## **STATEMENT OF PRINCIPLES**

**2019 - 2021**

**If you require this information in a different format, for example large print, audio or in different languages please let us know by calling 01254 380111**

## Table of Contents

Item	Page
Foreword	3
<b>Part A</b>	
1. The licensing objectives	4
2. Introduction	4
3. A Profile of Hyndburn	5
4. The Statement of Principles and Consultation	6
5. Declaration	7
6. Responsible Authorities	8
7. Interested parties	8
8. Exchange of information	10
9. Enforcement	11
10. Licensing authority functions	12
11. Safeguarding against CSE	13
<b>Part B - Premises licences</b>	
12. General Principles	14
13. Adult Gaming Centres	23
14. (Licensed) Family Entertainment Centres	24
15. Casinos	24
16. Bingo	25
17. Betting premises	26
18. Tracks	27
19. Travelling fairs	29
20. Provisional Statements	31
21. Reviews	30
<b>Part C - Permits / Temporary and Occasional Use Notices</b>	
22. Unlicensed Family Entertainment Centre gaming machine permits	31
23. (Alcohol) Licensed premises gaming machine permits	33
24. Prize Gaming Permits	34
25. Club Gaming and Club Machines Permits	35
26. Temporary Use Notices	36
27. Occasional Use Notices	37
<b>Appendices</b>	
Appendix A Consultees	38
Appendix B Responsible Authorities	40
Appendix C Summary of Delegation	42

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 6th Edition, published September 2016.

## **FOREWORD**

**To be inserted**

## PART A

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

1.1 In exercising most of their functions under the Gambling Act 2005 (“the act “), licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act. The licensing objectives are:

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

1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.

1.3 The licensing authority is aware that, as per Section 153 of the act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission.
- In accordance with any relevant guidance issued by the Gambling Commission.
- reasonably consistent with the licensing objectives and
- in accordance with the authority’s statement of licensing policy.

### **2. Introduction**

2.1 All references to the Gambling Commission’s Guidance for local authorities refer to the Guidance published in September 2016 available from [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).

2.2 Hyndburn Borough Council is the Licensing Authority. We will regulate gambling with integrity in the public interest.

2.3 We are committed to avoid duplication with other legislation and regulatory regimes as far as possible, and will not replicate issues in this policy which are already legal requirements under other legislation such as health and safety and fire precautions.

2.4 This DRAFT policy has been developed after having regard for the statutory guidance from the Gambling Commission and we will also give appropriate weight to the views of persons and organisations consulted.

2.5 The Council delegates all functions under the Act to the Licensing Committee, except those functions which by law must be dealt with by the Council as a whole, such as the approval of this policy statement.

- 2.6 Section 349 of the Act requires the Licensing Authority to publish a statement of principles that we will apply in exercising our functions under the Act. This statement fulfils that statutory requirement.
- 2.7 The approved statement of principles will be applied during the 3 year period 'at a date to be confirmed' and during that time will be kept under review and revised when and if appropriate, during that 3 year period.
- 2.8 This document should be read in conjunction with the Act, Regulations made under the Act and Guidance issued by the Gambling Commission. This statement is designed to be a strategic gambling policy, not an operational guide to the Act.
- 2.9 Nothing in this policy will override the right of any person to make an application under the Act and have that application considered on its individual merits. Equally, nothing in this policy will undermine the right of any person to make representations on an application, or seek a review of a licence where there is a legal power to do so.
- 2.10 Previous legislation required that the grant of certain gambling permissions should take account of whether there was an unfulfilled demand for gambling facilities. We acknowledge that under this legislation, unmet demand is not a criterion for a Licensing Authority in considering an application.
- 2.11 We appreciate that gambling can be an emotive subject but acknowledge that in accordance with Gambling Commission Guidance for Local Authorities, "moral objections to gambling are not a valid reason to reject applications for premises licences ". except in respect of a Casino resolution in Section 13, and also that unmet demand is not a criterion for a Licensing Authority.
- 2.12 We will therefore consider any application in accordance with the Act, on its individual merits without regard to demand or moral objection to gambling in general.

**3. A Profile of Hyndburn Borough Council**

- 3.1 Hyndburn Council is situated in the County of Lancashire and is one of 14 Councils within the County.
- 3.2 Hyndburn has an estimated population of 80,734 (information from the census 2011)
- 3.3 The population profile is illustrated below;

Years of Age	0-14	15-64	65+
Percentage of Population	19.2%	64.9%	15.9%

- 3.4 The Borough in population number is the 4<sup>th</sup> smallest in Lancashire.



- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.
- 4.4 Consultation will take place between 25<sup>th</sup> July 2018 and 20th October 2018 and will follow the Cabinet Office consultation principles guidance document published in January 2016, which is available at:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

- 4.5 A copy of this DRAFT statement is available on the Council's website.
- 4.6 It should be noted that this statement of licensing principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## **5. Declaration**

- 5.1 In producing the final statement, this licensing authority declares that it will have regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on this statement.

## **6. Responsible Authorities**

- 6.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm.
- 6.2 The principles are:
- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 6.3 In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the Lancashire Safeguarding Children Board for this purpose.
- 6.4 The body has county wide responsibility, is democratically accountable.
- 6.5 The Responsible Authorities under the Gambling Act 2005 are:
- Hyndburn Borough Council Licensing Authority
  - The Gambling Commission;

- The Chief Constable, Lancashire Constabulary
- Lancashire Fire and Rescue Service Authority
- Hyndburn Borough Council Planning and Transportation Section
- Hyndburn Borough Council Environmental Health Section
- Lancashire Area Child Protection Committee, Lancashire County Council Social Services Section
- H.M. Revenue & Customs

subject to any other person being prescribed in Regulation by the Secretary of State. The contact addresses for these authorities are set out in **Appendix B**.

## **7. Interested Parties**

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

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)”

7.2 We will have regard to anything people say about their status to make representations as an interested party.

7.3 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.

7.3 Each case will be decided upon its merits. This authority will adopt the principles of natural justice and decide each case on its merits. We will not apply a rigid rule to our decision making. We will have regard to the examples of considerations provided in the Gambling Commission’s Guidance to Licensing Authorities

7.4 The following gives further advice on how we can determine whether someone is an interested party.

### **People living close to the premises**

7.5 When considering whether persons are interested parties in relation to any individual application we will consider issues such as:

- The size of the premises;
- The nature of the premises;

- The distance of the premises from the location of the person making the representation;
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- The type of complainant
- The catchment area of the premises (i.e. how far people to travel to visit it)

7.6 Relevant factors will depend on the particular application. For example, we believe it is reasonable for us to consider that living sufficiently close to the premise so as to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.

#### **The nature and scope of business interests that could be affected.**

7.7 It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being „a person with business interests that might be affected by the premises“ under consideration. For example, an operator in a particular sector be it casino, bingo, betting etc, should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. Specifically, we recognise that the “demand test” from previous gambling legislation does not apply under the Act.

7.8 We must be satisfied that the relevant business is likely to be affected. Factors that are likely to be relevant include:

- The size of the premises
- The catchment area of the premises, that is, how far people travel to visit the premises
- Whether the person making the representation has business interests in that catchment area that might be affected.
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the premises)

#### **People representing those in the above categories**

7.9 Interested parties can be people who are democratically elected, as persons representing individuals in the other categories, such as councillors and MP's. This would include county, parish and town councillors. Other representatives might include bodies such as trade associations and trade unions, and residents' and tenants' associations. A school head or governor might act to represent the interests of pupils or parents in their school and a community group might represent vulnerable people living near to the proposed premises.

Save for democratically elected persons, licensing authorities should satisfy themselves on a case by case basis that a person does represent interested parties, and request written evidence where necessary. A letter from the interested person(s) they are representing would be sufficient.

- 7.10 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee which will deal with the licence application. If there are any doubts then please contact the licensing department at:

Hyndburn Borough Council  
Licensing Authority  
Scaitcliffe House  
Ormerod Street  
Accrington  
Lancs  
BB5 0PF

licensing@hyndburnbc.gov.uk

## **8. Exchange of information**

- 8.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 8.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information, which includes the provision that the Data Protection Act 1998 will not be contravened.
- 8.3 The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 8.4 Should any protocols be established in respect of information exchange with other bodies, then they will be made available.

## **9. Enforcement**

- 9.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising its functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 9.2 Where appropriate, we will work with the Gambling Commission and other responsible authorities in our enforcement activity.
- 9.3 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:
- Proportionate: we will only intervene when necessary: remedies will be appropriate to the risk posed, and costs identified and minimised
  - Accountable: we will must be able to justify our decisions, and be subject to public scrutiny;

- Consistent: our rules and standards will be joined up and implemented fairly;
  - Transparent: we will should be open, and keep regulations simple and user friendly; and
  - Targeted: regulation will be focused on the problem, and will seek to minimise side effects.
- 9.4 As per the Gambling Commission's Guidance to Licensing Authorities, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 9.5 This licensing authority has adopted and implemented a risk-based inspection programme, based on;
- The licensing objectives
  - Relevant codes of practice
  - Part 36 of the guidance issued by the Gambling Commission
  - The principles set out in this statement of licensing policy
- 9.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises.
- 9.7 The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority and should be notified to the Gambling Commission.
- 9.8 This licensing authority also keeps itself informed of developments arising from the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.
- 9.9 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon written request to the Licensing Manager.
- 9.10 Any prosecution will only be commenced in accordance with the sufficiency of evidence and public interest criteria referred to in the Prosecution of Offences Act 1985.
- 9.11 The Licensing Authority will liaise with a qualified solicitor of the authority prior to the commencement of criminal proceedings to seek a second objective opinion prior to a prosecution being instigated by this authority.

## **10. Licensing Authority Functions**

- 10.1 Licensing Authorities are required under the Act to :
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
  - Issue Provisional Statements
  - Regulate members' clubs and miners' welfare institutes who wish to

undertake certain gaming activities by issuing Club Gaming Permits and/or Club Machine Permits

- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
- Grant Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued (see Section 7 above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions
- Exercise its powers of compliance and enforcement under the Act, in partnership with the Gambling Commission via Operating Licences.

10.2 We as the licensing authority will not be involved in licensing remote gambling. Regulation will fall to the Gambling Commission by the grant of Operator Licences.

10.3 In accordance with the Act and Guidance, this authority will :

- Refer the decision whether to make a resolution not to issue casino licences within the Borough to Full Council.
- Refer approval of this three-year licensing policy to Full Council
- Refer any delegated power under forthcoming Regulations to set fees to Cabinet.
- Delegate all decisions relating to premises licences to the Licensing Committee where representations have been received and not withdrawn.
- Further delegate decision making to officers in accordance with the law and guidance, attached at Appendix C.

## **11. Safeguarding against Child Sexual Exploitation (CSE)**

11.1 The Council acknowledges children are not permitted access to most gambling premises. However where children are permitted access to for example Family Entertainment Centres, Tracks etc. applicants should ensure that suitable management controls are in place to safeguard children against the risk of CSE. Applicants should be equally aware of children in the proximity of the premises that may be waiting for, or seeking, older persons.

11.2 Suitable management controls which could be put in place to safeguard children against the risk of CSE, may include, but are not limited to:

- awareness training for staff;
- recording concerns and reporting these to the police.

11.3 The Council expects applicants to be aware of 'risk indicators' of CSE which include, but are not limited to:

- developing relationships between a child and an older person;
- children in the company of a group of older persons;
- children regularly attending premises and meeting with a number of different older persons, particularly where older persons may be facilitating gambling for children;
- children outside of licensed premises developing relationships with an older person, particularly an older person facilitating gambling for children;
- children leaving the locality of the premises with older people, particularly with a group of older persons;
- children looking uncomfortable in the company of, or leaving with, older people, particularly groups of older persons.

11.4 Whilst the Council does not wish to create the impression that all contact between children and older people is inappropriate, it is strongly of the view that licence holders should be aware of the risks of CSE and should proactively manage their premises to minimise the risks.

## **PART B**

### **Premises Licences**

#### **12 General Principles**

- 12.1 Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State.
- 12.2 We as the licensing authority will be able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 12.3 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of licensing policy.
- 12.4 In accordance with the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences", except in respect of a Casino resolution and also that unmet demand is not a criterion for a Licensing Authority. Issues of nuisance and the likelihood of planning permission or building regulations approval being obtained are not issues that can be taken into account when considering an application for a premises licence.
- 12.5 Licence conditions are one method by which it is possible to mitigate risks associated with particular premises. The imposition of licence conditions might be prompted by locality specific evidence based risks. If additional conditions are to be imposed, they will be imposed in response to evidence of risk to the licensing objectives not already addressed by the mandatory and default conditions.
- 12.6 Wherever possible and where there are justifiable concerns the licensing authority will have proactive engagement with local operators to encourage them to mitigate risks to the licensing objectives effectively. Such engagement can facilitate an open and constructive partnership which, in turn, can improve compliance and reduce regulatory costs.
- 12.7 The Gambling Commission's Licensing Conditions and Code of Practice (LCCP) document contains two types of code provisions:
- Social responsibility code provisions: compliance with these is a condition of licences
  - Ordinary code provisions: These do not have the status of operator licence conditions but set out good practice. Operators may adopt alternative

approaches to those set out in ordinary code provisions if they have actively taken account of the ordinary code provisions and can demonstrate that an alternative approach is reasonable in the operator's particular circumstances; or that to take an alternative approach would be acting in a similar effective manner.

- 12.8 To improve the exchange of information between licensing authorities and operators, the Commission has introduced social responsibility code provisions that require operators of premises-based businesses to conduct local risk assessments (SR 10.1.1), and an ordinary code provision that says licensees should share their risk assessments with licensing authorities in certain circumstances (OC 10.1.2).
- 12.9 SR 10.1.1 which came into force on 6th April 2016 applies to non-remote licensees who hold or are applying for premise licences. The provision requires licensees to assess and have policies, procedures and control measures to mitigate local risks to the licensing objectives, taking account of the licensing authority's statement of licensing policy. It goes on to require local risk assessments to be reviewed when there are significant changes in local circumstances or at the premises, or when applying for a new licence or a variation of a licence. The risk assessments should be carried out to identify specific risks to the licensing objectives in the local area and to assess whether control measures going beyond standard control measures are needed.
- 12.10 The licensing authority when considering an application in relation to the grant or variation of the premise licence will expect to see a risk assessment that has been carried out as per the above provision and will give consideration to that risk assessment before making a decision.
- 12.11 This licensing authority will expect applicants for a new licence to submit the completed assessment with their application. It must identify risks and state what control mechanisms are to be employed at the premises to ensure that the licensing objectives are being met having regard to the local area profiles produced by this Authority. The assessment must consider as a minimum –
- The local area, including but not restricted to; the types of premises and operation in the area surrounding the gambling premises; the character of the area (for example is it predominantly residential or commercial, is it a family orientated area); transport links, educational facilities; centres for vulnerable people; ethnicity, age, economic make-up of the local community; high crime area; high unemployment area; or not a pawn broker/pay day loan businesses in the vicinity, other gambling premises in the vicinity
  - The gambling operation, including but not restricted to: what gambling products it provides in the premises, the staffing levels within the premises; the level and requirement for staff training; whether loyalty or account cards are used or not; the security and crime prevention arrangements it has in place; how it advertises locally and on the premises, the marketing material within the premises; the display and provision of information.

- The design and layout of the premises, including but not restricted to: whether the staff have obstructed views of gaming machines or entrances; whether the design is such that gambling can't take place.
  - Measures that could be considered to be put in place to mitigate the risks where necessary could be for example the use of CCTV cameras, the provision of magnetic door locks, employment of door supervisors, employing a challenge 25 scheme, number of trained staff.
- 12.12 Operators are required to review their local risk assessments if significant changes in local circumstances occur, when there are significant changes at a licensee's premises that may affect their mitigation of local risks and when applying for the variation of a licence. The following list sets out what are considered to be significant changes in local circumstances-
- Any substantial building development or conversion of existing premises in the local area which may increase or decrease the number of visitors.
  - A new pay day loan or pawn broker opening in the local area.
  - Changes being made to the provision, location and/or timings of public transport, relocation of a bus stop used by children.
  - An increase in educational facilities in the local area, e.g. the opening of new schools, colleges or the extension of an existing establishment.
  - The local area is identified as a crime hotspot by the police and/or Licensing Authority
  - Venues serving or supporting vulnerable groups are opened in proximity to the gambling premises.
  - New gambling premises open in the local area.
- 12.13 An operator submitting a variation application to the licensing authority will be expected to provide a copy of the reviewed local risk assessment with the application.
- 12.14 When a completed assessment is provided with a new application or with a variation application, the licensing authority will consider the assessment in the course of determining whether to grant the application or not. Some control mechanisms identified in the assessment may be added to the licence as conditions to address any significant local concerns. The licensing authority is particularly concerned –
- to ensure that staff are trained and supported to identify and work with problem gamblers.
  - to ensure that measures are in place to prevent underage gambling
- 12.15 The list above is not exhaustive and every risk assessment should be based on the individual premises and the issues in the local area.
- 12.16 This licensing authority also notes the Gambling Commission guidance on ensuring that betting is the primary activity of a licensed premises. Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available.
- 12.17 In making this determination, this licensing authority will have regard to the six indicators of betting as a primary gambling activity, namely

- the offer of established core products (including live event pictures and bet range)
- the provision of information on products and events
- the promotion of gambling opportunities and products
- the size of premises
- the delivery of betting facilities

### **Definition of 'premises'**

12.18 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.

12.19 This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, we will pay particular attention if there are issues about sub-divisions of a single building or plot and we will ensure that mandatory conditions relating to access between premises are observed.

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

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

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

- or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence.

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

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

12.23 This licensing authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

12.24 The Gambling Commission's relevant access provisions for each premises type are reproduced below -

#### Casinos

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

#### Adult Gaming Centre

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

#### Betting Shops

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

#### Tracks

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

### Bingo Premises

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

### Family Entertainment Centre

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

The Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which the licensing authority will also take into account in its decision-making.

### **Premises 'ready for gambling'**

- 12.25 The Gambling Commission 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.
- 12.26 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.
- 12.27 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, we will determine applications on their merits, applying a two stage consideration process:-
- first, whether the premises ought to be permitted to be used for gambling
  - second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in a suitable the state for gambling to take place.
- 12.28 Applicants should note that the 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.

### **Location**

- 12.29 The licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making.
- 12.30 As per the Gambling Commission's Guidance to Licensing Authorities, we 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.

- 12.31 The statement will be updated if the licensing authority designates any part of the Borough as unsuitable for gambling premises. It should be noted however that any such policy does not preclude an application being made in respect of such locality and each application will be decided on its merits, with the onus being upon the applicant to show how potential concerns can be overcome.

## **Planning**

- 12.32 The Gambling Commission Guidance to Licensing Authorities states:

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

- 12.33 The licensing authority will not take into account irrelevant matters as per the above guidance. In addition the licensing authority notes the following excerpt from the Guidance:

7.63 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence.

- 12.34 Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

## **Duplication with other regulatory regimes**

- 12.35 We will seek to avoid any duplication with other statutory / regulatory systems where possible, including planning. The licensing authority will not consider whether a premise is likely to be awarded planning permission or building regulations approval, in its consideration of licence application it. It will though, listen to, and consider carefully, any concerns about licence conditions which are not able to be met by licensees due to planning restrictions.
- 12.36 When dealing with a premises licence application for finished buildings, the licensing authority will not take into account whether those buildings comply with the necessary planning or buildings consents. Fire or health and safety risks will also not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations.

## **Licensing Objectives**

12.37 Premises licences must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

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

12.38 The licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective.

12.39 Therefore, where an area has known high levels of organised crime the Licensing authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

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

12.40 The licensing authority notes that the Gambling Commission generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed by operating and personal licences. *For Local Authorities with tracks:* There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section– see page 28).

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

12.41 The licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling as well as restricting of advertising so that gambling products are not aimed at or are particularly attractive to children.

12.42 The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective.

12.43 Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

12.44 We will also take into account the codes of practice as regards to this licensing objective, in relation to specific premises.

12.45 The term “vulnerable persons” is not defined by the Gambling Commission or statute law does, but the Commission states that “it will for regulatory purposes assume that this group includes:

- people who gamble more than they want to;
- people who gamble beyond their means;
- and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”

12.46 The licensing authority will consider promotion of this licensing objective on a common sense, case by case basis. Should this term be further defined the Commission or case law in the future then this policy statement will be updated accordingly.

### **Conditions on Premises Licences**

12.47 Any conditions we attach to licences will be proportionate and If additional conditions are to be imposed, they will be imposed in response to evidence of risk to the licensing objectives not already addressed by the mandatory and default conditions. Any conditions imposed will be:

- relevant to the need to make the proposed building suitable as a gambling facility
- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises: and
- reasonable in all other respects.

12.48 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of conditions the licensing authority will consider utilising should there be a perceived need, such as the use of door supervisors, appropriate signage for adult only areas etc., There are specific comments made under some of the licence types below. The licensing authority will also expect the licence applicant to offer their own suggestions about how the licensing objectives can be met effectively.

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

12.50 We will, where considered necessary, also consider specific measures for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling and non-gambling areas frequented by children and the supervision of gaming machines in non-adult gambling specific premises, in accordance with Gambling Commission Guidance.

12.51 The licensing authority will ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- only adults are admitted to the area where these machines are located
- access to the area where these 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 years of age.

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

12.53 We are aware that tracks may be subject to one or more premises licences, provided that each licence relates to a specified area of the track.

12.54 We will, in accordance with the Gambling Commission's Guidance, consider the impact upon the third licensing objective and the need to ensure that the entrances to each type of premises are distinct from each other and that children are excluded from gambling areas where they are not permitted by law or condition, to enter.

12.56 It is noted that there are conditions which the licensing authority cannot by law 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 (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs) and
- conditions in relation to stakes, fees, winning or prizes

### **Door Supervisors**

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

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

12.58 This licensing authority therefore has specific requirements for door supervisors working at casinos or bingo premises which are that a book is maintained in which is recorded:-

- the identity of the door staff deployed
- the time they commenced duty and left duty, and
- any incidents that they dealt with

each day, and such a book shall be maintained and available for inspection for a period of 3 months from the date of the record entry.

- 12.59 This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive, young and vulnerable persons, etc.

### **13. Adult Gaming Centres**

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

- 13.2 The licensing authority may consider imposing conditions to meet the licensing objectives such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.

This list is not exhaustive, and is merely indicative of possible conditions.

### **14. (Licensed) Family Entertainment Centres**

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

- 14.2 The licensing authority may consider imposing conditions to meet the licensing objectives such as:

- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.
- measures / training for staff on how to deal with suspected truant school children on the premises

This list is not exhaustive, and is merely indicative of possible conditions.

- 14.3 The licensing authority will consider any conditions published from time to time on the Gambling Commission's website in respect of the way in which the area containing the category C machines should be delineated.
- 14.4 The licensing authority will also take account of any mandatory or default conditions on these premises licences, when they have been published.

## **15. Casino**

Proposal for a casino

- 15.1 This licensing authority does not have an existing licensed casino within the Borough. We did not submit a proposal for a premises licence for any new type of casino to the Independent Casinos Advisory Panel.

### **No Casino Resolution**

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

### **Casinos and competitive bidding**

- 15.3 This licensing authority is aware that where a licensing authority is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino.
- 15.4 Should these circumstances arise, we will address the matter by running a 'competition' in line with any Regulations and/or Code of Practice under the Gambling Act 2005.

### **Licence considerations/conditions**

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

### **Betting machines**

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

## 16. Bingo Premises

- 16.1 This licensing authority notes that the Gambling Commission's Guidance states:

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded premises.

From 1<sup>st</sup> April 2014 a bingo premises can have a maximum of 8 machines or 20% of total machines in category B3 or B4, with no limit on category C or D machines.

- 16.2 The licensing authority also notes the Commission's Guidance at paragraph 18.9 regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted, and, in particular that it is not permissible to locate eight category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

- 16.3 Children and young people are allowed into bingo premises; however they are not permitted to participate in bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.

- 16.4 Gaming machines on Bingo premises – There is a requirement that gaming machines are only made available in combination with the named non – remote activity of the operating licence. So unless a bingo operator offers substantive facilities for non- remote bingo it should not be making gaming machines available for use on the premises in question. To control the risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.

- 16.5 In carrying out our functions under the act the Licensing Authority will satisfy ourselves that a premise applying for, or licensed for bingo is operating or will operate in a manner which a customer would reasonably be expected to recognise as a premise licensed for the purpose of providing facilities for bingo. The Licensing Authority will always aim to ensure that a premise that is licensed for the purpose of providing facilities for bingo is operating as such and is not merely a vehicle to offer high stake and prize gaming machines.

- 16.6 In exercising our functions under the Act the licensing authority will take account of the relevant code of practice on 'controlling where gaming machines may be played'. The Licensing Authority is specifically obliged to do so when exercising its functions under section 153 of the Act. In circumstance where the licensing authority considers that an existing premise is not compliant with these general requirements, we will report the matter to the Gambling Commission.

- 16.7 Both the Commission and the licensing authority have the power to attach specific conditions to premise or operator licences where additional assurance is required. However the licensing authority is aware that the

Commission favours the approach of general conditions for all supplemented by operator specific conditions where contentious operating models are used which include the provision of gaming machines. The approach of adding case specific conditions can equally be deployed in the respect of an existing unit where concerns arise or when changes are made to the operating model.

## 17. Betting Premises

- 17.1 Anyone wishing to operate a betting office will require a betting premises licence from the licensing authority. Children and young persons will not be able to enter premises with a betting premise licence.

### Betting machines

- 17.2 Betting premises will be able to provide a limited number of gaming machines and some betting machines
- 17.3 There is a requirement that gaming machines are only made available in combination with the named non –remote activity of the operating licence. So unless a betting operator offers substantive facilities for non-remote betting it should not be making gaming machines available for use on the premises in question. To control the risk to the licensing objectives associated with gaming machines, premises which offer machines must be appropriately supervised.
- 17.5 B2 gaming machines (commonly referred to as fixed odds betting terminals (FOBT'S), where provided, should be situated in locations where they can be effectively supervised at all times.

Leaflets and posters aimed at customers and their families/friends. These posters and leaflets must give advice about identifying signs of problem gambling and pathways to advice and assistance e.g. helpline number and information about online counselling facility and shall be provided in close proximity to the location of any FOBT'S.

### Number, type and availability of betting machines

The licensing authority has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available (as per s181 Gambling Act 2005). This may be done by attaching a licence condition to a betting premise, licence or to a casino premises licence. By virtue of S172(8) of the Gambling Act 2005 the holder of a Betting Premise Licence may make available for use up to 4 gaming machines.

In determining whether the application meets the licensing objectives or other policies consideration will be given to appropriate measures/licensing conditions to address the matters listed below.

- size of the premises
- the physical layout of the premise
- the number of counter positions available for person to person transactions
- the ability of staff to monitor the use of machines by vulnerable persons
- proof of age schemes

- CCTV
- entry control system
- 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 exhaustive, and is merely indicative of examples of measures and possible licence conditions the licensing authority will expect applicants to offer their own measures to meet the licensing objectives:

## **18. For Authorities with tracks**

- 18.1 S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.
- 18.2 The licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specific area of the track.
- 18.3 When dealing with applications relating to tracks this licensing authority will give particular attention to the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 18.4 The licensing authority will expect the premises licence applicants to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities.
- 18.5 Children and young persons will by law be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 18.6 The licensing authority may consider measures/licence conditions to meet the licensing objectives such as:
- proof of age schemes
  - CCTV
  - supervision of entrances / machine areas
  - physical separation of areas
  - location of entry
  - notices / signage
  - specific opening hours
  - self-exclusion schemes
  - provision of information leaflets / helpline numbers for organisations such as GamCare

This list is not exhaustive, and is merely indicative of example measures/possible licence conditions.

#### **Gaming machines on tracks**

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

#### **Betting machines on tracks**

- 18.8 Licensing authorities have a power under the Gambling Act 2005 to restrict the number of betting machines, their nature and the circumstances in which they are made available, by attaching a licence condition to a betting premise licence.
- 18.9 Similar considerations apply in relation to tracks, where the potential space for such machines may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines.
- 18.10 The licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

#### **Condition on rules being displayed**

- 18.11 A condition will normally be attached to track premises licences requiring the track operator to ensure that the rules relating to tracks which are contained in the Act are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race card or made available in leaflet form from the track office.

#### **Applications and plans**

- 18.12 The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.43).
- 18.13 Plans for tracks do not need to be to a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.44).

18.14 We appreciate that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information to enable the licensing authority to satisfy itself that the plan indicates the main areas where betting might take place. (See Guidance to Licensing Authorities, para 20.46).

## **19. Travelling Fairs**

19.1 Where category D machines and / or equal chance prize gaming without a permit is to be made available at travelling fairs, the licensing authority will determine whether the facilities for gambling amount to no more than an ancillary amusement.

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

For the purposes of the Act –

(a) “fair” means a fair consisting wholly or principally of the provision of amusements, and

(b) a fair held on a day in a calendar year is a “travelling fair” if provided-

(i) wholly or principally by persons who travel from place to place for the purpose of providing fairs, and

(ii) at a place no part of which has been used for the provision of a fair on more than 27 days in that calendar year.

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

## **20. Provisional Statements**

20.1 Developers may wish to apply to the authority for provisional statements before entering into a contract to buy or lease property. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

20.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

-expects to be constructed;

-expects to be altered; or

-expects to acquire a right to occupy.

20.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises

licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

- 20.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 20.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement and 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.
- 20.6 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 licensing 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 the licensing authority may discuss any concerns it has with the applicant before making a decision

## **21. Reviews**

- 21.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out.
- 21.2 This will be on the basis of whether the request for the review is relevant to the matters listed below;
- in accordance with any relevant Code of Practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the licensing authority's statement of principles.
- 21.3 The licensing authority, whether the request is frivolous, vexatious, or whether it will certainly not cause it to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 21.4 Section 200 of the Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular

premises. Officers may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full scale review being conducted, but the review itself, if necessary will be heard by elected members.

- 21.5 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 21.6 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 21.7 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
  - (a) add, remove or amend a licence condition imposed by the licensing authority;
  - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 21.8 In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 21.9 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 21.10 Once the review has been completed, the licensing authority will, as soon as possible, notify its decision to:
  - the licence holder
  - the applicant for review (if any)
  - the Commission
  - any person who made representations
  - the chief officer of police or chief constable; and
  - her Majesty's Commissioners for Revenue and Customs

**PART C**  
**Permits / Temporary & Occasional Use Notice**

- 22. Unlicensed Family Entertainment Centre gaming machine permits (Statement of principles on permits – Schedule 10 paragraph 7)**
- 22.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use as required by Section 238 of the act.
- 22.2 The Gambling Act 2005 states that a licensing authority may prepare a *Statement of Principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 24 of the act.
- 22.3 The Gambling Commission’s Guidance for local authorities also states: “In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities will want to give weight to child protection issues”. (para 24.8)
- 22.4 The Guidance also states: “...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....licensing authorities might wish to consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
  - that staff are trained to have a full understanding of the maximum stakes and prizes. (para 24.7)

**Statement of Principles**

- 22.5 The licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.
- 22.6 The efficiency of such policies and procedures will each be considered on their merits, but policies and procedures may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.
- 22.7 Applicants must also demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that

the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

- 22.8 The licensing authority when considering a permit application for an unlicensed family entertainment centre, may request further information from an applicant regarding any matters of concern which may include:
- the suitability of the applicant
  - the suitability of members of staff
  - the location and plan of the premises
  - evidence that a premises will only operate as an unlicensed family entertainment centre
  - the applicant's understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre
  - confirmation of intended opening hours
  - details of procedures for entry to the premises
  - CCTV provisions at the premises and surveillance of the premises
  - evidence that members of staff are appropriately trained and fully understanding the maximum stakes and prizes of the gambling that is permissible in an unlicensed Family Entertainment Centre
  - evidence of policy and procedures in respect of unsupervised very young children on the premises, or children causing perceived problems on/or around the premises
  - Display of posters and information leaflets about organisations set up to assist people wishing to seek help and advice regarding gambling related issues such as GamCare
  - Any other factors that are within the control of the permit holder or designated management.
- 22.9 The licensing authority will give significant weight to issues relating to the protection of children and young persons.
- 22.10 A permit will only be issued if the licensing authority is satisfied that there are no matters of concern.
- 22.11 The licensing authority will not refuse an application for a permit unless it has notified the applicant of its intentions to refuse the application and of its reasons and given the applicant an opportunity to make representations.
- 22.12 The licensing authority can grant or refuse a licence but cannot attach conditions to this type of permit

### **23. (Alcohol) Licensed premises gaming machine permits**

#### **Automatic entitlement: 2 machines**

- 23.1 Section 282 of the Act provides an automatic entitlement to make available up to two gaming machines (of category C or D) for use in alcohol licensed premises.
- 23.2 To take advantage of this entitlement, the person who holds the on-premises licence must pay the prescribed fee and give notice to the licensing authority

of their intention to make up to 2 Category C or D gaming machines available for use.

- 23.3 The automatic entitlement ceases if the holder of Licensing Act 2003 premises licence changes or ceases
- 23.4 We are not permitted by law to reject such a valid application or engage discretion in such an authorisation, but we can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
  - the premises are mainly used for gaming; or
  - an offence under the Gambling Act has been committed on the premises.

**Permit: 3 or more machines**

- 23.5 If a premises licence holder wishes to have more than 2 machines, they are required to apply for a permit. A licence holder can apply for any number of machines, but the number of machines granted in a permit will be in addition to the automatic entitlement under Section 282.
- 23.6 We will determine any such application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
- 23.7 Each case will be decided on its merits, but the licensing authority will have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. This may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage on the machines or in the premises may also be help. Applicants may also wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 23.8 The licensing authority will take account of an applicants intended compliance with the Gambling Commission publication “Licence Conditions and Code of Practice”
- 23.9 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

- 23.10 The licensing authority may grant a licence for a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached to a permit.
- 23.11 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.
- 23.12 Where there are no representations, permits for up to 4 additional machines will be granted by officers under delegated powers.

## **24. Prize Gaming Permits**

- 24.1 Schedule 14 Paragraph 8 of the Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority propose to consider in determining the suitability of the applicant for a permit”.
- 24.2 In this regard the licensing authority has determined that the applicant must set out the types of gaming that he or she is intending to offer and must be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in regulations
  - and that the gaming offered is within the law
  - clear policies that outline the steps to be taken to protect children from harm.
- 24.3 In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives, but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3).
- 24.4 There are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach further conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with
  - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played
  - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - participation in the gaming must not entitle the player to take part in any other gambling

## 25. Club Gaming and Club Machine permits

- 25.1 Bona fide members clubs and miners' welfare institutes (but **not** commercial clubs) may apply for a club gaming permit or a clubs gaming machines permit.
- 25.2 The club gaming permit will enable the premises to provide gaming machines (3 machines of categories B, C, or D), and equal chance gaming.
- 25.3 The Gambling Commission guidance states: "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 restricted to bridge or whist".

- 25.4 The Gambling Commission's Guidance states:

"The LA has to satisfy itself that the club meets the requirements of the Act to obtain a club gaming permit. In doing so it will take account a number of matters as outlined in sections 25.44 - 25.48 of the Gambling Commission's Guidance. These include the constitution of the club, the frequency of gaming, and ensuring that there are more than 25 members.

The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is restricted to bridge and whist.

A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

- 25.5 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 25.6 As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
  - (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."
- 25.7 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.

## **26. Temporary Use Notices**

- 26.1 Part 9 of the Act sets out the position in relation to temporary use notices. These allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice would include hotels, conference centres, and sporting venues.
- 26.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 26.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 26.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 26.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority will consider, amongst other things, the ownership/occupation and control of the premises.
- 26.6 The licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities

**27. Occasional Use Notices**

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

## **APPENDIX A**

### **SCHEDULE OF CONSULTEES TO THIS DRAFT POLICY STATEMENT INCLUDES**

- All Elected Councillors, Hyndburn Borough Council
- Gambling Commission, Regional Compliance Manager
- Gambling Commission, Regional Inspector
- Chief Constable, Lancashire Constabulary, Police Headquarters, Hutton, Preston.
- Licensing Officer, Lancashire Constabulary, East Division Licensing, Clitheroe Police Station
- Lancashire Fire and Rescue Service, E71 Blackburn Fire Station, Fire Safety Department, Blackburn
- Lancashire Area Child Protection Committee, Lancashire County Council
- H M Revenue & Customs
- Blackburn with Darwen Borough Council
- Burnley Borough Council
- Ribble Valley Borough Council
- Rossendale Borough Council
- The British Casino Association
- Casino Operator's Association of the UK
- Racecourse Association Ltd
- British Holiday & Home Parks Association
- GA05 Licence Holders in the Borough
- All Small Lottery Licence Holders

The following officers of Hyndburn Borough Council

- Chief Executive

- Deputy Chief Executive
- Executive Director (Legal & Democratic Services)
- Head of Environmental Services
- Head of Human Resource
- Team Leader - Public Health and Housing
- Head of Planning and Transportation
- Waste Services Manager

**In addition the draft policy and invitation to submit views on that policy are available on the Council's website to facilitate observations from other persons**

## **APPENDIX B**

### **GAMBLING ACT 2005 SCHEDULE OF RESPONSIBLE AUTHORITIES**

#### **LICENSING DEPARTMENT & AUTHORITY**

Hyndburn Borough Council Licensing Authority, Scaitcliffe House, Ormerod Street, Accrington, BB5 0PF  
Tel: 01254 380616/380140

#### **THE GAMBLING COMMISSION**

The Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4PB  
Tel: 0121 230 6500 Fax: 0121 230 6720

#### **POLICE**

Lancashire Constabulary, East Division Licensing, Clitheroe Police Station, King Street, Clitheroe, Lancashire. BB7 2EU

#### **FIRE AUTHORITY**

Lancashire Fire and Rescue Service, E71 Blackburn Fire Station, Fire Safety Department, Byrom Street, Blackburn, Lancashire, BB2 2LE

#### **PLANNING**

Planning and Transportation Department, Hyndburn Borough Council, Scaitcliffe House, Ormerod Street, Accrington, BB5 0PF

#### **HEALTH AND SAFETY**

Environmental Health Services, Hyndburn Borough Council, Willows Lane Depot, Willows Lane, Accrington, Lancashire, BB5 0RT  
Tel: 01254 380621 Fax: 01254 386711

#### **CHILD PROTECTION**

Lancashire Safeguarding of Children Board  
Room B52  
County Hall  
Preston PR1 8RJ

## **H M REVENUE AND CUSTOMS**

H M Revenue & Customs  
Boundary House  
Cheadle Point, Cheadle  
Cheshire  
SK8 2JZ

## APPENDIX C

### SUMMARY OF THE DELEGATION OF POWERS UNDER THE GAMBLING ACT 2005

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of three year licensing policy	<b>X</b>		
Policy not to permit casinos	<b>X</b>		
Fee setting (when appropriate)			<b>X</b>
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		<b>X</b>	
Application for club gaming/ club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/ objections have been withdrawn
Cancellation of club gaming/ club machine permits		<b>X</b>	
Applications for other permits			<b>X</b>
Cancellation of licensed premises gaming machine permits			<b>X</b>
Consideration of temporary use notice			<b>X</b>
Decision to give a counter notice to a temporary use notice		<b>X</b>	

**X** Indicates at the lowest level to which decisions can be delegated

## Wendy Peck

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**From:** Dale Allen <dallen@gamblingcommission.gov.uk>  
**Sent:** 26 July 2018 08:40  
**To:** Wendy Peck  
**Subject:** DRAFT SoP - Hyndburn BC

Hi Wendy

I note within your DRAFT SoP from Section 12.8 onwards, you concern yourself with the issues relating to Local Risk Assessments (SR Code Provision 10.1). Have you considered including in the document, a Licensing Authority expectation that LRA's will be kept on the premises?

Kind regards

Dale

**Dale Allen**

**Compliance Manager**

**GAMBLING COMMISSION**

Victoria Square House

Victoria Square

Birmingham B2 4BP

Telephone: 01212306919

Fax: 0121 230 6720

Mobile: 07931361060

E Mail: [dallen@gamblingcommission.gov.uk](mailto:dallen@gamblingcommission.gov.uk)

Secure E Mail: [dale.allen@gc.cjsm.net](mailto:dale.allen@gc.cjsm.net)

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

**Confidential intelligence line - 0121 230 6655**

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**GOSSCHALKS**  
SOLICITORS

BY EMAIL ONLY  
Licensing Department  
Hyndburn Borough Council

Please ask for: Richard Taylor  
Direct Tel: 01482 590216  
Email: rjt@gosschalks.co.uk  
Our ref: RJT / AW / 097505.00005  
#GS2231756  
Your ref:  
Date: 23 October 2018

Dear Sir/Madam,

**Re: Gambling Act 2005 Policy Statement Consultation**

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

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

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

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

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

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take with regard, to the requirements for local area risk assessments.

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

the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised.

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

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

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

### **LGA – ABB Betting Partnership Framework**

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

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

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

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

### **Primary Authority Partnerships in place between the ABB and local authorities**

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

### **Local area risk assessments**

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

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

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

### **Best practice**

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

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

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

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

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

### **Concerns around increases in the regulatory burden on operators**

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

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

### **Employing additional licence conditions**

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent

with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

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

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

### **Considerations specific to the Draft Statement of Principles 2019 to 2021**

Paragraph 12.11 in Part B contains a list of bullet points that the licensing authority will expect applicants to consider as a minimum when completing a risk assessment. This list of bullet points needs to be re-drafted as it contains matters that are not relevant to an assessment of the licensing objectives.

The purpose of the local risk assessment is to assess local risks to the licensing objectives and have policies, procedures and control measures to mitigate those risks. The bullet points suggest that "ethnicity, age, economic make-up of the local community" are all expected to be considered. An individual's age or heritage is not relevant to an assessment of risk to the licensing objectives unless the licensing authority has predetermined that persons of a particular age or heritage are automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this predetermination has not been made.

Similarly, the economic make-up of the area, the proximity of pawnbrokers/pay day loan businesses or other gambling premises in the vicinity are all irrelevant considerations. The relevant affluence of an area cannot be relevant to any assessment or risk to the licensing objectives and nor can the proximity of pay day loan premises, pawnbrokers or other gambling facilities. In the circumstances the list of bullet points should be re-drafted to concentrate purely on what is relevant.

Paragraph 12.17 refers to the six indicators of betting as primary gambling activity. This paragraph should be removed as it is out of date. The Gambling Commission no longer uses the concept of "primary gambling activity" following consultation in 2015 and thereafter amended Guidance and SR Code provisions. The requirement with regard to betting now is contained within SR Code provision 9.1.1. Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non remote betting provided.

## Conclusion

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

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

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

Yours faithfully,



**GOSSCHALKS**

**From:** elizabeth speed [mailto:espeed@novomatic.co.uk]

**Sent:** 17 August 2018 12:46

**To:** licensing

**Cc:** Tracey Rose

**Subject:** The Gambling Act 2005 - Borough of Hyndburn Statement of Principles Consultation

Dear Sirs

### **Gambling Act 2005 – Statement of Principles Consultation**

Thank you for the opportunity to make comments in relation to the above consultation. On behalf of Talarius Limited we make the following points in relation to the existing policy which for these purposes is the consultation draft (the "Draft"):-

1. As the Authority will appreciate, in matters of regulation under the Gambling Act 2005 (the "Act") it is subject to the Regulators' Code. That Code imposes a number of obligations on the Authority, including one that it should carry out its activities in a way that it supports those it regulates to comply and grow. Additionally under the Code, when designing and reviewing policies, the Authority must among other things understand and minimise the negative economic impact of its regulatory activities and regulate and minimise the costs of compliance of those it regulates. Further, the Authority should take an evidence-based approach in determining priority risks and recognise the compliance record of those it regulates. We suggest that the Draft makes it clear that the Code applies generally to the Authority's activities under the Act.
2. Para 11: The Draft confirms that the Authority is committed to avoiding duplication with other legislation and regulatory regimes and to avoiding the replication of other legal requirements (para 2.3 and 12.35). At para 1.2 it also acknowledges that the requirement to protect children and other vulnerable persons (under the third licensing objectives) is explicitly to protect them from harm or exploitation by gambling. Those positions are correct. We therefore do not think the provisions of para 11 are appropriate. While issues of CSA are very important, they are not matters to be dealt with under the Act and it is only matters under the Act that should be included in the Draft. We submit that this para should be removed from the Draft.
3. Paras 12.8 and 12.9: these paras both deal with the same provisions of the LCCP on LRAs, but because they are set out in 2 separate paragraphs, it might be confusing to readers and suggest to them that they are separate matters. We suggest that these paragraphs be amended and merged.
4. Para 12.12 page 16: We submit that to expect that licensees will be aware of all changes to "the provision, .... and/or timings of public transport..." would be unrealistic and unreasonable. While a relocation of a bus stop will be visible and can therefore be dealt with in the LRA, the other matters are not. We recommend that these provisions be removed.
5. Para 12.14: As the Draft acknowledges, the Act expressly states that demand is not an issue that is relevant to applications for premises licences and the Commission's Guidance confirms this. Gambling and the provision of gambling facilities carried on under, and in accordance with, the Act are legal and legitimate activities. As such the first bullet point as drafted is inappropriate and should be removed. Unless it would, in the specific circumstances of an application, conflict with the licensing objectives, the fact of "clustering" is not a matter for the Act. Rather it is a matter for the planning regime.
6. Para 12.21: As the Authority appreciates, children are permitted to be involved in limited types of gambling (Category D machines) and we suggest that the bullet point commencing "The third licensing objective..." is amended to reflect that.
7. Para 12.25 – 12.28: Contrary to the Draft, it is perfectly legitimate for an application to be made for a premises licence even though the premises are not finished or complete. We refer to the 2008 case of R (on the application of Betting Shop Services Limited) –V– Southend on Sea Borough Council, in which it was held that an applicant could apply for a premises licence (without the need for a provisional statement) even though the premises were not fully constructed – the

applicant is not restricted to making an application for a provisional statement. It was held by the court that the then current Guidance issued by the Commission was wrong. The Guidance was subsequently amended. As such, we suggest that the wording of these paras be amended to make it clear that applications for premises licences can be made regardless of whether the building in question is complete or finished. An applicant may apply for a provisional statement if the building is not complete, but it does not have to do so and can instead apply for licence. We suggest that this paragraph is amended. Similarly we recommend that paragraphs 12.33 and 12.36 be amended to remove the reference to "finished buildings" – the buildings do not have to be finished for an application to be considered – and para 20 be amended to clarify that an application for a provisional statement is just one option in the circumstances outlined.

8. Para 12.41: Please see our point 6 above. Again, we submit that this para should be amended.
9. Para 13.2: As the Authority knows, adult only areas are permitted in FECs. As such, we suggest that "proof of age schemes" be included in the list of bullet points of potential measures/conditions.
10. Para 16: We note that the list of possible measures/conditions set out for AGCs and FECs is not repeated for Bingo premises, despite the fact that such premises provide access to gaming machines as well as other activities and stakes/prizes at such premises can be at least as great as in AGCs and FECs. We suggest that this unjustified inconsistency be remedied.
11. Para 16.1: The described entitlement for Bingo premises to offer B3/B4 gaming machines is not quite correct. The wording is only correct for premises where the licence came into effect before 13 July 2011. For those licences that came into effect after that date, the entitlement is only to 20% of all gaming machines - a minimum of 8 does not apply.
12. Para 17.3: We note that the reference to gaming machines is under the heading of Betting Machines. This might be confusing and we suggest that the difference between the two is emphasised.
13. Para 22.5: We do not understand why "harm" in the context of UFEC permits is stated in the Draft to be broader than it is for licensed premises, where gaming machines of a higher category are present. Both types of permissions are creatures of the Act and subject to the same licensing objectives. The 3<sup>rd</sup> licensing objective is very clear that it relates to harm or exploitation by gambling. As such, we do not think it can be correct that applicants for a permit can be expected to consider harm to children in a wider sense, under the Act. This is reinforced by para 23.7 which states that the harm to children that is relevant in the context of gaming machines in pubs (where the category of gaming machines available can be higher than in in UFECs) is restricted to harm or exploitation by gambling. That is correct and we suggest that para 22.5 is corrected.
14. Appendix B: The authority for Health and Safety is not a RA under the Act (as opposed to the Licensing Act 2003) and as such the first heading on page 41 is incorrect. We suggest it is amended to reflect s157 (g) of the Act.

We hope that the above proves useful. If you have any questions, please do not hesitate to contact us.

Yours faithfully,

Elizabeth Speed  
Group General Counsel  
**Novomatic UK**

Direct +44 (0) 191 497 8222  
Mobile +44 (0) 7808 571 588

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**GAMBLING ACT 205 – REVIEW OF STATEMENT OF PRINCIPLES**

**SUMMARY OF POINTS RAISED IN REPRESENTATIONS RECEIVED DURING STATUTORY CONSULTATION**

**December 2018**

Paragraph number <sup>i</sup>	Title/description <sup>ii</sup>	Point Raised in Representation	Officer Recommendation/Action Taken
Part B 12.11	Local Risk Assessment	<p>Paragraph 12.11 in Part B contains a list of bullet points that the licensing authority will expect applicants to consider as a minimum when completing a risk assessment. This list of bullet points needs to be re-drafted as it contains matters that are not relevant to an assessment of the licensing objectives.</p> <p>The purpose of the local risk assessment is to assess local risks to the licensing objectives and have policies, procedures and control measures to mitigate those risks. The bullet points suggest that “ethnicity, age, economic make-up of the local community” are all expected to be considered. An individual’s age or heritage is not relevant to an assessment of risk to the licensing objectives unless the licensing authority has predetermined that persons of a particular age or heritage are automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this predetermination has not been made.</p> <p>Similarly, the economic make-up of the area, the proximity of pawnbrokers/pay day loan businesses or other gambling premises in the vicinity are all irrelevant considerations. The relevant affluence of an area cannot be relevant to any assessment or risk to the licensing objectives and nor can the proximity of</p>	<p>Officers would not recommend that the Policy is changed to reflect this point as in officer's opinion the demographic economic makeup and of a particular area and the proximity of pawn shops and pay day loan companies could potentially effect the risk associated with gambling premises and operators ought to take this into account when drafting Local Risk Assessments.</p>

		pay day loan premises, pawnbrokers or other gambling facilities. In the circumstances the list of bullet points should be re-drafted to concentrate purely on what is relevant.	
12.17	General principles	Paragraph 12.17 refers to the six indicators of betting as primary gambling activity. This paragraph should be removed as it is out of date. The Gambling Commission no longer uses the concept of “primary gambling activity” following consultation in 2015 and thereafter amended Guidance and SR Code provisions. The requirement with regard to betting now is contained within SR Code provision 9.1.1. Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non-remote betting provided	This paragraph has now been removed to reflect this change
11	Safeguarding against Child Exploitation	Para 11: The Draft confirms that the Authority is committed to avoiding duplication with other legislation and regulatory regimes and to avoiding the replication of other legal requirements (para 2.3 and 12.35). At para 1.2 it also acknowledges that the requirement to protect children and other vulnerable persons (under the third licensing objectives) is explicitly to protect them from harm or exploitation <u>by gambling</u> . Those positions are correct. We therefore do not think the provisions of para 11 are appropriate. While issues of CSA are very important, they are not matters to be dealt with under the Act and it is only matters under the Act that should be included in the Draft. We submit that this para should be removed from the Draft.	Officers acknowledge that there is no legal basis contained within the licensing objectives in relation to Safeguarding Against Child Sexual Exploitation, however there is a moral duty placed on all of us to protect children and other vulnerable people from exploitation of this nature. A paragraph as set out below has been added to the end of that section to reflect this. <b>'11.5 Whilst the licensing authority acknowledges that CSE falls outside of the requirement of the licensing objective which is to protect children from the harm of gambling, the authority considers that we all have a moral duty to protect children</b>

			<b>from CSE and regard should be given to this in areas where children and adults may congregate together socially. The licensing authority are requesting that operators consider this matter when dealing with staff training etc.'</b>
Part B 12.8/12.9	Premises	Paras 12.8 and 12.9: these paras both deal with the same provisions of the LCCP on LRAs, but because they are set out in 2 separate paragraphs, it might be confusing to readers and suggest to them that they are separate matters. We suggest that these paragraphs be amended and merged.	Paragraph 12.8 sets out that codes have been introduced and paragraph 12.9 goes on to explain one of the relevant codes, therefore officers do not believe that any amendment is required.
Part B 12.12	Premises	Para 12.12 page 16: We submit that to expect that licensees will be aware of all changes to “the provision, .... and/or timings of public transport...” would be unrealistic and unreasonable. While a relocation of a bus stop will be visible and can therefore be dealt with in the LRA, the other matters are not. We recommend that these provisions be removed.	Officers agree that this requirement is too onerous and have removed it from the updated policy
Part B 12.21	Definition of Premises	Para 12.21: As the Authority appreciates, children are permitted to be involved in limited types of gambling (Category D machines) and we suggest that the bullet point commencing “The third licensing objective...” is amended to reflect that.	Amendment added to reflect the fact that children can use class D machines
12.25 - 12.28	Premises Ready for Gambling	Para 12.25 – 12.28: Contrary to the Draft, it is perfectly legitimate for an application to be made for a premises licence even though the premises are not finished or complete. We refer to the 2008 case of R (on the application of Betting Shop Services Limited) –V– Southend on Sea Borough Council, in which it was held that an applicant could apply for a premises licence (without the need for a provisional statement)	Paragraph amended to reflect the latest position. Now 12.25 - 12.29

		<p>even though the premises were not fully constructed – the applicant is not restricted to making an application for a provisional statement. It was held by the court that the then current Guidance issued by the Commission was wrong. The Guidance was subsequently amended. As such, we suggest that the wording of these paras be amended to make it clear that applications for premises licences can be made regardless of whether the building in question is complete or finished. An applicant may apply for a provisional statement if the building is not complete, but it does not have to do so and can instead apply for licence. We suggest that this paragraph is amended. Similarly we recommend that paragraphs 12.33 and 12.36 be amended to remove the reference to “finished buildings” – the buildings do not have to be finished for an application to be considered – and para 20 be amended to clarify that an application for a provisional statement is just one option in the circumstances outlined.</p>	
12.41	Protection of Children and other vulnerable people being harmed or exploited by gambling	Para 12.41: Please see our point 6 above. Again, we submit that this para should be amended.	Amendment made to reflect the fact that children are permitted to use category D machines
13.2	Adult Gaming Centres	Para 13.2: As the Authority knows, adult only areas are permitted in FECs. As such, we suggest that “proof of age schemes” be included in the list of bullet points of potential measures/conditions.	Amendment made to add 'proof of age scheme' to bullet points.
16	Bingo Premises	Para 16: We note that the list of possible measures/conditions set out for AGCs and FECs is not repeated for Bingo premises, despite the fact that such premises provide access to gaming machines as well as other activities and stakes/prizes at such premises can be at least as great as in AGCs and FECs. We suggest that this unjustified inconsistency	Amendment made to add the list of measures to bingo Premises which are consistent with those relating to AGC's and FEC's New paragraph 16.8

		be remedied	
16.1	Bingo Premises	Para 16.1: The described entitlement for Bingo premises to offer B3/B4 gaming machines is not quite correct. The wording is only correct for premises where the licence came into effect before 13 July 2011. For those licences that came into effect after that date, the entitlement is only to 20% of all gaming machines - a minimum of 8 does not apply.	Amendment made for clarification of machine entitlement to reflect the change in legislation.
17.3	Betting Premises Betting/Gaming Machines	Para 17.3: We note that the reference to gaming machines is under the heading of Betting Machines. This might be confusing and we suggest that the difference between the two is emphasised.	Changed heading to Betting/Gaming Machines
22.5	UFEC's - Gaming Machine Permits	Para 22.5: We do not understand why "harm" in the context of UFEC permits is stated in the Draft to be broader than it is for licensed premises, where gaming machines of a higher category are present. Both types of permissions are creatures of the Act and subject to the same licensing objectives. The 3 <sup>rd</sup> licensing objective is very clear that it relates to harm or exploitation <u>by gambling</u> . As such, we do not think it can be correct that applicants for a permit can be expected to consider harm to children in a wider sense, under the Act. This is reinforced by para 23.7 which states that the harm to children that is relevant in the context of gaming machines in pubs (where the category of gaming machines available can be higher than in in UFECs) is restricted to harm or exploitation by gambling. That is correct and we suggest that para 22.5 is corrected.	Amended paragraph

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**Customer First Analysis:  
Revised Statement of Principles – Gambling Act 2005**

**1. Purpose**

- What are you trying to achieve?
  - a) To publish a Statement of Principles (Policy) that the Council will apply in exercising their functions under the Gambling Act 2005.
  - b) To promote the three licensing objectives under the Gambling Act 2005, namely-
    - (i) Preventing gambling from being a source of crime and disorder, being associated with crime and disorder or being used to support crime.
    - (ii) Ensuring that it is conducted in a fair and open way.
    - (iii) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
  - c) To ensure all gambling applications are treated fairly and in a consistent manner.
  - d) To further statutory objectives which are in place to protect vulnerable groups such as younger and older people, people with disabilities etc.
- Who defines and manages it?
  - a) The draft policy has been put together by the Licensing Manager. The policy must however be approved by Council before it becomes formal Council policy.
- Who do you intend to benefit from it and how?

Licence holders  
Potential licence holders  
Residents  
Local businesses  
Responsible Authorities, Police, Fire & Rescue, Trading Standards, HM Revenue & Customs, Gambling Commission  
Council departments such as Planning, Safeguarding children etc.  
Councillors as the decision makers and representatives of residents

  - a) All the above will benefit because the policy will outline how the Council will exercise their functions under the Gambling Act 2005. This will help to ensure greater fairness in decision making by promoting transparency and consistency.

## UNCLASSIFIED

b) To provide advice and information to the above list on how the Council will enforce, administer and make decisions under the Gambling Act 2005.

- What could prevent people from getting the most out of the change?

Not applicable, The Statement of Principles is controlled by legislation and the Council is required to produce one.

- How will you get your customers involved in the analysis and how will you tell people about it?

The proposed new policy has been the subject of consultation for 12 weeks. Details of the consultation are set out in the report.

### 2. Evidence

- How will you know if the policy delivers its intended outcome?

a) No legal challenge to the policy. A low level of complaints about the Council's dealings with the licensing of gambling activity and its handling of gambling issues generally.

- How satisfied are your customers and how do you know?

a) The content of the Statement of Principles is heavily controlled by legislation and so there is very little room for local discretion. As it is a Statement of Principles historically there has been very little interest in the document and so satisfaction levels have not been measured.

- What existing data do you have on the people that use the service and the wider population?

a) There is no data on service users other than the Council's register for licence and permit holders. The register suggests that the licence and permit holders don't come from the equality target groups.

b) We could glean information from complaints but we have received none

- What other information would it be useful to have? How could you get this?

a) Not applicable, The Statement of Principles is controlled by legislation.

- Are you breaking down data by equality groups where relevant?

a) Not relevant

- Are you using partners, stakeholders, and councillors to get information and feedback?

a) Yes – details of the consultation undertaken so is given in the report to Council.

### 3. Impact

- Are some people benefiting more – or less - than others? If so, why might this be?

a) No

**4. Actions**

- If the evidence suggests that the service benefits a particular group is there a justifiable reason for this and if so, what is it?
  - a) Not applicable
- Is it discriminatory in any way?
  - a) No
- Is there a possible impact in relationships or perceptions between different parts of the community?
  - a) No
- What measures can you put in place to reduce disadvantages?
  - a) Not applicable
- Do you need to consult further?
  - a) No
- Have you identified any potential improvements to customer service?
  - a) No
- Who should you tell about the outcomes of this analysis?
  - a) The report will go Council along with the analysis. The trade and public will be made aware of the revised policy by way of public notice on the Councils website.
- Have you built the actions into your Business Plan with a clear timescale?
  - a) Yes
- When will this assessment need to be repeated?
  - a) 2022

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# Agenda Item 8.

<b><u>AGENDA ITEM X</u></b>			
<b>REPORT TO:</b>		CABINET : COUNCIL	
<b>DATE:</b>		5 <sup>th</sup> December 2018 : 10 <sup>th</sup> January 2019	
<b>PORTFOLIO:</b>		Cllr Gareth Molineux - Resources	
<b>REPORT AUTHOR:</b>		A Martin – Principal Accountant D Donlan – Head of Accountancy Services	
<b>TITLE OF REPORT:</b>		Prudential Indicators Monitoring and Treasury Management Strategy Update	
<b>EXEMPT REPORT:</b>	<b>No</b>		
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:	

## 1. PURPOSE OF REPORT

This report updates Council on activities in this area since the start of this financial year.

## 2. RECOMMENDATION(S)

2.1 To note the report.

## 3. REASONS FOR RECOMMENDATION(S)

As given in the Background paragraph 4.

## 4. BACKGROUND

4.1 The *Prudential Code for Capital Finance in Local Authorities* requires the Council to set Prudential Indicators annually for the forthcoming three years to demonstrate that the Council's capital investment plans are affordable, prudent and sustainable. The Council adopted its current prudential indicators at its meeting in February 2018.

4.2 The Prudential Code requires the Council, having agreed at least a minimum number of mandatory prudential indicators (including limits and statements), to monitor them - in a locally determined format and frequency. This half-year report to Cabinet complements a more regular review by the Deputy Chief Executive.

4.3 The indicators are purely for internal use and not designed to be used as comparators between authorities. If it should be necessary to revise any of the indicators during the year, the Deputy Chief Executive will report and advise the Council further.

4.4 *'Treasury Management'* relates to the borrowing and cash activities of the authority, and the effective management of any associated risks. On 22<sup>nd</sup> February 2018 in the same report referred to at 4.1 above the Council also set out and then approved its current Treasury Management Strategy. This was in accordance with the CIPFA (Chartered Institute of Public Finance & Accountancy) code of practice on treasury management in public services, the Council having previously adopted, via Cabinet, the then revised code of practice. Associated treasury management Prudential Indicators were included in the February 2018 report.

## 5. PRUDENTIAL INDICATORS MONITORING

5.1 Table 1 and Table 2 (**Appendix 1**) show the monitoring information for each of the prudential indicators, limits and statements. They relate to:

- External debt overall limits – Table 1
- Affordability (eg implications for Council Tax) – Table 2
- Prudence and sustainability (eg implications for external borrowing)
- Capital expenditure
- Other particular indicators for Treasury Management.

## 6. TREASURY MANAGEMENT UPDATE

6.1 Current Treasury Position

Portfolio Position 2018/19	Original Estimate 2018/19 £000	Projected Outturn 2018/19 £000
<b>External Debt</b>		
Debt at 1 <sup>st</sup> April	9,595	9,595
Expected Change in Debt	-	-
Other Long Term Liabilities	231	201
Gross Debt at 31 <sup>st</sup> March	9,826	9,796
Capital Financing Requirement (CFR)	9,477	9,447
Under / (over) borrowing	(349)	(349)
TOTAL INVESTMENTS (other than short-term)	-	-

6.2 Within the prudential indicators there are a number of key indicators to ensure that the Council operates within its activities within well-defined limits. In general the requirement is that CFR exceeds gross debt. However in 2018/19 the gross debt will exceed CFR. This is due to the annual payment of Minimum Revenue Provision (MRP).

6.3 The requirement to have CFR exceed Gross Debt centres around providing an assurance that borrowing is not taking place for Revenue purposes. However, as the Council is not borrowing additional funds at this time, this is not an issue.

- 6.4 The current position of the treasury function, and its expected change in the future, introduces risk to the Council from an adverse movement in interest rates. The Prudential Code is constructed on the basis of affordability, part of which is related to borrowing costs and investment returns.
- 6.5 The Capital Programme 2018/19 will be funded by the use of New Homes Bonus Grant and other external financing. It will also be supported during the year by greater use of internal sources of capital finance (including capital receipts reserve) because of the reduced level of external grant allocation. It is not anticipated currently that any capital borrowing will be required.

## 7 Expected movement in interest rates

- 7.1 The Council appointed Link Asset Services as treasury adviser to the Council and part of their service is to assist the Council in formulating a view on interest rates. The following table gives Link's latest available view of the expected future movement in interest rates, from quarter ending 30<sup>th</sup> September 2018 (their Qtr3 2018) onwards.

	Qtr 3 2018	Qtr 4 2018	Qtr 1 2019	Qtr 2 2019	Qtr 3 2019	Qtr 4 2019	Qtr 1 2020	Qtr 2 2020	Qtr 3 2020	Qtr 4 2020
Base Rate	0.75%	0.75%	0.75%	0.75%	1.00%	1.00%	1.00%	1.25%	1.25%	1.50%
5 yr PWLB	2.00%	2.00%	2.10%	2.20%	2.20%	2.30%	2.30%	2.40%	2.50%	2.50%
10 yr PWLB	2.40%	2.50%	2.50%	2.60%	2.70%	2.70%	2.80%	2.90%	2.90%	3.00%
25 yr PWLB	2.80%	2.90%	3.00%	3.10%	3.10%	3.20%	3.30%	3.30%	3.40%	3.50%
50 yr PWLB	2.60%	2.70%	2.80%	2.90%	2.90%	3.00%	3.10%	3.10%	3.20%	3.30%

- 7.2 In all the above forecasts there is a high level of uncertainty – due to the difficulties of forecasting the timing and amounts of ‘quantitative easing’ injected into the economy.
- 7.3 The Council’s exposure to interest rate movements is largely neutralised currently as our borrowings are effectively at a fixed rate until a trigger point is reached, where the lender believes a better rate can be achieved elsewhere. Interest rates would have to exceed 4% and possibly 5% before this is likely to happen. The above table indicates that this is unlikely to happen until beyond 2020 at the earliest.
- 7.4 The Council has invested relatively small amounts of surplus cash on a short-term, temporary basis. The interest received from these investments is slightly above the budgeted expectations for the six months to 30 September, mainly due to higher interest rates. Our strategy continues to focus on the security of deposits and the liquidity of funds.
- 7.5 The Council continues to invest surplus cash in the top rated financial institutions. We continue to spread our money around a number of institutions to ensure that we are not potentially damaged by the unforeseen collapse of any one bank. Deposits are also held with banks where we believe that the respective governments are likely to be able to guarantee deposits in the event of bank failure. This strategy is continuing to yield an appropriate rate of return, though at a lower rate, as there is less risk attached to these deposits. We also operate a policy of holding no more than £2m in any one bank (with the exception of liquidity account held with Nat West Bank where the limit is £3m) to ensure that the risk is spread.

**8. ALTERNATIVE OPTIONS CONSIDERED AND REASONS FOR REJECTION**

None applicable.

**9. CONSULTATIONS**

None applicable in this instance.

**10. IMPLICATIONS**

Financial (Including any future financial commitments for the Council)	There are none arising directly from this report.
Legal and human rights implications	The Local Government Act 2003 (part 1) and associated regulations gave statutory recognition to the Prudential Code - therefore there is a statutory backing to the background and local purpose of the report. Treasury Management activities of local authorities are prescribed by statute – the source of powers is, in England & Wales, the 2003 Act. ‘Statutory Guidance’ on investment is given by the DCLG to local authorities.
Assessment of risk	There are inherent risks in capital finance and treasury management. When appropriate the risks are identified and assessed as part of the various recommendations made on Prudential Capital Finance and in the Council’s Treasury Management Strategy.
Equality and diversity implications	There are no specific implications for customers’ equality and diversity arising directly from the recommendations in this report

**12. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985**

- Background papers are the legislation referred to in section 10 above, and the report approved by Council on [22<sup>rd</sup> February 2018](#).
- [Part 1](#) of the Local Government Act 2003 and related regulations
- [The Prudential Code for Capital Finance in Local Authorities \(CIPFA 2011\)](#)
- The Council’s [Policy Statement on Treasury Management](#) (Full Council February 2018)
- The Councils [Policy on Treasury Management Practices](#) ( Full Council February 2018)

**13. FREEDOM OF INFORMATION**

The report does not contain exempt information under the Local Government Act 1972, Schedule 12A and all information can be disclosed under the Freedom of Information Act 2000.

Contact Officer(s):

David Donlan, Head of Accountancy Services, tel 380973 (internal 2973)  
Amanda Martin, Principal Accountant (Capital), tel 380668 (internal 2668)

**TABLE 1**

**TREASURY MANAGEMENT INDICATORS**

	Original Indicator Estimate 2018/19 £'000	Actual 6 months £'000	Projected Outturn 2018/19 £'000	Note
<b>Prudential Indicators – actual and projected</b>				
External Debt - Gross Borrowing	9,826	9,796	9,796	1
Authorised limit for external debt	35,000	35,000	35,000	
Operational boundary for external debt	20,000	20,000	20,000	
Maximum principal sum invested >364 days	3,000	0	0	
Limit on fixed interest rate for net borrowing	100%	57%	100%	2
Limit on variable interest rate for net borrowing	100%	43%	43%	2
Maturity structure of borrowing limits (Upper Limit)				
Under 12 months	100%	43%	43%	3
12 months - 24 months	0%	0%	43%	
24 months - 5 years	0%	0%	43%	
5 years - 10 years	0%	0%	43%	
10 years and above	0%	57%	57%	

1. Includes the minor portion of borrowing from Charities (Internal Borrowing) - approx £70k. The debt is based on the capital value of mainly loans outstanding and does not include accrued interest or effective rate of interest adjustment (accounting adjustments to be made).  
No temporary borrowing is expected.  
The figure also reflects the liability for finance leases.
2. In 2016/17 Barclays notified Hyndburn that they will class £5.4m LOBO debt as fixed rate debt. The interest rate has remained the same. The balance of debt outstanding remains as LOBO's which are classed as variable. It is not expected that these loans will be "called" and repaid during 2018/19. However the projection reflects that this may be a possibility (depending on movements within the market) and replaced with fixed rate debt.
3. Borrowings of £4.12m are via LOBO agreements. As they have a call period of 6 month intervals they are classed as borrowing under 12 months. £5.4m former Barclays LOBO's are classed as long term debt.

TABLE 2

**CAPITAL FINANCE PRUDENTIAL INDICATORS**

<b>Prudential Indicators - Latest Estimate</b>	Original Indicator Estimate 2018/19 £'000	Latest Estimate 2018/19 £'000	Note
Capital Financing Requirement (CFR)	9,477	9,447	1
Estimated Capital Expenditure	4,162	8,652	2
Ratio of Financing Costs to Net Revenue Stream	4%	4%	

1. The capital financing requirement (CFR) includes the finance lease position for the Council. CFR is a prescribed measure of the capital expenditure incurred historically by an authority which has to be financed.
2. Approved capital programme, including slippage b/fwd and additional fully funded schemes.

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## COMMUNITIES AND WELLBEING OVERVIEW AND SCRUTINY COMMITTEE

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**Wednesday, 31st October, 2018**

**Present:** Councillor Glen Harrison (in the Chair),  
Councillors Bernadette Parkinson (Vice Chair), Loraine Cox,  
Judith Addison, June Harrison and Lisa Allen  
Cooptees Bernard Dawson

**In Attendance:** Beverley Wood, Hyndburn Helpers  
Lisa Hilton, Hyndburn Helpers  
Reverend Anthony Roberts, Holy Trinity Church, Oswaldtwistle

Mark Hoyle, Head of Regeneration and Housing  
Fiona Goodfellow, Housing Strategy & Policy Manager  
Denis Aldridge-Priestly, Housing Advice & Homeless Manager

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### **195 Apologies for Absence and Substitutions**

There were no apologies for absence or substitutions.

### **196 Declarations of Interest and Dispensations**

There were no declarations of interest or dispensations.

### **197 Minutes of Last Meeting**

The Minutes of the Communities and Wellbeing Overview and Scrutiny Committee held on Friday 5th October 2018 were submitted for approval as a correct record.

**Resolved - That the Minutes be received and noted.**

### **198 Appointment of Co-optees**

The Committee were requested to consider the appointment of Honorary Alderman Doug Hayes as a Co-optee to the Communities and Wellbeing Overview and Scrutiny Committee.

**Resolved - That the Honorary Alderman Doug Hayes be appointed as Co-optee to the Communities and Wellbeing Overview and Scrutiny Committee.**

### **199 Onward Homes Report on Social Housing**

Dave Mayner, Regional Director for Onward Homes and the Neighbourhood Manager gave a presentation to update Members on Onward Homes.

Dave Mayner reported on the structure of the organisation and referred to the recent changes in the organisations structure. He reported that a significant proportion (54%) of their properties were located in Hyndburn. Members were informed that management

services had been streamlined since April with the same service delivered throughout all areas in the North West to ensure consistency in service.

Heather provided further information on:

- the stock condition surveys that had been carried out to plan for the future
- improvements on the current allocations service
- 156 new customers signed up since April
- re-let times which were under target
- an improved overall service

Dave Mayner reported that although improvements had been made in respect of income collection, the roll out of Universal Credit had had a significant impact.

Heather explained that housing maintenance issues were now dealt with by in-house repair specialists and targets for repair completion had improved in 2018 which a 80% satisfaction level. She pointed out that where there was dissatisfaction improvements were made. Further issues discussed included the impact of the right to buy scheme, the Syrian Refugee Programme, 1<sup>st</sup> Call to help and support customers and the role of the Environmental Services and the Wellbeing and Investment Teams. She informed the Committee that the organisation was centred in Accrington with all of its resources and had provided job opportunities for the local community.

Councillor Addison requested:

- the contact details of the Neighbourhood Teams for residents.
- improved communications with residents, especially, after concerns had arisen earlier in the year with regards to recycling bins.
- further information on how residents could get into arrears and what support Onward Homes offered to residents to resolve rent arrears.

She was informed that regular meetings would be held with Councillors throughout the year and information would be provided for neighbourhoods. The Committee was also informed that neighbourhood walkabouts would recommence and that they would be happy for Councillors to be involved. Dave Maynard reported that there were various reasons for people getting into debt including employment, change of family circumstances and illness and that there were processes in place to deal with these issues with eviction only as a very last resort.

Councillor Cox requested further information on Onward Homes' role in rehousing the homeless. She was informed that the organisation was a member of the Homeless Forum and homelessness was included within their allocations policy to provide priority to people who needed it the most.

Councillor Glen Harrison (Chair) referred to the Right to Buy Scheme and to the need to acquire more homes to replace those sold and asked what Onward Homes' aspirations were in respect of the acquisition of properties. Councillor Bernadette Parkinson asked how many of their properties were currently empty in Hyndburn.

Members were informed that less than 1% of the stock in the Lancashire was empty which equated to around 65-75 empty properties in the Lancashire region. They were also informed that many of the properties that had required major works were now being included in repair schemes which would bring back into use many properties which had been long term empty. Dave Maynard indicated that he would let members have the figure for the number of people currently waiting for vacant properties.

**Resolved**

**- That the report be noted.**

## **200 Homelessness in Hyndburn**

The Housing Strategy & Policy Manager and the Housing Advice & Homelessness Manager submitted a report to update Communities and Wellbeing Overview and Scrutiny Committee on current activity in relation to homelessness in Hyndburn.

The Housing Advice & Homelessness Manager explained the changes implemented by the introduction of the Homeless Reduction Act which came into force in April 2018. He reported on the Council's role to prevent homelessness and their duty if this was not possible. He also pointed out that other organisations such as the Police and Social Services all had a duty to refer people faced with homelessness to the local authority. He provided figures for the number of people considered as homeless by the Council since April 2018 and those who had qualified as homeless.

The Housing Strategy & Policy Manager reported on other work taking place to prevent homelessness and youth homelessness and referred to the many organisations from the voluntary and charity sectors with which she regularly worked with. She referred to the growing problem of rough sleepers and reported that the actual number for Hyndburn in 2018 would be recorded during a count carried out in November 2018. Recent Government policy aimed to end rough sleeping by 2027 but she advised that the process of applying for Universal Credit was problematic for many people and this was adding to the problem of homelessness. She informed the Committee that the Council's Homelessness Strategy would be reviewed in 2019 and consultations would begin soon. She explained that there was a multi-agency response to homelessness in the borough and that these agencies met regularly. She referred to Maundy Relief's role in supporting provision for the homeless and advised that a number of agencies were involved to provide the additional support necessary for some people.

Members referred to the following matters:

- Landlords would be more inclined to provide housing to a homeless person/family if the rent was paid directly to the landlords.
- If the process of accessing Universal Credit would make it worse for families in this position.
- How could rough sleepers claim Universal Credit.
- What percentage of Hyndburn people could not afford affordable housing?
- The new Local Plan did not provide for half way housing.
- Other barriers to access housing other than IT?

The Head of Regeneration and Housing informed the Committee that the Council had a duty to maintain a housing register and monitor numbers. He reported that changes in the welfare system over recent years had contributed to the increase in rough sleeping and impacted upon vulnerable people in the community. In respect of adding to the Housing Association's stock he advised that it would not be financially viable for an Association to purchase and improve empty properties and that new social housing had to be met through private sector development with a 20% affordable housing provision. He pointed out that the Government had recently made a number of announcements which meant that Housing Associations could access funding for social and affordable housing.

The Housing Advice and Homelessness Manager explained that there had been an increase in the number of people presenting from the private sector. He reported that it would be difficult for rough sleepers to claim Universal Credit as it was an online system

only and there was a requirement for ID. He advised that tenancy history and rent arrears were the other main barriers in seeking accommodation after being made homeless.

The Housing Strategy & Policy Manager informed the Committee that more and more people had complex needs and that before accommodation could be provided, support would have to be sought to prevent future homelessness.

Councillor Addison commented on the need to be realistic and for housing to be provided for the people who already live in the area.

The Head of Regeneration and Housing reported that it was highly unlikely for specialised housing to be built in the area because of the viability of developments. He pointed out that the Planning Department had become tougher on this issue with developers and that the housing market had started to show signs of improvement.

Beverley Wood, Lisa Hilton and Reverend Anthony Roberts – Hyndburn Helpers addressed the Committee in respect of their role with Hyndburn Helpers.

Beverley Wood informed the Committee that the systems and procedures currently in place to deal with homeless people was not robust enough to resolve the issues of those who required it due to many have complex needs. She gave examples of the experiences of a number of homeless people and referred to the difficulties of some people in gaining access to the services they required. She also requested faster responses to support services for the homeless who required it and pointed out that the current system in place was not working and that it should be less intransigent.

Lisa Hilton – Hyndburn Helpers circulated a number of photographs showing picture of properties some homeless had been rehoused in. She reported that an elderly couple had been rehoused in a property not fit for purpose and asked why the Council and Maundy Relief were using landlords that were not adequately vetted but were still being used. She pointed out that estate agents were willing to accept homeless families as long as rent was paid directly to the landlord. She also complained about the attitude of some members of staff to those presenting themselves as homeless and asked for respect to be shown to those in need.

Reverend Roberts addressed the Committee and referred to the indignity of many homeless people having to complete forms before being allowed to access basic hygiene facilities. He proposed that more training was given to the agencies dealing with people in vulnerable situations. He referred to the amount of effort that had been given to ensuring that a number of Syrian families were rehomed in the Hyndburn area and requested that this same effort was given to other homeless people. He asked what the Christmas plan was for people living on the streets and what would be done with the information ascertained from the November count. He suggested that empty shops in Accrington were used as temporary accommodation for the homeless and informed the Committee that if nothing was done then he would house the homeless in his Church and invoice the Council.

The Chair explained that any complaints about staff attitude were submitted to the Council for investigation.

Lucy Harvecom, Manager of Maundy Relief addressed the Committee and referred to the problems of sharing some information in public. She pointed out that some of the information presented to the Committee had been incorrect. She informed Members that she considered that the key scheme was working well and explained that homeless people were offered supported through to tenancy. She indicated that homeless people with a history of substance abuse and who had criminal records were hard to rehouse. She

agreed that they rehoused a lot of people in the selective licensing area but in properties that had been inspected.

The Head of Regeneration and Housing acknowledged the work done by Hyndburn Helpers and extended an invite to them to join the Homeless in Hyndburn Forum

Reverend Roberts agreed that all agencies should work together and co-operate to provide a co-ordinated response to homelessness. Lisa Hilton indicated that she had a lot of proposals to improve the Key Scheme and Beverley Wood proposed that homeless registration was opened up for the homeless at regular times each week.

The Chair expressed gratitude to all who had attended the meeting and hoped that all could work together in the future for the good of those who found themselves homeless.

**Resolved - That the report be noted.**

Signed:.....

Date: .....

Chair of the meeting  
At which the minutes were confirmed

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# RESOURCES OVERVIEW AND SCRUTINY COMMITTEE

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**Thursday, 1st November, 2018**

**Present:** Councillor Jenny Molineux (in the Chair),  
Councillors Lisa Allen, Jean Battle, Stephen Button, Tim O'Kane and  
Kath Pratt  
Co-optees: Bernard Dawson

**Apologies:** Councillors Noordad Aziz and Terry Hurn

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## **201 Apologies for absence, Substitutions, Declarations of Interest and Dispensations**

Apologies for absence were received from Councillors Noordad Aziz and Terry Hurn.

Councillors Kath Pratt attended the meeting as substitute representatives for Councillor Hurn.

There were no declarations of interest or dispensations.

## **202 Minutes of Last Meeting**

The Minutes of the Resources Overview and Scrutiny Committee held on the 11<sup>th</sup> September 2018 were submitted for approval as a correct record.

**Resolved - That the Minutes be received and approved as a correct record.**

## **203 Fly Tipping, Littering and Graffiti in Hyndburn**

The Head of Environmental Services had submitted a report to update the Committee on the latest developments of fly tipping, littering and graffiti in Hyndburn.

Members of the committee asked a number of questions:

- Are there any problems for the emergency services dealing with bonfires in the borough.

No major issues were reported about bonfires with limited clearance of fire hazards from back alleys so the police and fire service had no concerns.

- Has Kingdom Services started their contract and would they cover just the town centre.

Due to legal reasons there had been a delay but the contract would start on the 5<sup>th</sup> November with a two week period of warnings. Public open spaces would be monitored along with all townships in the borough, not just the town centre. There would be four uniformed operatives which could be target an area.

- Are there any updates on the Council's enforcement action for litter and dog fouling and how HBC are tackling the problem.

Dog fouling was a fixed penalty notice and the service was helped by intelligence provided by Members of the public.

- Dog bins were discussed and Councillor O'Kane questioned if they could be included in the conditions for planning applications such waste bins were.

The issue of capacity for collection was mentioned as there are limits on the collection schemes.

- How many people have been prosecuted for dumping rubbish on back streets and how much money had been raised.

There were different fixed penalties issued with fines going direct to the courts, the Head of Environmental Services would circulate detailed information at a later date.

- What information was available to residents on which items could be taken to the household waste recycling centres.

The Head of Environmental Services would take the issue up with the Lancashire Waste Partnership at their next meeting.

- What happens to the large amount of plastic that was collected.

Some types of plastics were separated and some had been sent abroad which required an export licence and approval from the environment agency.

- Resolved** - **(1) That the Committee noted the updates within the report; and**
- **(2) That in 12 months time a report be produced on the Kingdom Services Group Limited and how their services were operating in the Borough.**

#### **204 Corporate Support Business Plan Update**

The Overview and Scrutiny Officer reported that the Corporate Support Business Plan was included in the Legal and Democratic Services Business Plan and would therefore be considered as part of the wider report next year.

- Resolved** - **That Members of the Committee noted the update.**

Signed:.....

Date: .....

Chair of the meeting  
At which the minutes were confirmed

## AUDIT COMMITTEE

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**Monday, 19th November, 2018**

**Present:** Councillor Noordad Aziz (in the Chair), Councillors Diane Fielding (Vice Chair), Michael Miller, Bernadette Parkinson and Kath Pratt

**Apologies** Councillor Tim O'Kane

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### **221 Apologies for Absence, Declarations of Interest, Dispensations and Substitutions**

Apologies for absence were submitted from Councillor Tim O'Kane, Mark Beard, Joe McIntyre and Andrew Smith- Grant Thornton, External Auditors.

There was no substitute representative for Councillor O'Kane.

There were no reported declarations of interest or dispensations.

### **222 Minutes of the Last Meeting**

The minutes of the last meeting held on the 30<sup>th</sup> July 2018 were submitted for approval.

**Resolved - That the minutes be received and approved as a correct record.**

### **223 Risk Management Monitoring Report**

The Corporate Performance Manager, Mike Walker, presented a report which informed the Committee of the outcome of the review of the Strategic, Generic and Operational Risk Registers along with the annual review of partnerships.

There had been no major changes to the Strategic Risk Register but a number of minor changes had been made which were detailed in Appendix 1 of the report.

There had been two new risks added to the Generic Risk Register during the review. The new risks were summarised in the report and detailed in Appendix 2.

There had been three new risks submitted for inclusion in the Operational Risk Register and were detailed in Appendix 3 of the report.

A summary of all risks contained in the Generic, Operational and Strategic Risk Registers were detailed in Appendix 4 of the report.

Appendix 5 also contained details on the partnership register with the latest status listed.

Councillor Michael Miller asked if the partnership agreement between Barnfield and Hyndburn had to submit their accounts via HBC or were they audited independently. At the last meeting documents showed there had been losses and what liability falls upon HBC and the risks if they ceased trading. The Chair asked for this matter to be investigated and a reply provided.

The Chair on behalf of the Audit Committee thanked the Corporate Performance Manager for all his hard work over the years as this was his last HBC meeting before he left the authority at the end of the month.

**Resolved - That the report be noted for informational purposes.**

#### **224 Audit Reports and Key Issues- Progress Report for the period July-October 2018**

The Head of Audit and Investigations submitted a report to inform members of the Audit Committee of Audit Reports issued during the period July - October 2018 and bring to the attention of the Committee what the key issues were.

The HBC Senior Auditor, Angela Kelly reported there was a target of 98% of the audit plan to be completed by the end of the current financial year in terms of audit days completed. The figures contained in the report gave updated details to the end of October 2018 (54.58% of the plan completed) and the projected out turn position for 2018/19 (93.56% of the plan completed).

A summary of the main issues arising from audits carried out between July- October 2018 was attached to Appendix 1 of the report and detailed both substantial and comprehensive audit assurance in the following areas:

##### Substantial Assurance

- Debtors
- Software Maintenance Contracts
- Capital Programme
- External Body Nominations

##### Comprehensive Assurance

- Planning Fees
- Waste Collection & Recycling

Resolved - That the report be noted for informational purposes.

#### **225 Audit Follow-Ups Report for the Period August- October 2018**

The Head of Audit and Investigations submitted a report to inform members of the Audit Committee on the outcome of routine follow-ups following previous agreed action plans for completed Audit Records. The follow-ups detailed within the report were those carried out during the period August- October 2018.

The information on the following follow-ups were carried out during the period August to October 2018 and were detailed within Appendix 1 of the report.

- Car Allowances  
6 actions agreed and 6 actions had been implemented
- Training Budgets incorp PDR process  
1 action agreed and 1 action had been implemented
- Disabled Facility Grants  
1 action agreed and 1 action had been implemented
- Civic Regalia

5 actions agreed, 4 actions had been implemented and 1 not implemented

- Creditors  
1 action agreed and 1 action had been implemented

**Resolved - That the report be noted for informational purposes.**

**226 Local Government Association- Independent Financial Peer Review Report 2018**

The Deputy Chief Executive, Joe McIntyre had submitted a report to inform Audit Committee of the outcome of the Local Government Association Independent Financial Peer Review which was undertaken over the summer of 2018.

The HBC Head of Accountancy, David Donlan provided the Audit Committee with a summary and that the report from the Local Government Association was attached as Appendix 1 in the report. This was a free independent assessment of HBC performance and had been conducted since 2011.

The Chair commented that the report was positive and no questions were raised by Members.

**Resolved - That the report be noted for informational purposes.**

**227 The Annual Audit Letter for Hyndburn Borough Council (Grant Thornton)**

Grant Thornton submitted a report to inform members of the Annual Audit Letter which summarised the key findings arising from the work carried out at Hyndburn Borough Council for the year ended 31 March 2018.

Helen Stevenson from Grant Thornton reported that the letter was intended to communicate the results of their work to the council and external stakeholders. It also highlighted issues that they wished to draw to the attention of the public.

The executive summary provided the committee with the main messages and the reports issues and fees were all in line with the plan.

**Resolved - That the report be noted for informational purposes.**

**228 Audit Progress Report and Sector Update (Grant Thornton)**

Grant Thornton submitted a report which informed members of the Audit Committee with an update on progress as of November 2018 in delivering Grant Thornton's responsibilities as external auditors to the Council. It included a summary of emerging national issues and developments that were relevant and a number of challenging questions in respect of emerging issues which the Committee considered.

Helen Stevenson of Grant Thornton went through the report with a summary of details for each section, which included:

- Progress at November 2018
- Audit deliverables
- Sector update
- CIPFA Consultation
- MHCLG Social Housing Green Paper

- MHCLG Business rate pilots
- Institute of Fiscal Studies
- The health & Social care interface
- Care home for the elderly
- Links

A training event had been arranged for the finance team to attend in the new year and the Chair asked if this was open to Members. It was reported that normally only a couple of places are allocated for Officers from each authority.

**Resolved - That the report be noted for informational purposes.**

**229 Time/Date/Venue of Next Meeting of Committee**

**Resolved - That the next meeting of the Audit Committee be held on Monday 11<sup>th</sup> March 2019 at 5.00pm in Scaitcliffe House.**

Signed:.....

Date: .....

Chair of the meeting  
At which the minutes were confirmed

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## LICENSING SUB COMMITTEE

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**Thursday, 29th November, 2018**

**Present:** Councillor Melissa Fisher (in the Chair), Councillors Tim O'Kane and Kath Pratt

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**230 Apologies for absence, Substitutions, Declarations of Interest and Dispensations**

There were no apologies for absence.

There were no declarations of interest or dispensations.

**231 Licensing Hearing Procedure**

The Council's Conduct of Hearings Procedure to be used in relation to hearing required under the Licensing Act was submitted.

**Resolved - That the Procedure be noted.**

**232 Licensing Act 2003 Determination Hearing, Whitecroft Indian Restaurant & Bar, Haslingden Old Road, Oswaldtwistle**

In accordance with the Hyndburn Borough Council Policy on the Conduct of Hearings and the Licensing Act 2003 (Hearings) Regulations 2005, the Licensing Manager (Ms. Peck) advised the Licensing Sub-Committee of an application that had been received for the review of the premise licence issued in respect of the Whitecroft Indian Restaurant & Bar, Haslingden Old Road, Oswaldtwistle, under Section 51 of the Licensing Act 2003 ("the Act") by a responsible authority namely the Home Office Immigration Department. The Licensing Manager informed the Committee that the Immigration Department had investigated the premises and found three people working illegally. Evidence in support of the application was set out in witness statements provided by Officers of the Immigration Enforcement Service. The evidence found that Mr Rahman had not made the required checks on the immigration status of the three illegal workers. The Committee was also requested to give consideration to the fact that one of the illegal workers had been known to reside at the premises in a flat not intended for residency.

Representatives of the Immigration Services were not in attendance at the meeting.

The applicant, Mr. Rihibur Rahman (Whitecroft Indian Bar & Restaurant), together with a representative had been invited to attend the Hearing and in that respect, the applicant's representative (Mr. Nick Dearing – Steele & Son Solicitors) was in attendance. Representations were made in response to the application in that Mr. Rahman had done everything possible to check the identity of the three illegal workers and their eligibility to work. Reference was also made to Mr. Rahman's previous good character and that he had accepted the seriousness of his failure to make the necessary checks and now realised the importance of complying with immigration legislation.

For the Committee's information a copy of the current licence was attached at Appendix 1, a copy of the review application was attached at Appendix 2, the statements were attached at Appendix 3 and a copy of the representation received and subsequent supporting documentation is attached at Appendix 4.

A copy of the Licensing Authority's 'Conduct of Hearings Procedure' had been submitted earlier in the meeting.

The Sub-Committee considered the application and representations made by the applicant. They took into account the statutory guidance pursuant to S 182 of the Licensing Act and having made its findings then considered which of the steps set out in Section 52(4) of the Licensing Act 2003 should be taken to promote the Crime Prevention Objective.

**Decision of the Sub-Committee:-**

- Resolved**
- (1) That, having taken into account Section 182 of the Licensing Act and considered Section 52(4) of the Licensing Act 2003 to promote the Licensing Objective relating to the prevention of crime and disorder, the premises licence for the Whitecroft Indian Bar and Restaurant remains in force but that a written warning be issued to Mr. Rahman; and**
  - (2) That the designated premises supervisor, having failed in his management duties, be removed pursuant to Section 52 of the Licensing Act 2003.**

**Late Item S100B(4) Local Government Act**

*The following item was submitted as a late item with the Chair's agreement in accordance with Section 100B(4) of the Local Government Act 1972, the reason being to ensure the minutes are considered for approval at this meeting.*

**233 Minutes of the Last Meeting**

The Minutes of the meeting of the Licensing Sub-Committee held on the 18<sup>th</sup> April 2018 were submitted for approval as a correct record.

- Resolved**
- That the Minutes be received and approved as a correct record.**

Signed:.....

Date: .....

Chair of the meeting  
At which the minutes were confirmed

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# PLANNING COMMITTEE

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**Wednesday, 12th December, 2018**

**Present:** Councillor Eamonn Higgins (in the Chair), Councillors Loraine Cox (Vice Chair), Judith Addison, Lisa Allen, Jean Battle, Stephen Button, Munsif Dad, Stewart Eaves, June Harrison, Tim O'Kane, Dave Parkins, Kath Pratt and Paddy Short

**Apologies:** Councillors Melissa Fisher, Marlene Haworth and Abdul Khan

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## **248 Apologies for Absence, Substitutions, Declarations of Interest and Dispensations**

Apologies for absence were submitted from Councillors Melissa Fisher, Marlene Haworth, and Abdul Khan.

Councillors Lisa Allen, Munsif Dad and Tim O'Kane acted as substitute representatives for Councillors Fisher, Haworth and Khan.

Declarations of Interest and Dispensations

There were no reported declarations of interest or dispensations.

## **249 Minutes of the Last Meeting**

The minutes of the last Planning Committee held on the 10<sup>th</sup> October 2018, were submitted for approval as a correct record.

**Resolved - That the Minutes be received and approved as a correct record.**

## **250 Town and Country Planning Act 1990- Planning Applications for Determination**

The Chief Planning and Transportation Officer submitted a report setting out recommended action on the following planning applications.

**Resolved - (1) That the following planning application be refused contrary to Officer recommendation as per the report on the grounds of visual amenity:-**

11/18/0417

Land to the rear of Kirkham Garage, Blackburn Road, West End, Oswaldtwistle, BB5 4NZ

Full: Proposed storage and service yard for portable accommodation and plant. (Resubmission 11/18/0244).

N.B. 1. Mr Brian Adams spoke at the Committee in objection of the above planning application and against the Officer's recommendation to approve planning permission.

2. Ward Councillor Sara Britcliffe spoke in objection of the above planning application and against the Officer's recommendation to approve planning permission.

- Resolved**
- (2) (a) That the following planning application be approved subject to the conditions as per the report and no objection being received from the Victorian Society within the consultation period, and:-
  - (2) (b) That delegated authority be granted to the Chief Planning and Transportation Officer to amend any conditions appropriate to the development:-

11/18/0314

42-44 Town Hall, Blackburn Road, Accrington, BB5 1LA

Listed Building Consent: Change of use of ground floor office areas to ceremony/function room Sui Generis, and internal alterations and refurbishment works to existing ground floor offices, and reception to create new ceremony space/function room facility, and refurbishment of rear stair, first floor offices and existing windows.

N.B. 1. The Chief Planning and Transportation Officer drew the Committee's attention to the extra information and proposed conditions contained within the update report which was released before the meeting and related to the above planning application.

- Resolved**
- (3) (a) That the following planning application be approved subject to the conditions as per the report and no objection being received from the Victorian Society within the consultation period, and:-
  - (3) (b) That delegated authority be granted to the Chief Planning and Transportation Officer to amend any conditions appropriate to the development:-

11/18/0305

42-44 Town Hall, Blackburn Road, Accrington, BB5 1LA

Full: Change of use of ground floor office areas to new ceremony/function space (Sui Generis).

N.B. 1. The Chief Planning and Transportation Officer drew the Committee's attention to the extra information and proposed conditions contained within the update report which was released before the meeting and related to the above planning application.

Signed:.....

Date: .....

Chair of the meeting  
At which the minutes were confirmed

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# JUDICIAL COMMITTEE (PRIVATE HIRE AND HACKNEY CARRIAGE LICENSING)

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**Wednesday, 19th December, 2018**

**Present:** Councillor Melissa Fisher (in the Chair), Councillors Joyce Plummer (Vice Chair), Stewart Eaves, Eamonn Higgins and Lisa Allen

**Apologies** Terry Hurn

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## **191 Apologies for absence, Substitutions, Declarations of Interest and Dispensations**

An apology for absence was submitted on behalf of Councillor Hurn.

Councillor Sara Britcliffe acted as substitute representative for Councillor Hurn.

Councillor Joyce Plummer declared a personal and prejudicial interest in item 8 – Consideration of an Existing Hackney Carriage and Private Hire Driver's Licence (SK) due to her involvement in the case. Councillor Plummer left the room during the hearing and took no part in the discussion or decision.

## **192 Minutes of Last Meeting**

The Minutes of the meeting of the Judicial Committee (Private Hire and Hackney Carriage Licensing) held on 30<sup>th</sup> October 2018 were submitted for approval as a correct record.

**Resolved** - **That the Minutes be received and approved as a correct record.**

## **193 Licensing Procedure for Meetings of the Committee**

The General Licensing Procedure and the Complaints Licensing Procedure to be followed at the meeting in relation to Hackney carriage and private hire drivers licences were submitted. Copies of the procedures had been sent to those attending the meeting.

**Resolved** - **That the Procedures be noted.**

## **194 Guidance on Determining the Suitability of Applicants and Licensees in the Hackney and Private Hire Trades**

The Institute of Licensing Policy for Hackney Carriage and Private Hire trades was submitted to assist Hyndburn Borough Council when determining the suitability of applicants and licensees in the Hackney Carriage and Private Hire trades. This replaced the previous convictions policy and was approved by Cabinet on the 10<sup>th</sup> October 2018.

A copy of the new Guidance had been sent to those attending the meeting.

**Resolved** - **That the Guidelines be noted.**

## **195 Exclusion of the Public**

**Resolved** - That, in accordance with Section 100A(4) Local Government Act 1972, the public be excluded from the meeting during the following items, when it was likely, in view of the nature of the business to be transacted, or the nature of the proceedings, that there would otherwise be disclosure of exempt information within the Paragraphs at Schedule 12A of The Act specified at items.

**196 Consideration of an Application for the Grant of a Private Hire Driver's Licence (AH)**

*(Exempt Information under the Local Government Act 1972, Schedule 12A, Paragraph 1 – Information relating to any individual)*

The Licensing Manager submitted a report outlining an application for a private hire vehicle driver licence.

Attention was drawn to the policy and guidelines on the relevance of the incidents set out in the report and the applicant's medical and conviction history was sought by and provided to the Committee at the meeting.

The following documents were appended to the report: a former letter of refusal of Private Hire Driver's Licence from the Council and a letter of medical reference.

In accordance with licensing procedure, the applicant (AH) and a representative had been invited to attend the meeting and both were in attendance.

The Committee was requested to consider whether the applicant was a fit and proper person to be licensed.

**Resolved** - That, as the applicant (AH) was not considered to be a 'fit and proper person', his application for a Private Hire Vehicle Driver Licence be refused for the reasons outlined at the meeting and set out in the decision notice.

**197 Consideration of an Application for the Renewal of Private Hire and Hackney Carriage Joint Driver's Licence (LH)**

*(Exempt Information under the Local Government Act 1972, Schedule 12A, Paragraph 1 – Information relating to any individual)*

The Licensing Manager submitted a report requesting Committee to determine the application for the renewal of a private hire and hackney carriage joint driver licence (LH). Members were asked to determine whether the applicant was still a fit and proper person to renew his licence and this included consideration of the applicant's previous history of complaints. The following documents were appended to the report:-

Appendices – A warning letter, documentation and relevant photographs from the Licensing Department to the applicant regarding vehicle road worthiness.  
Documentation referring to the tracking of a mobile phone.

In accordance with licensing procedure, the driver (LH) and representative had been invited to attend the meeting and in that respect, the driver and representative were in attendance. The applicant circulated copies of personal references to the Committee.

A complainant and a representative had also been invited to the meeting and were present. The complainant provided her account of an incident and responded to Members' questions in respect of further clarification of events.

The Committee was requested to:-

- (a) Determine whether the facts related in the complaint were substantially true;
- (b) Having made a finding of the facts, decide whether those facts revealed if the driver had acted either unlawfully or in breach of any legislations, regulation or licence condition governing the conduct of licensed private hire vehicle drivers; and,
- (c) Determine what action, if any, should be taken against the driver.

**Decision of the Committee:-**

**Resolved** - **That the complaint lodged against the applicant (LH) be upheld and, consequently, he was not considered a fit and proper person to hold a private hire and hackney carriage joint driver's licence and therefore his application to renew his licence be refused.**

**198 Consideration of an Existing Hackney Carriage and Private Hire Driver's Licence (SK)**

*(Exempt Information under the Local Government Act 1972, Schedule 12A, Paragraph 1 – Information relating to any individual)*

Councillor Plummer, having declared a personal and prejudicial interest, left the room during the determination of the following item and took no part in the discussion or decision.

The Licensing Manager submitted a report informing the Committee of relevant issues relating to a licensed joint vehicle driver (SK). A complaint had been lodged by a member of the public against the driver and was set out in the report. The following documents were appended to the report:-

Appendices - Emails from the witness regarding the complaint  
A statement of witness circulated after the publication of the report to all parties concerned.

In accordance with licensing procedure, the driver (SK) and representative had been invited to attend the meeting and in that respect, the driver and representative were in attendance.

The complainant and the witness to the incident had also been invited to the meeting and in that respect, the complainant was not present but the witness was. The witness provided her account of the incident and responded to Members' questions in respect of further clarification of events.

The Committee was requested to:-

- (a) Determine whether the facts related in the complaint were substantially true;
- (b) Having made a finding of the facts, decide whether those facts revealed if the

driver had acted either unlawfully or in breach of any legislations, regulation or licence condition governing the conduct of licensed private hire vehicle drivers; and,

- (c) Determine what action, if any, should be taken against the driver.

**Decision of the Committee:-**

**Resolved**

- **That the complaint lodged against the hackney carriage and private hire driver (SK) be upheld. The Committee accepted the evidence provided by the complainant and witness and found that the behaviour of the driver was inappropriate and that he was not considered to be a fit and proper person to hold a private hire driver's licence and that his licence should be revoked with immediate effect pursuant to Section 61(2B) of the local Government (Miscellaneous Provisions) Act 1976 (as amended by the Road Safety Act 2006 for the reasons outlined at the meeting and set out in the decision notice.**

Signed:.....

Date: .....

Chair of the meeting  
At which the minutes were confirmed

# Agenda Item 10.

<b>REPORT TO:</b>		Council	
<b>DATE:</b>		10 January 2019	
<b>PORTFOLIO:</b>		Cllr Miles Parkinson, Leader	
<b>REPORT AUTHOR:</b>		Kelly Watson	
<b>TITLE OF REPORT:</b>		Motion Submitted: Call for fair transitional State Pension arrangements.	
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>Options</b>	Not applicable	
<b>KEY DECISION:</b>	<b>Options</b>	If yes, date of publication:	NO

## 1. Purpose of Report

Council will be asked to consider the following motions submitted under Council Procedure Rule A9:

## 2. Recommendations

The Council calls upon the Government to make fair transitional State Pension arrangements for all women born in the 1950s, who have unfairly borne the burden of the increase to the State Pension Age (SPA) with lack of appropriate notification.

3.8 million women had significant pension changes imposed on them by the Pensions Acts of 1995 and 2011 with little or no personal notification of the changes. Some women had only two years notice of a six-year increase to their state pension age.

Many had no notification at all. Many women born in the 1950's are living in hardship. Retirement plans have been shattered with devastating consequences. Many of these women are already out of the labour market, caring for elderly relatives, and/or providing childcare for grandchildren, or suffer discrimination in the workplace and struggle to find employment. Women born in this decade are suffering financially. These women have worked hard, raised families and paid their tax and national insurance with the expectation that they would be financially secure when reaching 60.

It is not the pension age itself that is in dispute - it is widely accepted that women and men should retire at the same time. The issue is that the rise in the women's state pension age has been too rapid and has happened without sufficient notice being given to the women affected, leaving them with no time to make alternative arrangements.

The Council calls upon the Government “To provide fair transitional State Pension arrangements for all women affected by the changes. This translates into a 'bridging' pension to provide an income from age 60 until State Pension Age. An income that is not means-tested, and also includes recompense for losses incurred, for those women who have already reached their SPA, so that women do not live in hardship due to pension changes they were not told about until it was too late to make alternative arrangements.

**Proposer: Councillor Miles Parkinson**  
**Secunder: Councillor Loraine Cox**

**3. Reasons for Recommendations and Background**

WASPI (Women Against State Pension Inequality Ltd.) have been campaigning for the government to make fair transitional state pension arrangements for women born in the 1950s and their e-petition gathered over 193,000 signatures in support. There is cross party support for the call for transitional arrangements and an All Party Parliamentary Group has been established to consider options.

WASPI believe that the significant loss of income to women who were expecting their pensions at 60 will have an adverse effect on our local area. There will be less disposable income and there are many women having to sell their homes, claiming housing support and/or finding they need to claim ESA or JSA in their 60s to survive. Not all women are able to continue working due to ill health, caring responsibilities for parents and/or grandchildren, redundancy, etc.

Several Councils across the country have recently passed the motion above to support the call for transitional arrangements

WASPI do not ask for a reversal of any Pension Act to age 60.

**6. Implications**

<b>Financial implications (including any future financial commitments for the Council)</b>	None
<b>Legal and human rights implications</b>	None
<b>Assessment of risk</b>	None identified
<b>Equality and diversity implications</b>	The 1995 Government’s State Pension Act included plans to increase women’s state pension age from 60 to 65 in line with men’s. WASPI agrees with equalisation, but disagrees with the unfair way the changes were implemented. Because of the way the increases were brought in, WASPI claim hundreds of thousands of women born on or after 6th April 1951 have been treated

	unfairly and unequally because of the day they were born.
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7. **Local Government (Access to Information) Act 1985:**  
**List of Background Papers**

- 7.1 *Copies of documents included in this list must be open to inspection and, in the case of reports to Cabinet, must be published on the website.*

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<b>REPORT TO:</b>		Council	
<b>DATE:</b>		10 January 2019	
<b>REPORT AUTHOR:</b>		Susan Gardner, Senior Corporate Support Officer	
<b>TITLE OF REPORT:</b>		<b>Motions for debate at Council –</b> <b>1. On-Street Car Parking Charges, Great Harwood</b> <b>2. Car Parking Fines, Arndale Centre, Accrington</b>	
<b>EXEMPT REPORT:</b>	<b>No</b>	Not applicable	
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:	n/a

Council will be asked to consider the following motions submitted under Council Procedure Rule A9:-

**1. On-Street Car Parking Charges, Great Harwood**

That this council resolves to write to Lancashire County Council to ask that the proposal in their budget for 19/20 to introduce on street car parking charges in Great Harwood be abandoned.

We, the council, believe this is a regressive move for the high street shops in Great Harwood and will drive customers away. The changes in the retail sector means we need to be innovative in our approach in supporting our high street and this goes against that.

**Proposer: Councillor Gareth Molineux**

**Seconder: Councillor Noordad Aziz**

*Submitted on: 2<sup>nd</sup> January 2019*

**2. Car Parking Fines, Arndale Centre, Accrington**

In light of the recent bad publicity for car parking fines at the Arndale Centre, can the leader of the council update members on what this council is doing to safeguard Accrington's free parking reputation and ensure that any future visitors aren't penalised for making a simple mistake?!

**Proposer: Councillor Judith Addison**

**Seconder: Councillor Sara Britcliffe**

*Submitted on: 2<sup>nd</sup> January 2019*

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<b>REPORT TO:</b>		Council	
<b>DATE:</b>		10 January 2019	
<b>REPORT AUTHOR:</b>		Michael Cunliffe, Senior Democratic Services Officer	
<b>TITLE OF REPORT:</b>		Suspension of Council Procedure Rules	
<b>EXEMPT REPORT (Local Government Act 1972, Schedule 12A)</b>	<b>No</b>	Not applicable	
<b>KEY DECISION:</b>	<b>No</b>	If yes, date of publication:	

**1. Purpose of Report**

1.1 To propose the suspension of Council Procedure Rules to facilitate a presentation by the Director of the Northern Powerhouse Partnership, Mr. Henri Murison.

**2. Recommendation**

2.1 That Council Procedure Rules be suspended for the purpose of receiving a presentation by the Director of the Northern Powerhouse Partnership, Mr. Henri Murison.

**3. Reasons for Recommendation and Background**

3.1 The Leader of the Council and Councillor Noordad Aziz have invited Mr. Henri Murison, Northern Powerhouse Partnership, to make a presentation to full Council to update Council on the Northern Powerhouse Partnership and how Hyndburn can make the most of potential opportunities and lobby for investment whether infrastructure, employment sites or businesses.

3.2 The Council Procedure Rules do not allow such an item of business and it is, therefore, recommended that the rules be suspended to facilitate a presentation and discussion.

3.3 If Council agrees to suspend its Procedure Rules, the format would be:-

- Presentation by Mr. Henri Murison: up to 15 Minutes
- Questions from Councillors: up to 10 Minutes

**4. Alternative Options Considered and Reasons for Rejection**

4.1 Members may wish to vary the proposed format.

**5. Consultations**

5.1 The proposal for a presentation was raised by Councillor Noordad Aziz and agreed by the Leader of the Council, thus resulting in the need to suspend the Council's Procedure Rules.

**6. Implications**

<b>Financial implications (including any future financial commitments for the Council)</b>	None.
<b>Legal and human rights implications</b>	None.
<b>Assessment of risk</b>	None.
<b>Equality and diversity implications</b> <i>A <a href="#">Customer First Analysis</a> should be completed in relation to policy decisions and should be attached as an appendix to the report.</i>	This is a procedural issue which has no equality or diversity implications.

**7. Local Government (Access to Information) Act 1985:  
List of Background Papers**

7.1 Hyndburn Borough Council Constitution, Part 4A, Council Procedure Rules.