

Date Published: 18 November 2015



## **COUNCIL**

**25 NOVEMBER 2015**

### **SUPPLEMENTARY PAPERS**

**TO: ALL MEMBERS OF THE COUNCIL**

The following report was not available for publication with the rest of the agenda which was published prior to the meeting of the Executive referred to.

Timothy Wheadon  
Chief Executive

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<b>5. EXECUTIVE REPORT</b>	3 - 60
The Executive met on 17 November 2015 after the publication of the main agenda.	
Council is asked to resolve recommendations in respect of:	
<ul style="list-style-type: none"><li>• <b>Statement of Licensing Policy</b></li><li>• <b>Statement of Gambling Principles</b></li></ul>	

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To: **COUNCIL**  
**25 NOVEMBER 2015**

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**EXECUTIVE REPORT TO COUNCIL**  
**The Leader**

**1 PURPOSE OF REPORT**

- 1.1 This supplementary report provides Council with a summary of the decisions taken by the Executive at their meeting on 17 November 2015.

**2 RECOMMENDATIONS**

- 2.1 **Council is asked to consider the recommendations set out at paragraphs 5.6.4 and 5.7.4.**

**3 REASONS FOR RECOMMENDATIONS**

- 3.1 The reasons for recommendations are set out in the supporting information and in the reports considered by the Executive.

**4 ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 Alternative options are discussed in the relevant individual reports considered by the Executive

**5 SUPPORTING INFORMATION**

**Adult Social Care, Health and Housing**

**5.1 Smoking Cessation Procurement**

- 5.1.1 The Executive has agreed that the contract for the provision of smoking cessation services in Bracknell Forest, Reading, Slough, Wokingham and West Berkshire Councils be re-awarded to the current provider Solutions4Health. The contract will run for a period of three years from 1 April 2016.
- 5.1.2 The service went through a competitive tender process and the five local authorities unanimously agreed that of the three companies that submitted a bid Solutions4Health was their preferred provider. The company has a significant track record of providing innovative services including the development of a pioneering approach to helping those with mental health problems stop smoking and have achieved some of the highest quit rates in the Country.
- 5.1.3 Across the five local authorities the contract will cost £1.384million with Bracknell Forest contributing £200,000 to this amount. The new contract will be commissioned using a payment by results model in which the tariffs will only be paid to the provider in the event of a successful quit. The contract will run for three years initially and there will be an option to renew for a further two years if the service provided proves

to be satisfactory. The Council's Public Health Team will monitor the Service Provider's performance closely for the duration of the contract and will randomly survey those helped to stop smoking by the service.

## **5.2 Implementation of the Care Act**

5.2.1 Following a recent public consultation on the charging options arising from the changes to powers and duties on local authorities brought about by the Care Act the Executive has approved the changes set out below:

- The Council will continue to charge for residential and nursing care on the basis of the detailed regulations set out in the Charging for Residential Accommodation Guide
- The Council's Policy on the financial assessment of couples will be changed to make it compliant with the Care Act
- Interest will be charged on Universal Deferred payments at the rate set by the Department of Health (Currently 2.25%)
- Interest will be charged on Discretionary Deferred Payments at the maximum rate set by the Department of Health (Currently 2.25%)
- An administration charge of £900 will be charged for setting up a Universal or Discretionally Deferred Payment and an annual fee of £300 will be charged for managing the Deferred Payment
- Self funders in community based settings will be charged a fee of £300 for setting up care arrangements and £200 for the ongoing management of the arrangements

5.2.2 Under the terms of the Care Act it is no longer mandatory for councils to charge for residential and nursing care. However, the Council receives approximately £2.5million each year from charges for residential and nursing care and removing these charges would place impossible budget pressures on the Council. Furthermore none of the Borough's neighbouring local authorities have decided to stop charging. It was therefore agreed that continuing these charges was the only practical option at this point in time.

5.2.3 The regulations of the Care Act mean that the Council is no longer able to make joint financial assessments of couples and that each person must be treated individually. Previously the Council had undertaken joint assessments where that would benefit the couple financially. It is recognised that this will significantly impact on those couples who have in the past been assessed jointly and consequently the Executive has agreed that any increases in charges will be phased in over a period of twelve months.

5.2.4 The Council has discretion over whether or not interest should be charged for deferred payments and although the Council does currently charge a fee for setting up a deferred payment plan this is heavily subsidised by the Council, a situation which means that the Council is subsidising the costs of those people who have been assessed as being able to fund their own care costs. It has therefore been agreed that the Council will introduce charges to cover the cost of providing the service.

5.2.5 The Council recognises the valuable contribution that carers make. Consequently it has been agreed that charges will not be introduced for carers' services.

5.2.6 Once all the protection periods have come to an end, these changes will provide the Council with an increased income of approximately £154,000 a year.

## **Children, Young People and Learning**

### **5.3 School Provider Processes and Update to the Arrangements for a sponsor for the Binfield Learning Village and the Appointment of a School Provider at Amen Corner North**

5.3.1 The Executive has approved the processes to be used during the appointment of school sponsors for the proposed new schools at Binfield Learning Village and the school provider at Amen Corner North.

5.3.2 Arrangements for the appointment of a school provider had originally been agreed by the Executive in June 2015. However, in order to assure the Council that all areas of interest were fully covered the criteria that will be used to evaluate potential suppliers have been amended. These amendments include:

- Ensuring the provider supports the Council's Strategy for supporting children with behavioural problems
- Asking providers about their aspirations to meet the needs of children with varying needs
- Asking providers about their commitment to achievement above national expectations
- Asking about the support that will be given to disabled children and children with statements of special educational need
- Asking providers to set out how their Education Plan will meet the needs of the local community

5.3.3 There will be two separate assessment processes running concurrently. The Council will advertise the opportunity for potential sponsors to submit proposals which will be scored and evaluated by the Council. The Council will then make a recommendation to the Regional Schools Commissioner about their preferred provider for each development. The Regional Schools Commissioner will then take this preference into account when making their decision over who to appoint as the school sponsor/provider.

5.3.4 Whilst it is expected that the Schools will be open in time for the start of the 2017/18 academic year, the timeline is based on current house build trajectories. The delivery of housing in both areas is outside of the Council's control and external influences may impact on the implementation and opening dates of the schools.

### **5.4 Implementing a Multi-Agency Safeguarding Hub in Bracknell Forest**

5.4.1 The failure of agencies to work together effectively to safeguard children and young people has been highlighted in numerous serious case reviews from across the Country with a number of these reviews focusing on agencies failing to share information effectively. National reviews including the Office of the Children's Commissioner's Inquiry into Child Sexual Exploitation in Gangs and Groups stressed that effective multi-agency working needed to become more widespread and the Munro Review of Child Protection highlighted the value of co-located multi-agency teams dealing with referrals and decision making. Safeguarding the Borough's children and young people is a crucial part of the Council's work and to help strengthen information sharing between agencies operating in the Borough, the Executive has endorsed a decision to implement a Multi-agency Safeguarding Hub (MASH) in Bracknell Forest.

- 5.4.2 A multi-agency project board, with representatives from a number of key agencies including the Council, health sector and Thames Valley Police, has been established to oversee the development and implementation of the Bracknell Forest's MASH. The Project Board has concluded that the quickest, simplest and cheapest way to create the confidential standalone accommodation that the MASH requires is to use the office space currently occupied by Corporate Property on the third floor of Easthampstead House. Corporate Property will be relocated into the first floor of Easthampstead House. It is envisaged that this work will be completed by the end of March 2016 in order for the MASH to be launched at the end of May 2016.
- 5.4.4 Although Thames Valley Police will be making an annual contribution of £37,500 for three years to the cost of the MASH, the establishment of the MASH will have financial implications for the Council. Wherever possible these are being off-set by reconfiguration of existing Children's Social Care staff structures. However there will be an annual additional cost of £12,000 to pay for a project manager to oversee the MASH's establishment and a one off Capital expenditure of £32,000 will be required to cover the costs of accommodation and ICT systems

## **5.5 Examination and Test Performance in Bracknell forest Schools Academic Year 2014-2015**

- 5.5.1 The Executive has noted the school exam results for the 2014-15 academic year. These have generally been positive with most areas showing some improvement. Significant improvements were seen in the early years foundation stage and the number of A\*- B grades achieved at A level was above the national average. Results at Key Stage 1 have remained steady with notable improvement in Mathematics at Level 3. Outcomes for pupils in receipt of Pupil Premium funding showed improvements with the gap in achievement in relation to all pupils closing by 4.4%. Whilst there were improvements at Key Stage 2 these were exceeded by improvements nationally and Bracknell Forest's results were 1% below the national average.
- 5.5.2 To ensure that Bracknell Forest's schools exceed national averages it is essential that the local authority continues to work with and challenge its schools. To this end a list of priority areas that will be focused on with schools during the current academic year include:
- Establishing a culture of higher aspirations and expectations
  - Increasing the % of pupils achieving Level 5
  - Preparing for Achievement and Progress 8
  - Better alignment of SI and targeted services
  - Closing the gap particularly focusing on Key Stages 1 and 4

## **Culture, Corporate Services and Public Protection**

### **5.6 Review of Statement of Licensing Policy**

- 5.6.1 The Executive has endorsed the Revised Council Statement of Licensing Policy and recommends that it be adopted by the Council with effect from 7 January 2016.
- 5.6.2 Section 5 of the Licensing Act 2003 requires the Council as a licensing authority to prepare and publish a Statement of Licensing Policy every five years. The Policy outlines the general approach of the licensing authority when making licensing

decisions under the Act and can be reviewed and revised by the Authority at any time.

5.6.3 Officers and members had been applying the principles contained within the current Statement of Licensing Policy successfully for many years when considering licensing applications and it was therefore decided that this should be used as the basis for the revised statement with updates to bring it in line with current legislation. In addition to the statutory consultation process the revised Statement has been reviewed by a working group of the Licensing and Safety Committee. All the feedback received following this consultation process has been incorporated into the revised Statement

**5.6.4 The Executive has therefore RECOMMENDED that the Licensing Policy (Attached as Annex A) be approved.**

## **5.7 Review of Statement of Gambling Principles**

5.7.1 The Executive has endorsed the Revised Council Statement of Gambling Principles and recommends that it be adopted by the Council with effect from 31 January 2016

5.7.2 Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the act. The Statement will last for three years and can be reviewed and revised by the authority at any time.

5.7.3 The revised Statement of Gambling Principles has been based on the Council's current Statement which was approved and adopted by the Council in January 2013. The Statement has been updated to reflect up to date demographic information and to include a new section on local risk assessments and a number of revisions were made to improve the clarity of the document. The revised Statement went through a statutory consultation process and a working group of the Licensing and Safety Committee was set up to provide input into the review work. All the feedback received following this consultation process has been incorporated into the revised Statement

**5.7.4 The Executive has therefore RECOMMENDED that the Statement of Gambling Principles (Attached as Annex B) be adopted by the Council with effect from 31 January 2016.**

## **Transformation and Finance**

### **5.8 Council Tax and Business Rates Recovery**

5.8.1 The Executive has agreed to implement revised debt recovery policies for both Council Tax and Business Rates.

5.8.2 The Council already routinely utilises a variety of options to recover unpaid Council Tax and Business Rates. However there are a small number of cases where the debts are of a considerable size and the debtor persistently refuses to engage with the Council or make any reasonable payments towards their debts. It is this group that will be targeted by the tougher sanctions authorised by the new policies.

5.8.3 There are currently 120 Council Tax debtors owing £3,000 or more which equates to a total Council Tax debt of £525,000 and 34 Business Rates debtors each owing £5,000 or more a sum that equates to £906,000.

5.8.4 Sanctions that the Council will now use against this group of persistent debtors include:

- Individual bankruptcy
- Charging orders against domestic property
- Committal proceedings through the Magistrates Court
- Insolvency proceedings in respect of businesses

By adopting these new tougher policies, the Council is sending a message to all its Council Tax and Business Rate payers that the Council not accept or tolerate a culture of non-payment and will pursue persistent debtors when necessary.

## **5.9 Request for Sale of Property – Harmans Water**

5.9.1 The Executive has approved the sale of 50a Ripplesmere to its current tenant. The tenant is currently using the property as a dental surgery and has indicated that he would like to carry out significant works on the building so that he can improve and increase the services that he offers patients.

## **6 DELEGATIONS BY THE LEADER**

6.1 On 15 November 2016, the Leader delegated a decision to authorise the purchase of the long lease of shops 3-4 and 5-6 Wildridings Square to the Executive Member for Transformation and Finance.

## **7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

7.1 The Borough Solicitor's comments on each item referred to in the annex can be found in the reports presented to the Executive.

### Borough Treasurer

7.2 The Borough Treasurer's comments on each item referred to in the annex can be found in the reports presented to the Executive.

### Equalities Impact Assessment

7.3 Equalities issues, where appropriate, have been addressed in the reports to the Executive.

### Strategic Risk Management Issues

7.4 Any strategic risks have been identified in the reports to the Executive.

### Background Papers

Executive Agenda – 17 November 2015

### Contact for further information

Katharine Simpson, Corporate Services - 01344 352308

Katharine.simpson@bracknell-forest.gov.uk



**TO: EXECUTIVE  
17 NOVEMBER 2015**

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**REVIEW OF STATEMENT OF LICENSING POLICY  
Director of Environment, Culture and Communities**

**1 PURPOSE OF REPORT**

- 1.1 The Bracknell Forest Council's Statement of Licensing Policy ('SLP') under the Licensing Act 2003 must undergo a review and be re-published by 7 January 2016. The purpose of this report is to bring the revised SLP for approval by Executive to go through to Council on 25 November 2015.

**2 EXECUTIVE SUMMARY**

- 2.2 The SLP was approved by the Licensing and Safety Committee on 8 October 2015, and is required to go through to Council on 25 November 2015 in order to be re-published by 7 January 2016.

**3 RECOMMENDATION**

- 3.1 **That the Executive agrees the submission of the Statement of Licensing Policy to Council on 25 November 2015 for formal adoption with effect from 7 January 2016.**

**4 REASONS FOR RECOMMENDATION**

- 4.1 Section 5 of the Licensing Act 2003 ('the Act') requires the licensing authority to prepare and publish a SLP every five years. The SLP outlines the general approach of the licensing authority when making licensing decisions under the Act and can be reviewed and revised by the authority at any time.

**5 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 There are no alternative options as the revision of the SLP is a legal requirement.

**6 SUPPORTING INFORMATION**

- 6.1 Before determining the SLP for any five year period, the licensing authority must consult the persons listed in section 5(3) of the Act. These are:

- The chief officer of police for the area
- The fire and rescue authority for the area
- Persons or bodies representative of holders of local personal licences, premises licences and club premises certificates
- Persons or bodies representative of businesses and residents in its area

The views of all consultees should be given appropriate weight when the SLP is determined.

- 6.2 The consultation was carried out on the Council's public consultation portal from August to October. In addition, a working group was set up with members from the Licensing and Safety Committee which specifically concluded that the statement was sufficiently robust and flexible to accommodate the licensing requirements associated with the regenerated town centre. The comments received (detailed in section 8) have been considered and where appropriate included within the SLP.

- 6.3 The SLP has been updated to reflect changes in legislation since the last SLP was published, and re-written in parts for clarity and to remove duplicated sections.

## **7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 7.1 The legal implications are identified within the report.

### Borough Treasurer

- 7.2 There are no significant financial implications arising from the recommendation in this report.

### Equalities Impact Assessment

- 7.3 There are no implications arising from the recommendation in this report.

### Strategic Risk Management Issues

- 7.4 There are no implications arising from the recommendation in this report.

### Head of Drug and Alcohol Services

- 7.5 The draft SLP appears to contain all the necessary information required.

## **8 CONSULTATION**

### Principal Groups Consulted

- 8.1 Responsible authorities, licence holders and local residents.

### Method of Consultation

- 8.2 The consultation was carried out on the Council's public consultation portal from August to October.

### Representations Received

- 8.3 Two comments were received; from the Council's Head of Drug and Alcohol Services as outlined in 6.5 above, and from Thames Valley Police to request that section 8.8 of the policy be expanded to include reference to deliveries of alcohol.

### Background Papers

Statement of Licensing Policy (January 2011)

### Contact for further information

Laura Driscoll, Licensing Team Leader - 01344 352517

[laura.driscoll@bracknell-forest.gov.uk](mailto:laura.driscoll@bracknell-forest.gov.uk)



# **Statement of Licensing Policy**

**January 2016**

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## **1. Introduction, Purpose and Scope**

- 1.1 The Licensing Act 2003 ('the Act') requires Bracknell Forest Borough Council, as the Licensing Authority, to publish a 'Statement of Licensing Policy' ('policy') every five years. In drafting this policy, the Licensing Authority is seeking to protect and where possible to improve the look and feel of Bracknell Forest, attracting visitors and making it a stimulating and enjoyable place in which to live, study and work.
- 1.2 Bracknell Forest lies 28 miles west of London, at the heart of the Thames Valley. The borough covers 109 sq. km of central Berkshire and includes the former New Town of Bracknell, together with Sandhurst town and the villages of Crowthorne and Binfield, along with a number of smaller settlements across Warfield and Winkfield. The area has easy access to the motorway network (M3, M4, M40 and M25), Heathrow, and direct train links into London. Bracknell town centre is currently undergoing regeneration to create a centre which provides a vibrant economic, social and cultural heart to the borough.
- 1.3 The main purpose of this policy is to provide clarity to applicants, responsible authorities, elected Members and other persons on how the Council will determine applications made under the Act. It will also inform elected Members of the parameters within which licensing decisions can be made.
- 1.4 In determining the policy, the Council has taken into consideration any comments made by consultees, the statutory guidance issued under section 182 of the Act and the experience of administering and enforcing the Act since its introduction.
- 1.5 An effective licensing policy, alongside other initiatives, will work towards promoting the positive aspects of deregulation under the Act, such as promoting leisure provision and encouraging the regeneration of the town centre as well as controlling any negative impacts such as increase in crime and disorder, noise, nuisance and anti-social behaviour.
- 1.6 It should be understood that this policy cannot anticipate every scenario that may arise and as such there may be circumstances where the policy may be departed from in the interests of the promotion of the licensing objectives and where it is deemed appropriate to do so. In such cases the council will give full reasons for departing from this policy.
- 1.7 The council will carry out its licensing functions under the Act with a view to promoting the four licensing objectives, which are:
- (a) Prevention of Crime and Disorder;
  - (b) Public Safety;
  - (c) Prevention of Public Nuisance; and
  - (d) Protection of Children from Harm.
- 1.8 The Licensing Authority is committed to working in close partnership and communicating with all licensees, responsible authorities and other persons where appropriate in order that they have a clear understanding of the legislative requirements. To ensure this policy integrates with other strategies, the Licensing Authority has liaised and consulted with the appropriate groups, such as the Community Safety Partnership, and will continue to develop close working partnerships with such groups.

- 1.9 The Licensing Authority is committed to promoting a broad range of entertainment, recognising the wider cultural benefits for local communities. Live performance is central to the development of cultural diversity and vibrant, exciting communities, particularly traditional entertainment such as circuses and street arts. The Licensing Authority recognises that artistic freedom of expression is a fundamental right and should be greatly valued.
- 1.10 If there is a recognised need, the Licensing Authority will form a liaison group that includes representation from responsible authorities and the community, to assess the impact of current licensable activities and the possible cumulative effect in an area. The purpose of this will be to:
- (a) monitor developments in the area;
  - (b) identify and resolve any issues within the community;
  - (c) assess cumulative impact of a concentration of licensed premises; and
  - (d) ensure the licensing objectives are being met.

The Licensing Authority may consider the implementation of an additional policy after full consultation with all responsible bodies and examination of the supporting evidence.

1.11 This policy does not:

- (a) Undermine the right of any individual to apply for a variety of permissions and to have each application considered on its individual merits; or
- (b) Override the right of any person to make representations on an application, or seek a review of a licence or certificate, where the Act allows.

1.12 This policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators, for example, the Health and Safety at Work etc. Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

1.13 In addition, it should be noted that the planning and licensing regimes are separate. There is no legal basis for the Licensing Authority to refuse a licence application because it does not have planning permission.

1.14 With regard to shops, stores and supermarkets, the normal scenario will be for such premises to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping unless representations raise reasons, based on the licensing objectives, for restricting those hours.

1.15 In some circumstances, flexible licensing hours for the sale of alcohol can help to ensure that concentrations of customers leaving premises simultaneously are avoided.

1.16 This policy takes effect on 7 January 2016 and will remain in force for a period of no more than five years. During this time it will be subject to regular review and updating or modification as appropriate, for example to take account of any changes in licensing legislation, with appropriate consultation on any material changes.

1.17 Comments on the policy may be made in writing to the Licensing Authority, Bracknell Forest Borough Council, Time Square, Market Street, Bracknell, RG12 1JD or by email to [licensing@bracknell-forest.gov.uk](mailto:licensing@bracknell-forest.gov.uk). All comments received will be carefully considered and, where appropriate, included in the policy.

## **2. Licensing Principles and Process**

- 2.1 The council is the Licensing Authority under the Act and is responsible for granting premises licences, club premises certificates, personal licences and acknowledging temporary event notices in the borough. The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives.
- 2.2 There are four main licensable activities under the Act:
- (a) retail sales of alcohol;
  - (b) the supply of alcohol by or on behalf of a club
  - (c) the provision of regulated entertainment; and
  - (d) the provision of late night refreshment.
- 2.3 The council's powers and duties as the Licensing Authority are delegated in accordance with the table of delegation set out at Annex A, or otherwise in accordance with the council's adopted constitution.
- 2.4 This policy sets out the process the council will adopt in dealing with licence applications and will be used as a basis in coming to consistent and transparent decisions in respect of licence applications. The overriding principle adopted by the council will be that each application is determined on its merits. Every application will be treated fairly and objectively, taking into account the four licensing objectives, the policy and the statutory guidance issued under section 182 of the Act.
- 2.5 Each of the four licensing objectives is of equal importance and will be considered in relation to matters centred on the premises or within the control of the licensee and the effect which the operation of that business has on the vicinity. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Act is not a primary mechanism for controlling general nuisance unconnected to licensable activities or the licensing objectives.
- 2.6 When determining applications, the Licensing Authority must be satisfied that the applicant's operating schedule (please see section 4) seeks to promote the four licensing objectives. The Licensing Authority will make decisions guided by this policy but will not fetter its right to discretion. In the interests of the safety and wellbeing of all users of the facilities it licenses, the Licensing Authority expects licensees to adopt best practices for their industry. This policy further outlines the expectations of the Licensing Authority and should assist applicants.
- 2.7 The Licensing Authority recognises that conditions attached to various authorisations will be focussed on matters which are within the control of the licence holders. Conditions shall be proportionate and appropriate to achieve the promotion of the licensing objectives, and shall be tailored to suit the circumstances and premises. If no representations are received, there is no provision for a licensing authority to impose conditions on a licence other than the mandatory conditions and those proposed within the application.

### **3. Making an Application**

- 3.1 The relevant application forms and associated documents are obtainable from the council's website or from the Customer Service Centre during normal office hours.
- 3.2 It is strongly recommended that all applicants consult with the Licensing Authority prior to submitting an application. It may be appropriate to submit a draft application for comments.
- 3.3 A plan must be attached to an application for a premises licence or a club premises certificate. The plans do not have to be professionally drawn, however they must be to scale and contain the relevant information as required under regulation. The plan should be at a scale of 1:100; however the Council will accept plans of an alternative scale provided this is approved prior to submitting the application.
- 3.4 Where a licensed premises is being constructed, extended or structurally changed, the applicant may apply for a provisional statement. This will be processed in the same way as a new licence application. However the provisional statement will not automatically be converted into a full licence on completion of works, and the applicant will have to submit a new licence application. It is acknowledged that unless representations are made at the provisional statement stage, or are not made without reasonable excuse, and neither the premises/vicinity has changed nor the type of licensable activities taking place, the licence will be granted. The applicant will be required to submit a full schedule of works, including a statement of the licensable activities for which the premises are proposed to be used as well as the plans and proposed hours of use, in order to allow the Licensing Authority to make an informed decision.
- 3.5 Where conditions have not been adhered to in the past, the Licensing Authority will expect applicants to have considered and taken action to address those issues. Applications may be refused where there are significant outstanding issues.

### **4. The Operating Schedule**

- 4.1 All applicants for the grant or variation of a premises licence or club premises certificate are required to provide an operating schedule as part of their application. This is a key document and, if prepared comprehensively, will form the basis on which premises can be licensed without the need for additional extensive conditions. The council expects an operating schedule to indicate the steps that the applicant proposes to take to promote the licensing objectives. This should follow a thorough risk assessment relating to the specific premises and licensable activities proposed to take place.
- 4.2 Applicants are strongly recommended to discuss their operating schedule with the responsible authorities prior to submitting the application. The Licensing Team can assist in co-ordinating this process.
- 4.3 The complexity and detail required in the operating schedule will depend upon the nature and use of the premises. It must include details of the following:
- (a) Full details of the licensable activities to be carried on at and the intended use of the premises;
  - (b) The times during which licensable activities will take place;
  - (c) Any other times when the premises are to be open to the public;
  - (d) Where the licence is only required for a limited period, that period;



- (e) Where the licensable activities include the supply of alcohol, the name and address of the individual proposed to be designated premises supervisor;
- (f) Whether alcohol will be supplied for consumption on or off the premises or both; and
- (g) The steps the applicant proposes to promote the licensing objectives.

4.4 Where measures to promote the licensing objectives are included in the operating schedule, these may be used to form conditions attached to the licence and should therefore be clear, concise and unambiguous.

4.5 The following guidance is intended to assist applicants by setting out criteria and considerations that they should bear in mind when drawing up an operating schedule. They alert applicants to any matters that responsible authorities are likely to consider when deciding whether to make representations on an application or whether to call for a review of the premises licence.

4.6 A pool of model conditions is available on request from the Licensing Team. Individuals preparing operating schedules are at liberty to use these conditions, or volunteer any other measures(s) to promote the licensing objectives.

## **5. Licensing Objective 1: Prevention of Crime and Disorder**

5.1 The Licensing Authority is committed to reducing crime and disorder to improve the quality of life for the people of Bracknell Forest. National and local crime statistics demonstrate that the consumption of alcohol is a significant contributory factor to levels of crime and disorder. Good management and practice procedures in licensed premises can make an important contribution to lessening that impact. The Licensing Authority and Thames Valley Police through their Community Safety Partnership will regularly monitor and review crime statistics within the borough and their association with alcohol.

5.2 Licensees are encouraged to work in partnership with a local Pubwatch scheme to form strategies for actively preventing crime and disorder issues. This scheme encourages the sharing of information and seeks to address matters such as underage sales, drunkenness, illegal drug use and anti-social behaviour.

5.3 Applicants will be expected to demonstrate in their operating schedule that suitable and sufficient measures have been identified and will be implemented and maintained to reduce or prevent crime and disorder on and in the vicinity of their premises, relevant to the individual style and characteristics of their premises and event; for example

- Prevention of use, sale or supply of illegal drugs on the premises, and procedures and provision for storage of seized items.
- Prevention of drunkenness and alcohol abuse such as drinking games and irresponsible drinks promotions.
- Security features such as provision and storage of CCTV.
- A prescribed capacity limit
- Use of door staff to control entry to the premises
- Procedures for ejection or dispersal of persons from the premises
- Procedures for dealing with harassment, discrimination and inappropriate behaviour.
- Use of polycarbonate/plastic containers and toughened glass and prevention of persons taking drinks from the premises in open containers
- Display of crime prevention notices
- An appropriate ratio of tables and chairs to customers based on capacity

5.4 Wherever possible, applicants are expected to be aware of local groups known to incite violence or hatred or take part in extremist activities in order to prevent the likelihood of meetings resulting in crime and disorder. Licensees will be expected to take into consideration the potential impact on privacy or religious freedom and the ethnic and cultural composition of the local area when hosting these meetings. The Licensing Authority recognises the need to promote the elimination of unlawful discrimination and equality of opportunity. The Licensing Authority recommends licensees seek guidance from the Commission for Racial Equality website, <http://www.cre.gov.uk/> or by contacting them on 020 7939 0000.

## **6. Licensing Objective 2: Public Safety**

6.1 When visiting licensed premises, members of the public have a right to be confident that due consideration has been given to their physical safety. Where an applicant identifies an issue in regard to public safety (including fire safety) which is not covered by existing legislation, the applicant should identify in their operating schedule the steps which will be taken to ensure public safety. Such steps will be dependent on the individual style and characteristics of the premises and/or event(s) to be held.

6.2 The Licensing Authority has a Safety Advisory Group and, where appropriate, applicants are encouraged to seek the group's advice on issues of public safety. For example, a licensee who wishes to stage a licensable public event which is not specifically indicated in the operating schedule may be invited to approach the Safety Advisory Group. When applying for licensable events on Local Authority property, the applicant may be required to present an event plan to Bracknell Forest Borough Council's Safety Advisory Group.

6.3 Applicants may wish to consider inclusion of the following steps within their operating schedule with a view to the safety of persons attending the premises:

- Evacuation procedures including measures for disabled persons
- Maintenance of alarm systems and emergency lighting
- Maintenance of all escape routes and exits
- Safety checks and records in a log book
- Access for emergency vehicles
- First aid equipment and trained first aiders
- Appropriate lighting and ventilation and monitoring of noise levels
- Checks on temporary electrical installations
- Use of special effects such as lasers, pyrotechnics and smoke machines
- Control of any animals at the premises
- Use of door supervisors or stewards
- Procedures to ensure safety of women and vulnerable persons
- Provision of potable water

6.4 For indoor sports entertainment or where special provision must be made for the safety of the public, applicants may wish to consider inclusion of the following steps within their operating schedule:

- Provision of qualified medical practitioners
- Where a ring is involved, that it be constructed and inspected by a competent person and any material used to be flame retardant
- Where there is wrestling or similar entertainment that the public do not occupy any seat within 2.5 metres of the ring
- Where there is a water sports event, appropriate provision of staff adequately trained to be available and remain in the vicinity at all times.

## 7. Licensing Objective 3: The Prevention of Public Nuisance

- 7.1 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour. Public nuisance could include low-level nuisance perhaps affecting a few people living locally as well as major disturbance affecting the whole community.
- 7.2 It is noted that there are mechanisms other than the licensing regime that are available for addressing public nuisance away from the licensed premises. Examples include planning controls and Public Spaces Protection Orders.
- 7.3 The Licensing Authority, whilst recognising the need to treat every application on its own merits, should be satisfied that the type of licensable activities proposed and hours of operation will be suitable for the location in which the premises are situated (e.g. areas of dense residential accommodation). Playing of music can cause nuisance both through noise breakout and by its effect on patrons, who become accustomed to high sound levels and to shouting to make themselves heard, which can lead to them being noisier when leaving premises. Other major sources of noise nuisance are vehicles collecting customers, the slamming of car doors and the sounding of horns. These noises can be particularly intrusive at night when ambient noise levels are lower.
- 7.4 Where premises are located near to noise-sensitive areas, e.g. residential premises, nursing homes, hospitals or places of worship, the licensee should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to adversely affect the promotion of the objective to prevent public nuisance. Such steps as are required to deal with these identified issues should be included within the applicant's operating schedule.
- 7.5 In considering applications, the Licensing Authority will expect to see, where appropriate, evidence that the following matters have been addressed in the operating schedule:
- Measures to reduce noise and vibration escaping from the premises; including noise from music and voices whether or not amplified
  - Consideration of the licensed hours and restrictions on when licensable activities can take place both indoors and outdoors
  - Monitoring checks and logs of any checks carried out
  - Prevention of noise from deliveries or waste collections, or disposal of glass bottles etc., at unsociable hours
  - Measures to encourage quick and quiet dispersal by customers and staff including provision for access to book taxis, lowering the volume of music during the last 30 minutes before closing time and procedures for the safe removal and dispersal of persons ejected from the premises
  - Measures to control light to ensure that it does not stray outside the boundary of the premises so as to give rise to problems to local residents and businesses
  - Measures to control nuisance that might be associated with the use of the external areas, particularly late at night, including supervision of the areas and specified times during which food and drink will not be permitted to be consumed in the external areas.
  - Measures to control litter and odour associated with use of the premises.

## 8. Licensing Objective 4: Protection of Children from Harm

- 8.1 This objective includes the protection of children from moral, psychological and physical harm. The applicant should initially identify any particular issues (having regard to their particular type of premises and/or activities) which are likely to cause concern in relation to children. Applicants will be expected to consider the risk of children being exposed to alcohol, drugs, activities of an adult and/or sexual nature and exposure to incidents of violence and disorder. Such steps as are required to deal with these identified concerns should be included within the applicant's operating schedule.
- 8.2 The provisions of the Act are that unaccompanied children under 16 should not be on 'premises being used exclusively or primarily for the supply of alcohol' (e.g. 'alcohol led' premises such as pubs, bars and nightclubs). In addition, it is an offence to allow unaccompanied children under 16 on premises licensed to sell alcohol for consumption on the premises after midnight but before 05:00.
- 8.3 Where appropriate, applicants should state in their operating schedule:
- (a) whether or not they will admit children to any or all parts of the licensed premises;
  - (b) where children are to be admitted, the steps that will be taken to protect children from harm, for example supervision requirements, provision of designated areas for children and families, and hours during which children will not be permitted to be on the premises.

The applicant will also be expected to consider provision for lost and found children (in particular at large public events).

- 8.4 Where appropriate, the Licensing Authority will expect the applicant to evidence how they will supervise children who are performing in an event with regulated entertainment event and what consideration will be given to the welfare of children at attractions or performances likely to attract children. Where children are supervised, the Licensing Authority will expect the operating schedule to demonstrate that these supervisors have been appropriately checked by the Disclosure and Barring Service.
- 8.5 Where events are taking place that are provided solely or mainly for children, for example an under-18s disco, the expectation is that no alcohol will be served.
- 8.6 Applicants are required, where appropriate, to set out in their operating schedule the arrangements they have in place to prevent the sale of alcohol and age-restricted items to children. This should include an age-monitoring scheme. The Licensing Authority recommends use of any of the following as an acceptable proof of age:
- (a) Passport
  - (b) Photocard driving licence issued in the European Union
  - (c) Proof of Age Standards Scheme Card (PASS)
  - (d) Official ID card issued by HM Forces or by a European Union country bearing a photo and date of birth of holder.

Consideration should also be given to training (including refresher training) for staff, and records to evidence this training. In addition there should be means of recording challenges and/or refusals relating to potential sales of alcohol to underage persons.

- 8.7 Where there are off-licence sales, the Licensing Authority would expect the operating schedule to demonstrate how the licensee will discourage the sale of alcohol to customers on behalf of children in the vicinity ('proxy sales'). For example, if the licensee

has any suspicions of this activity to ask the customer if they have been approached by children to purchase alcohol and if necessary contact the Police.

- 8.8 Applicants from retail outlets which use self-scanning devices or which offer delivery of alcohol will be expected to demonstrate how they are going to prevent the purchase or delivery of alcohol by persons under the age of 18.
- 8.9 The Licensing Authority will also expect applicants to set out in their operating schedule the measures that they will take to ensure that alcohol is not sold by persons under 18 unless specifically approved by a responsible person, or they are working as a waiter/waitress in a specially designated part of the premises and alcohol is sold only with a table meal.
- 8.10 Where appropriate, the Licensing Authority would expect applicants to demonstrate in their operating schedule that they will observe industry best practice guidance on the naming, packaging and promotion of alcoholic drinks to prevent children from being enticed into purchasing these products.
- 8.11 Licensees are encouraged to inform the appropriate agencies where it has been highlighted that children have tried to purchase alcohol and/or illegal substances.
- 8.12 In relation to exhibition of film, the Licensing Authority will expect the operating schedule to demonstrate that entry shall be controlled to protect children from exposure to strong language, sexual content and other inappropriate matters.
- 8.13 The Licensing Authority proposes to abide by the recommendations of the British Board of Film Classification, but the Licensing Authority reserves the right to re-classify any film. Information regarding such classifications will be published on the Council's website. All requests for a classification must be accompanied by a synopsis of the film and a full copy of the film in DVD or other appropriate format, and submitted at least 28 days before the proposed screening. Failure to submit a request in time may result in the council being unable to classify the film. Requests shall be assessed against the BBFC guidelines and the licensing objectives.
- 8.14 The Licensing Authority recognises the Local Safeguarding Children Board as the competent body and responsible authority to advise matters relating to the protection of children from harm.

## **9. Representations and Mediation**

- 9.1 The Council has adopted a Neighbour Notification policy for applications for new licences and variations to existing licences. A copy of the policy is attached to this document as Annex B.
- 9.2 Where relevant representations have been submitted, the Licensing Authority shall aim to facilitate negotiations between the applicant, objectors and any relevant responsible authorities prior to the hearing. Hearings may be avoided when all parties arrive at an amicable solution to the issues raised through negotiation.
- 9.3 In determining the grant or variation of a licence, the following responsible authorities may make representations:
  - (a) Thames Valley Police
  - (b) Royal Berkshire Fire and Rescue Service
  - (c) Environmental Health (or for Council-operated premises, the Health and Safety Executive)

- (d) Trading Standards
- (e) Environmental Protection
- (f) Public Health
- (g) Local Safeguarding Children Board
- (h) Planning Authority

In addition to this, any other person may make a representation.

The Licensing Authority will consider any relevant representations received. Any of these individuals or groups may request a representative to make representations on his or her behalf. This could be a legal representative, a friend, an MP or a Ward Councillor.

- 9.4 The Licensing Authority itself is able to make representations, but this is likely to be limited to few cases, for example to ensure appropriate and proportionate conditions are included on a licence where the operating schedule is not clear. If the Licensing Authority makes a representation there shall be a separation of responsibilities between the officer exercising that role and those who are administering the application to ensure procedural fairness and eliminate conflicts of interest.
- 9.5 For a representation to be relevant it must:
- (a) relate to the effect of the grant of the application on the promotion of the licensing objectives;
  - (b) not be 'frivolous or vexatious', and
  - (c) in the case of a review, must not be 'repetitious' if the representation is from a person other than a responsible authority, and
  - (d) if it concerns the designated premises supervisor, be made by a chief officer of police and include a statement explaining the reasons for the objection.

Representations can include positive/supportive representations as well as objections.

- 9.6 The Licensing Authority is responsible for considering representations in the context of this policy and legal requirements in order to determine whether they are relevant. The Licensing Authority authorises suitably qualified staff to discharge duties as appropriate to their seniority, professional qualification and/or experience.
- 9.7 Where a representation is received, the Licensing Authority will need to consider if it is frivolous or vexatious. The Licensing Authority may also consider the representation to be 'irrelevant' if it does not directly relate to the application and its impact on the promotion of the licensing objectives. If the decision is made that a representation is frivolous, vexatious, and/or irrelevant, the person making the representation will be informed of this in writing with full reasons being given for the decision.

## **10. Determination of Applications**

- 10.1 Decisions on licensing matters will be taken in accordance with an approved scheme of delegation as at Annex A.
- 10.2 Where no relevant representations are received, the licence will be issued automatically with such conditions that are mandatory and those arising from the operating schedule. The council has no discretion in such circumstances to refuse the application or to alter or add to the conditions offered through the operating schedule.

## **11. Licensing and Safety Committee and Panel Hearings**

11.1 The Licensing Committee will consist of between 10 and 15 members. Licensing Panels usually made up of 3 members of the Committee members will determine any applications where relevant representations have been received or objection notices in respect of standard temporary event notices.

11.2 In determining the application the Licensing Authority will consider:

- (a) the case and evidence presented by all parties;
- (b) the promotion of the four licensing objectives;
- (c) guidance issued by central Government; and
- (d) the Licensing Authority's own Statement of Licensing Policy.

and will take such of the following steps as it considers necessary for the promotion of the licensing objectives:

- to grant the licence subject to the operating schedule modified to such extent as the sub-committee considers necessary for the promotion of the licensing objectives, and subject to the relevant mandatory conditions;
- to exclude from the scope of the licence any of the licensable activities to which the application relates;
- to refuse to specify a particular person as the designated premises supervisor;
- to reject the application.

11.3 If it is reasonably considered that the licensing objectives cannot be met unless additional specific conditions are attached, then the Licensing Authority may consider attaching those which are appropriate for the promotion of the licensing objectives, proportionate to the individual style and characteristics of the event or premises concerned.

11.4 The decision of the Panel shall be accompanied with clear, cogent reasons for that decision, having had due regard to the Human Rights Act 1998 and all other relevant legislation. A summary of the decision shall be posted on the Licensing Authority's website as soon as is reasonably possible after the decision has been confirmed.

## **12. Temporary Event Notices**

12.1 Temporary event notices (TENs) may be used to authorise licensable activities at premises where there are 499 persons or fewer (including any staff and volunteers) present. TENs are not applications for permission to hold an event; they are notices of intention to hold an event. If there are 500 or more persons present at the event, a premises licence will be required.

12.2 In accordance with the 2003 Act, any individual person aged 18 or over may give a TEN, whether or not they hold a personal licence. An individual who is not a personal licence holder may only give a TEN 5 times a year, and a personal licence holder no more than 50 times a year. However, no more than 15 TENs covering a maximum of 21 days may be given in respect of any particular premises in a single calendar year.

12.3 Organisers of temporary events are encouraged to submit their TEN as soon as is reasonably practicable in order for the Police and Environmental Protection to consider whether or not they have any concerns about the event and, if they have, to enable all parties to try and take steps to resolve those concerns.

- 12.4 Although the legal requirement is 10 clear working days (or 5 clear working days for late TENs) not including the date of receipt or the date of the event, the Licensing Authority recommends that at least 3 months' notice be given to hold such events, to allow sufficient time for organisers to plan their events safely, for appropriate publicity and for consultation with responsible authorities and interested parties. Any longer period than this may mean that organisers do not have all the details available at the time of submitting the notice, and any lesser time means that planning may be rushed and haphazard.
- 12.5 The processing of TENs by the council is controlled by a strict statutory timetable; therefore, the council will not accept a notice unless it is complete in all respects at the time of submission. In order for the TEN to be processed within the appropriate time frame, it is recommended that TENs are submitted via the online facility on the Council's website.
- 12.6 In the event of an objection, the Licensing Authority will hold a hearing and give a decision not less than 24 hours before the event is due to take place.
- 12.7 Organisers of events are reminded of the police powers to close down events with no notice on the grounds of disorder, the likelihood of disorder, or public nuisance. Therefore, the Licensing Authority expects organisers to be aware of the relevant offences under the Licensing Act 2003, for example sales of alcohol to children or to intoxicated persons.
- 12.8 Where exceptional events of local, national or international significance arise, for example a one-off local festival or World Cup, the Secretary of State may make a licensing order to allow premises to open for specified extended hours.

### **13. Personal Licences**

- 13.1 Personal licences authorise individuals to sell or supply alcohol, or authorise the sale or supply of alcohol for consumption on or off a premises at which a premises licence is in force for that activity.
- 13.2 Personal licence applicants with relevant unspent criminal convictions are required to notify the Licensing Authority of the nature of those convictions at the time of application. Where a personal licence holder is convicted of a relevant offence during the period when their application is being considered, the licence holder is required to advise the Licensing Authority forthwith.
- 13.3 Where the Police believe that the grant of a personal licence would undermine the crime prevention objective, they will issue an objection notice. The Licensing Authority will arrange for a hearing to take place at which the application will be determined.
- 13.4 It is an offence for a personal licence holder who is convicted of a relevant offence not to inform the issuing Licensing Authority in order that their licence can be amended. The personal licence holder must also notify the Court that they hold a personal licence.

### **14. Club Premises Certificates**

- 14.1 In order for qualifying clubs to supply alcohol and provide other licensable activities at their premises, a club premises certificate is required. Qualifying conditions are specified in section 61 of the Act and the Licensing Authority must be satisfied that these conditions have been met, including evidence that the club is non-profit making.



- 14.2 The Act does not require any member or employee to hold a personal licence in order to supply alcohol to members or sell alcohol to guests on the premises to which the certificate relates, nor is there a requirement for the club to specify a designated premises supervisor. Where a club intends to admit the general public to an event where licensable activities will take place, then a premises licence or a TEN will be required.

## **15. Appeals**

- 15.1 Anyone aggrieved by a decision of the council has a right of appeal as set out in schedule 5 of the Act. This appeal must be lodged with the appropriate Court within a period of 21 days from the date on which the applicant was notified by the Licensing Authority of the decision. The council will inform the appropriate parties of their right of appeal in accordance with the Act when confirming a decision of the licensing panel.

## **16. Management of Licensed Premises**

- 16.1 A critical element of the proper control of licensable activity and a premises where such activity is provided is good management. The council encourages all licence holders to consider what skills and competencies are required for the safe delivery of regulated activities and secure appropriately trained staff.
- 16.2 Within all licensed premises, whether or not alcohol is to be sold, the council will expect there to be proper management arrangements in place which will ensure that there is an appropriate number of responsible, trained/instructed persons at the premises to ensure the proper management of the premises and of the activities taking place, as well as adherence to all statutory duties and the terms and conditions of the premises licence.
- 16.3 Any premises where alcohol is sold under a premises licence must have a designated premises supervisor (DPS) who must be a personal licence holder. The DPS will be named in the premises licence, a summary of which must be displayed on the premises.
- 16.4 The council will normally expect the DPS to have been given the day-to-day responsibility for running the premises and as such it is expected that the DPS would usually be present at the licensed premises on a regular basis. The licence holder will also be expected to ensure that the DPS has experience commensurate with the size, capacity, nature and style of the premises and licensable activities to be provided. Where the DPS is not available at the premises for whatever reason, the Licensing Authority will expect his or her full contact details to be available at the premises and made known to at least one individual who will be present at the premises.
- 16.5 The Act does not require a DPS or any other personal licence holder to be present on the premises at all times when alcohol is sold. However every sale of alcohol must be made or authorised by a person who holds a personal licence on the premises, or by the DPS under authority that has been delegated (or must be made or authorised by the management committee in the case of community premises). The Licensing Authority recommends that if the DPS authorises persons to make sales of alcohol, that this is done in writing, that the document of authorisation is kept on the premises and that all staff are made aware of the location of the document. Where the DPS has delegated responsibility for the sale of alcohol, they still have a duty of responsibility for the action of those they have authorised to make those sales.

## **17. Complaints, Enforcement and Inspections**

- 17.1 Complainants are encouraged in the first instance to raise any concerns directly with the licensee or business concerned. Complaints may be sent to the Licensing Team, Bracknell Forest Council, Time Square, Market Street, Bracknell, RG12 1JD or [licensing@bracknell-forest.gov.uk](mailto:licensing@bracknell-forest.gov.uk) for investigation.
- 17.2 Where there are any issues identified or need for improvement at a premises, officers and responsible authorities will seek to work with the licence holder to address these concerns and to achieve a resolution through informal means wherever possible.
- 17.3 The council undertakes proactive risk-based inspections of all licensed premises to ensure continued promotion of the licensing objectives and compliance with licence conditions. Premises that consistently fail inspections may be subject to a licence review or other enforcement action. Where one-off events are taking place, the Licensing Authority may also carry out inspections to ensure promotion of the licensing objectives.
- 17.4 In terms of enforcement, the aim is to target those premises which are causing problems within the community, whilst supporting well managed premises and activities which provide opportunities for the enjoyment of leisure time without having a negative impact.
- 17.5 Protocols for enforcement will be established between responsible authorities and the Licensing Authority in order to ensure efficient and targeted action for specific problems and high risk premises that require greater attention, whilst allowing a lighter touch in respect of well run, low risk premises. This does not prevent action being taken by any individual authority at any time should offences become apparent. In most cases, a graduated form of response is expected to resolving issues of non-compliance although it is recognised that in serious cases a prosecution or a review application will be the most appropriate means of disposal.
- 17.6 In addition to the Council's enforcement policy, the licensing authority will also have regard to the Regulators' Compliance Code and the Enforcement Concordat and any decision to instigate legal proceedings will take account of the criteria set down in the Code of Crown Prosecution and Attorney General Guidelines.

## **18. Reviews of Premises Licences**

- 18.1 At any stage following the grant of a premises licence, a responsible authority or other person may ask the council to review the licence because of a problem arising at the premises in connection with one or more of the four licensing objectives. However it is hoped that this can be avoided by dealing with issues in an informal manner wherever possible, and that reviews will be a measure of last resort.
- 18.2 In every case, the application for review must be relevant to the promotion of the licensing objectives. A hearing will be held to determine the application unless all parties agree that a hearing is not necessary.
- 18.3 Where the request originates from any person other than a responsible authority (e.g. a local resident, residents' association, local business or trade association) the licensing authority must consider whether the request for review is vexatious, frivolous or repetitive. A Licensing Authority may refuse an application for a review on any of these grounds and will give reasons to the applicant for such a refusal.

## Annex A Delegation of Functions

Matter to be dealt with	Full Committee	Licensing Panel	Officers
Application for personal licence		If a police objection	If no objection made
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Applications for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a representation is irrelevant, frivolous, vexatious, etc			All cases
Decision to object when local authority is a consultee and not the authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Decision to make a representation as a licensing authority			All cases
Power to suspend a licence for non-payment of annual fees and associated actions			All cases
Power to impose existing premises licence or club premises certificate conditions on a TEN where all parties agree a hearing is unnecessary			All cases

## **Annex B Neighbour Notification Policy**

Neighbour notification seeks to ensure that those persons within the borough who live immediately next to, opposite or behind

- a licensed premises, or
- the proposed site for a licensed premises

are notified when there is a licence application made relating to that premises or site. Neighbour notification will allow immediate neighbours an opportunity to consider the application and respond if appropriate.

This process applies to any of the following:

- Application for new premises licence
- Application to full variation of a premises licence
- Application for new club premises certificate
- Application to full variation of a club premises certificate
- Application for new gambling premises licence
- Application to vary gambling premises licence
- Application for a review of a licence

The use of notification letters is in addition to the statutory requirements that are already in place for applicants to advertise applications in a local newspaper and on a blue notice outside the premises. The letter will contain the name of the premises, brief details of the application and how to get further information or make representations, as detailed on the public notices posted at the premises.

### **Properties to be notified**

Properties to be notified are as follows:

- Properties sharing a common boundary with the premises, including outside areas
- Properties immediately in front of premises (opposite side of road)

The Licensing Officer will use judgement in circumstances where:

- Other parties, not identified as above, may reasonably be considered to be affected.
- Distances between buildings, or other circumstances, are such that notification in precise accordance with the above guidance is considered unnecessary.

## Annex C Glossary

<b>Capacity Limit</b>	Where the Licensing Authority and/or Fire Authority have set a limit on the number of people allowed in a premises or part of a premises, to prevent overcrowding which can lead to crime and disorder and concerns over public safety.
<b>Child</b>	Any person who is under the age of 18 years.
<b>Club Premises Certificate</b>	A certificate authorising the supply of alcohol to members of a qualifying club, the sale of alcohol to guests on the premises and the provision of regulated entertainment without the need for any member or employee to hold a personal licence.
<b>Council</b>	As far as this policy is concerned, any reference to the Council shall be interpreted as the Licensing Authority.
<b>Cumulative Impact</b>	Where there is a potential impact on the promotion of the licensing objectives due to a significant number of licensed premises concentrated in one area.
<b>Designated Premises Supervisor</b>	A specified individual, holding a personal licence, who is responsible for the day-to-day running of the business and whose name will appear on the premises licence.
<b>Late Night Refreshment</b>	The supply of hot food and drink between the hours of 23.00 and 05.00 for consumption on or off the premises.
<b>Licence Types</b>	<ul style="list-style-type: none"> <li>• Premises Licence</li> <li>• Club Premises Certificate</li> <li>• Personal Licence</li> <li>• Provisional Statement</li> <li>• Temporary Event Notice</li> </ul>
<b>Licensable Activities</b>	<ul style="list-style-type: none"> <li>• The sale of alcohol by retail</li> <li>• The supply of alcohol by or on behalf of a club to, or to the order of, a member of a club</li> <li>• The provision of regulated entertainment</li> <li>• The provision of late night refreshment</li> </ul>
<b>Licensing Objectives</b>	<ul style="list-style-type: none"> <li>• Prevention of Crime and Disorder</li> <li>• Public Safety</li> <li>• Prevention of Public Nuisance</li> <li>• Protection of Children from Harm</li> </ul>
<b>Licensing Qualification</b>	Qualification accredited by the Secretary of State and a requirement for a personal licence.
<b>Operating Schedule</b>	This forms part of the completed application form for a premises licence and must promote the licensing objectives. See section 4 for more information.
<b>Personal Licence</b>	This authorises individuals to sell or supply alcohol or authorise the sale or supply of alcohol for consumption on or off the premises for which a premises licence is in force for the carrying on of that activity.
<b>Premises Licence</b>	A licence in respect of any premises, including land or buildings under public ownership within the community that are to be used for one or more licensable activities. Valid for an indefinite period unless revoked or surrendered.

<b>Proprietary Clubs</b>	Clubs run by individuals, partnerships or businesses for the purpose of making a profit.
<b>Provisional Statement</b>	Where premises are being constructed or extended or substantial structure changes are proposed.
<b>Qualifying Club</b>	<p>Where members have joined together for particular social, sporting or political purposes and then combine to buy alcohol in bulk as members. Examples of qualifying clubs are:</p> <ul style="list-style-type: none"> <li>• Political clubs</li> <li>• Royal British Legion</li> <li>• Working men's clubs</li> <li>• Social and sports clubs</li> </ul> <p>A qualifying club can, however, obtain a premises licence if it wishes to offer its facilities commercially for use by the general public.</p>
<b>Regulated Entertainment</b>	Entertainment that is provided to members of the public or to members of a qualifying club, or entertainment held with a view to profit. This includes plays, films, indoor sporting events, performance of dance and live and recorded music. For more detailed advice on whether a specific activity constitutes regulated entertainment, please contact the Licensing Team.
<b>Relevant Offences</b>	As set out in Schedule 4 to the Licensing Act 2003.
<b>Relevant Representations</b>	Representations (objections) made by a responsible authority or any other person which are deemed as relevant
<b>Responsible Authorities</b>	<p>This group can make representations and includes bodies such as:</p> <ul style="list-style-type: none"> <li>• The Chief Officer of Police</li> <li>• The Fire Authority</li> <li>• The Local Enforcement Agency for the Health and Safety at Work etc. Act 1974</li> <li>• The Weights and Measures Authority</li> <li>• The Planning Authority</li> <li>• Environmental Health</li> <li>• Public Health</li> <li>• The body responsible for matters relating to the Protection of Children from Harm - at the date of publication, the Local Safeguarding Children Board has delegated responsibility for this function to Thames Valley Police.</li> <li>• The Licensing Authority</li> </ul>
<b>SAG</b>	Safety Advisory Group. An advisory body whose purpose is to offer advice and guidance on event organisation.
<b>Temporary Event Notice</b>	A notice of intention to carry on of the sale of alcohol, provision of regulated entertainment or late night refreshment at a premises not otherwise authorised by a premises licence or club premises certificate.

**TO: THE EXECUTIVE  
17 NOVEMBER 2015**

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**REVIEW OF STATEMENT OF GAMBLING PRINCIPLES  
Director of Environment, Culture and Communities**

**1 PURPOSE OF REPORT**

- 1.1 The Bracknell Forest Council's Statement of Gambling Principles ('Statement') under the Gambling Act 2005 must undergo a review and be re-published by 31 January 2016. The purpose of this report is to bring the revised Statement for approval by Executive to go through to Council on 25 November 2015.

**2 EXECUTIVE SUMMARY**

- 2.2 The Statement was approved by the Licensing and Safety Committee on 8 October 2015, and is required to go through to Council on 25 November 2015 in order to be re-published by 31 January 2016.

**3 RECOMMENDATION**

- 3.1 **That the Executive agrees the submission of the Statement of Gambling Principles to Council on 25 November 2015 for formal adoption with effect from 31 January 2016.**

**4 REASONS FOR RECOMMENDATION**

- 4.1 Section 349 of the Gambling Act 2005 requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act. The Statement will last for a maximum of three years and can be reviewed and revised by the authority at any time. The present Statement was published on 31 January 2013 and therefore must undergo a review and be re-published on or before 31 January 2016.

**5 ALTERNATIVE OPTIONS CONSIDERED**

- 5.1 There are no alternative options as the revision of the Statement is a legal requirement.

**6 SUPPORTING INFORMATION**

- 6.1 The Statement must be produced following consultation with those bodies and persons set out in subsection (3) of section 349. This includes the Chief Officer of Police, persons who represent the interests of persons carrying on gambling businesses in the area and persons who represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act. The views of all consultees should be given appropriate weight when the Statement is determined.
- 6.2 The consultation was carried out on the Council's public consultation portal from August to October. Three responses were received as outlined in 8.3. In addition, a working group was set up with members from the Licensing and Safety Committee.

- 6.3 The Statement has been updated with the most up to date demographic information and to add a section on local risk assessments, which is a new legislative requirement which will take effect from April 2016. In addition, some sections were edited for clarity following comments received during the consultation. Other than that, there are no suggested policy changes in the statement.

## **7 ADVICE RECEIVED FROM STATUTORY AND OTHER OFFICERS**

### Borough Solicitor

- 7.1 The legal implications are identified within the report.

### Borough Treasurer

- 7.2 There are no significant financial implications arising from the recommendation in this report.

### Equalities Impact Assessment

- 7.3 There are no implications arising from the recommendation in this report.

### Strategic Risk Management Issues

- 7.4 There are no implications arising from the recommendation in this report.

## **8 CONSULTATION**

### Principal Groups Consulted

- 8.1 The Chief Officer of Police, persons who carry on gambling businesses in the area and local residents. No comments were received.

### Method of Consultation

- 8.2 The consultation was carried out on the Council's public consultation portal from August to October.

### Representations Received

- 8.3 Responses received from Ladbrokes plc, Coral and the Association of British Bookmakers. The comments received have been considered and incorporated where appropriate. These were quite detailed and technical in nature and helped refine the statement. No concerns with the statements were raised.

### Background Papers

Bracknell Forest Council Statement of Gambling Principles (January 2013)

### Contact for further information

Laura Driscoll, Licensing Team Leader - 01344 352517

[laura.driscoll@bracknell-forest.gov.uk](mailto:laura.driscoll@bracknell-forest.gov.uk)





# Statement of Gambling Principles

**JANUARY 2016**

**GAMBLING ACT 2005  
SI 2006 No 637**

**BRACKNELL FOREST BOROUGH COUNCIL  
STATEMENT OF GAMBLING PRINCIPLES**

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## **1 STATEMENT OF GAMBLING PRINCIPLES**

### **1.1 Introduction**

The Gambling Act 2005 (referred to in this document as ‘the Act’) requires the Council to prepare and publish a Statement of Gambling Principles (‘Statement’) that sets out the policies that the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act.

This Statement has been prepared having regard to the licensing objectives of the Act, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the Statement. A list of those consulted can be found at Appendix A. The full list of comments made and the consideration by the Council of those comments is available on request.

The Statement will come into effect on the 31 January 2016 and will be reviewed as necessary, and at least every 3 years from the date of adoption.

This Statement is not intended to override the right of any person to make an application under the Act, and to have that application considered on its merits. Equally, the Statement is not intended to undermine the right of any person to make representations about an application or to seek a review of a licence where provision has been made for them to do so.

### **1.2 The Borough of Bracknell Forest**

Bracknell Forest lies 28 miles west of London, at the heart of the Thames Valley. The borough covers 109 sq km of central Berkshire and includes the former New Town of Bracknell, together with Sandhurst town and the villages of Crowthorne and Binfield, along with a number of smaller settlements across Warfield and Winkfield. The area has easy access to the motorway network (M3, M4, M40 and M25), Heathrow, and direct train links into London. A map can be found at Appendix B.

Bracknell town centre is currently undergoing regeneration to create a centre which provides a vibrant economic, social and cultural heart to the borough.

The Borough’s population is 116,567 (mid-year 2013 estimate). The population is relatively young (median age 38.3 years). 13.4% of the population is over 65 years of age, compared to 17.3% nationally, although this is expected to grow.

Bracknell Forest is one of the least deprived areas of the country (ranked 291 out of 326 local authorities in England on the Index of Multiple Deprivation 2010). Property prices and levels of car ownership are significantly higher than the national average. However, these headline figures mask significant pockets of deprivation. For instance, 17 schools in the borough have free school meal eligibility of over 10%. The borough rate is 8.6% compared to 16.3% nationally (Source: School Census January 2014). Eleven per cent of 0-16 year olds in the borough are living in poverty, compared to a national average of 20.1% and a South East average of 14.6%. There are seven wards in the borough that have child poverty rates higher than the regional average with one of these higher than the national rate. (Source: DWP 2011).

Bracknell Forest is within the economically buoyant Thames Valley and the aspiration is to maintain a vibrant local economy throughout the borough, and in particular to protect the local economy as far as possible during the downturn. The number of people claiming Job Seekers’ Allowance rose to a peak of 2.6% in August 2009 due

to the recession, but has since fallen again and has remained steady. The figure was 0.9% in October 2014, and the proportion remains lower than both the national and South East averages (2.1% and 1.2% respectively).

The economic downturn has also had a significant impact on the proportion of young people in education, employment or training. In May 2013, the estimated proportion of young people aged 16-18 in Bracknell Forest who were not in education, employment or training (NEET) was 4.0% (representing around 140 young people). This remains a key priority for the area. An overriding ambition for the economy is to regenerate Bracknell Town Centre as soon as possible to create a centre which provides a vibrant economic, social and cultural heart to the Borough and a real sense of place.

The overall level of crime in Bracknell Forest fell by 5% in 2013/14 (a total reduction of 37% since 2009/10). Anti-social behaviour fell by 6% compared with a rise of 4% in 2010/11. Significant reductions in a number of crime categories have been recorded since 1 April 2007: burglary of houses - 67%, violent crime - 56%, criminal damage - 64%, robbery - 58% and vehicle crime - 63%. Priorities for the Community Safety Partnership for 2014 - 17 include reducing domestic abuse, Burglary and internet related crime.

### **1.3 Licensing Objectives**

This 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:

- in accordance with any relevant Codes of Practice issued by the Gambling Commission;
- in accordance with any relevant Gambling Commission guidance;
- reasonably consistent with the licensing objectives;
- in accordance with this Statement of Gambling Principles.

There are three licensing objectives which are central to the Act. These are:

- Preventing gambling from being a source of crime and 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.

### **1.4 Licensable Activities**

'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

- Gaming means playing a game of chance for a prize
- Betting means making or accepting a bet on the outcome of a race, competition, or any other event; the likelihood of anything occurring or not occurring; or whether anything is true or not
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

The Act provides for three categories of licence:

- Operating licences
- Personal licences
- Premises licences.

The Gambling Commission is responsible for remote (online) gambling, operating licences and personal licences.

This licensing authority is responsible for issuing premises licences and provisional statements for the following types of premises:

- Casinos
- Bingo premises
- Betting premises and tracks
- Adult gaming centres
- Family entertainment centres.

Additional functions of this licensing authority are to:

- issue permits for gambling and gaming machines in clubs
- receive notifications from alcohol licensed premises of the use of up to 2 gaming machines and issue licensed premises gaming machine permits where there are more than 2 machines
- issue permits to family entertainment centres for the use of certain lower stake gaming machines
- issue permits for prize gaming
- receive and endorse temporary use notices
- receive occasional use notices for betting at tracks
- register small society lotteries
- provide details of licences issued to the Gambling Commission
- maintain registers of the permits and licences that are issued under the Act.

## **1.5 Responsible Authorities**

Responsible authorities must be notified of all premises licence applications and are entitled to make representations if they are relevant to the licensing objectives.

Section 157 of the Act defines those authorities as:

- Gambling Commission
- Police
- Local Fire Authority
- Local Planning authority
- Environmental Health
- Child Protection Committee
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated.

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. 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.

This authority designates the Bracknell Area Child Protection Committee for this purpose.

The contact details of all the responsible authorities under the Gambling Act 2005 are available at: <http://www.bracknell-forest.gov.uk/licencegamblingpremises>.

## 1.6 Interested Parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. Interested parties making representations will be required to relate their objection to one or more of the licensing objectives.

An interested party is someone who:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities, or
- has business interests that might be affected by the authorised activities, or
- represents persons in either of the two groups above.

In determining whether someone lives sufficiently close to particular premises so as to be affected the licensing authority will take into account, amongst other things:

- the size and nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complaint
- the potential impact of the premises.

In determining whether a person has a business interest which could be affected, the licensing authority will consider, amongst other things:

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected.

The term "business interests" is given the widest possible interpretation and includes partnerships, charities, faith groups and medical practices.

If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, the licensing authority would not consider this as a relevant representation as it does not relate to the licensing objectives and instead relates to demand or competition.

The licensing authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but, before coming to a decision, the licensing authority will normally consider:

- who is making the representation and whether there is a history of making representations that are not relevant,
- whether it raises a 'relevant' issue or not, or
- whether it raises issues specifically concerning the premises which is the subject of the application.

The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

Where an interested party has made either a valid representation about a licensed premises or a valid application for a licence to be reviewed, the licensing authority may initially arrange a mediation meeting to address and clarify the issues of concern. This process will not override the right of any interested party to ask that the Licensing Committee consider their valid objections or for any licence holder to decline to participate in a mediation meeting.

### **1.7 Information Exchange**

This licensing authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The 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.

Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will form part of a public document. Anyone making representations or applying for the review of a premises licence will be informed that their details will be disclosed.

### **1.8 Enforcement**

The Council is a signatory to the National Enforcement Concordat and will follow the principles set out in it. It is based around the principles of consistency, transparency and proportionality and proposes that a graduated response is taken where offences or breaches are found.

This licensing authority has adopted and implemented a risk-based inspection programme, based on:

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission
- The principles set out in this Statement.

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. The Gambling Commission is the enforcement body for operating and personal licences.

As per the Gambling Commission's Guidance, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible. The licensing

authority will establish a close working relationship with the Police, the Gambling Commission and, where appropriate, other responsible authorities.

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

## **1.9 Local Risk Assessments**

From April 2016, operators with premises licences will have an obligation to produce a local risk assessment which will assist the licensing authority when considering applications. The risk assessment will be similar to an operating schedule under the Licensing Act 2003 and should consider actual and potential risks to the licensing objectives posed by the provision of gambling facilities at a premises. The assessment should detail the policies, procedures and control measures to mitigate those risks and should take into account the licensing authority's Statement of Gambling Principles. The licensing authority can provide advice on the level of detail required, which will be proportional to the scale and nature of the application made.

The licensing authority will expect this risk assessment to accompany all applications for premises licences (new and variation) from April 2016, and will also expect the risk assessment to be shared with the licensing authority on request. Local risk assessments must be reviewed when there are significant changes in local circumstances or at the premises, or when applying for a new licence or variation of a licence.

## **2 PREMISES LICENCES**

### **2.1 General Principles**

A licence can only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use. If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

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

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

In the Act, "premises" is defined as including "any place". A single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as shopping malls to obtain separate premises licences, where appropriate safeguards are in place. This licensing authority will take account of the Gambling Commission's guidance in respect of this matter and the mandatory conditions relating to access between premises.



When determining an application for a premises licence or review a premises licence, regard will be had to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome any concerns, this will be taken into account. This would be expected to be addressed as part of the local risk assessment required to be submitted with all new and variation premises licence applications from April 2016.

In determining an application, the licensing authority may not have regard to the expected demand for the facilities which it is proposed to provide, nor may it take account of any moral objections.

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. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate. More detail on licence conditions can be found at 2.5 of this document.

The licensing authority recognises that, apart from the licensing function, there are a number of other mechanisms available for addressing issues of unruly behaviour that can occur away from licensed premises, including:

- Planning controls
- Ongoing measures to create a safe and clean environment in these areas in partnership with local businesses, transport operators and other Council departments
- Regular liaison with the Police on law enforcement issues regarding disorder and anti-social behaviour
- The power of the Police, other responsible authorities or local residents and businesses to seek a review of the licence.

The licensing authority will not seek to use the Act to resolve matters more readily dealt with under other legislation, and will seek to avoid any duplication with other regulatory systems where possible. For example, the licensing authority will not take into account whether a premises has the appropriate planning or building consents, nor will it take into account fire or health and safety risks.

Where children and other vulnerable people are allowed access to premises where gambling takes place, the licensing authority may take such steps as are lawful and necessary to either limit access generally or by introducing measures to prevent under-age gambling. The licensing authority will not normally seek to limit the access of children to any premises unless it receives representations to that effect or it believes it is right to do so for the prevention of their physical, moral or psychological harm. Applicants are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

The overriding principle is that each application and the circumstances prevailing at each premises will be considered on their own individual merits.

## **2.2 Preventing gambling from being a source of crime and disorder**

This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling premises from being a source of crime, for example the sale and distribution of controlled drugs, money laundering, prostitution, or unlawful gambling. 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. Thus, where an area has high levels of organised crime, this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be necessary such as provisions of door supervisors. When making decisions in this regard, the licensing authority will give due weight to any comments made by the Police.

This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. The licensing authority will seek the views of its legal advisers before determining what action to take in circumstances in which disorder may be a factor. As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The licensing authority will not use the Act to deal with general nuisance issues, such as parking problems, which can easily be dealt with using alternative powers.

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

This licensing authority has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.

## **2.4 Protecting children and other vulnerable people from gambling**

This licensing authority has noted that the Gambling Commission's Guidance for Local Authorities states that this objective means preventing children from taking part in gambling, as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children. 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. Appropriate measures may include supervision of entrances/machines, segregation of areas etc.

This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

As regards the term "vulnerable persons", it is noted that the Gambling Commission does not seek to offer a definition, but 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." This licensing authority will consider this licensing objective on a case by case basis.

## 2.5 Licence Conditions

Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the premises 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.

When considering any conditions to be attached to licences, the licensing authority will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Conditions (other than default conditions and those required by law) will only be attached where they are needed to meet the requirements of the licensing objectives and are within the control of the licensee. Any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance
- only adults are admitted to the area where these machines are located
- access to the area where the machines are located is supervised
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder, and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

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

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

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. Where it is decided that supervision of entrances or machines is appropriate for particular cases, a consideration of whether these supervisors need to be SIA licensed 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.

Listed below are examples of possible areas where a licensing authority may wish to attach conditions to a licence if deemed appropriate:

- Leaflets giving assistance to problem gambling being displayed in prominent areas and discreet areas such as toilets
- The operator having regard to best practice guidance issued on the protection of the interests of vulnerable people
- Positioning of GamCare helpline information positioned on the machine
- Posters promoting details of the GamCare telephone number and website
- A proof of age policy which would be agreed with a relevant responsible authority
- The inclusion of designated chill out areas and areas of non-gambling in the premises.

The licensing authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement or in a way that is reasonably consistent with the licensing objectives.

## **2.6 Licensed Family Entertainment Centres**

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Plans of the premises should be provided with an application for an FEC permit.

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

- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry

- Notices/signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises

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

This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operator licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

In exercising their functions in respect of family entertainment centre permits, the licensing authority need not, but may have regard to, the licensing objectives and must have regard to any guidance issued by the Gambling Commission.

Except in exceptional circumstances, the licensing authority will not grant FEC permits in premises licensed for the sale of alcohol under the Licensing Act 2003.

## **2.7 Casinos**

There are currently no casinos operating within the Borough.

The Council has not passed a 'no casino' resolution under Section 166 of the Act, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Statement with details of that resolution. Any such decision will be made by the Full Council following considered debate, and the reasons for making the resolution will be given. There is no right of appeal against this resolution.

## **2.8 Bingo Premises**

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 areas".

This authority also notes the Guidance regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made

available for use these must be separated from areas where children and young people are allowed.

## **2.9 Betting Premises**

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 (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

There is no evidence that the operation of betting offices has required door supervisors for the protection of the public. This licensing authority will make a door supervision requirement only if there is clear evidence from the history of trading that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

While the licensing authority has discretion as to the number, nature and circumstances of use of betting machines, there is no evidence that such machines give rise to regulatory concerns. This authority will consider limiting the number of machines where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives.

## **2.10 Adult Gaming Centres**

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

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

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

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

## **2.11 Tracks**

There are currently no tracks operating within the Borough.

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As

per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the licensing objective "protection of children and vulnerable persons from being harmed or exploited by gambling" and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures/licence conditions may cover issues such as:

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

This list is not mandatory, nor exhaustive, and is merely indicative of example measures that may be taken.

*Gaming machines* - Guidance from the Gambling Commission is available as regards where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority will consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

*Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

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

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises. In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

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

## **2.12 Travelling Fairs**

It will fall to this licensing authority to decide whether a travelling fair which offers category D machines and/or equal chance prize gaming without a permit meets the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair.

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

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. This licensing authority will work with its neighbouring authorities to ensure that land which crosses boundaries is monitored so that the statutory limits are not exceeded.

## **2.13 Provisional Statements**

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

The 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.

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



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

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

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

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

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

## **2.14 Licensing Reviews**

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

- in accordance with any relevant Code of Practice or Guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with the licensing authority's statement of principles.

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

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

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

- add, remove or amend a licence condition imposed by the licensing authority
- exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion
- suspend the premises licence for a period not exceeding three months, and
- revoke the premises licence.

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

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.

### **3 PERMITS, TEMPORARY AND OCCASIONAL USE NOTICES**

#### **3.1 Unlicensed Family Entertainment Centre Gaming Machine Permits**

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

The Act 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. 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".

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

This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however they may include appropriate measures/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. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants 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.

### 3.2 Alcohol Licensed Premises Notifications and Gaming Machine Permits

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have two gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority 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 is mainly used for gaming, or
- an offence under the Gambling Act has been committed on the premises

If a premises wishes to have more than two machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and “such matters as they think relevant.” This licensing authority considers that “such matters” will be decided on a case by case basis, but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for and dealt with as an adult gaming centre premises licence.

It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached. It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

### 3.3 Prize Gaming Permits

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 proposes to consider in determining the suitability of the applicant for a permit”.

This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate that:

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

- that the gaming offered is within the law, and
- there are policies and steps to be taken to protect children from harm.

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

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

- 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.

### **3.4 Club Gaming and Club Machines Permits**

Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines, equal chance gaming and games of chance as set out in the regulations.

Members clubs, miner's welfare institutes and commercial clubs may apply for a club machine permit. A club machine permit will enable the premises to provide gaming machines as set out in the regulations.

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 permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."

Before granting the permit, the authority will need to satisfy itself that the premises meets the requirements of a members' club and may grant the permit if the majority of members are over 18.

Licensing authorities may only refuse an application on the grounds that:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
- the applicant's premises are used wholly or mainly by children and/or young persons

- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities
- a permit held by the applicant has been cancelled in the previous ten years, or
- an objection has been lodged by the Commission or the Police.

There is also a 'fast-track' procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003. As the Gambling Commission's Guidance to Licensing 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."

The grounds on which an application under the process may be refused are:

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

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

### **3.5 Temporary Use Notices**

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

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.

The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement 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.

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". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

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

### **3.6 Occasional Use Notices**

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

## **4 DECISION-MAKING**

### **4.1 The Licensing Process**

The Council's licensing functions under the Act will be carried out by the Licensing and Safety Committee, supported by a number of sub-committees and by officers acting under the delegated authority of the committee.

Where there are no areas of contention, it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application the matter will be determined by the Licensing and Safety Committee or one of its sub-committees, as will any application for the review of a licence.

The table shown at Appendix C sets out the agreed delegation of decisions and functions to Licensing and Safety Committee, Sub-Committee and officers. This form of delegation is without prejudice to officers referring an application to a Sub-Committee or full Committee if considered appropriate in the circumstances of any particular case.

### **4.2 Committee Terms of Reference**

A Licensing and Safety Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors will not sit on a Sub-Committee involving an application within their ward.

Where a Councillor who is a member of the Licensing and Safety Committee is making or has made representations regarding a licence on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision-making process affecting the licence in question.

The Licensing and Safety Sub-Committee will refer to the Licensing and Safety Committee any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

The Licensing and Safety Committee will refer to the full Council any matter it is unable to deal with because of the number of its members who are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.

Every determination of a licensing decision by the Licensing and Safety Committee or a Licensing and Safety Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website [www.bracknell-forest.gov.uk](http://www.bracknell-forest.gov.uk) as soon as possible after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

Where a licensing authority rejects an application, the applicant may appeal to the local Magistrates' Court.

The Council's licensing officers will deal with all other licensing applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be made by Council officers, who will make the decisions on whether representations or applications for licence reviews should be referred to the Licensing and Safety Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given a written reason as to why that is the case. There is no right of appeal against a determination that representations are not admissible.

## **5 FURTHER INFORMATION**

Further information about the Gambling Act 2005, this Statement of Principles or the application process can be obtained from:

Licensing Team  
Bracknell Forest Borough Council  
Time Square  
Market Street  
Bracknell  
RG12 1JD

Tel: 01344 352000

E-mail: [licensing@bracknell-forest.gov.uk](mailto:licensing@bracknell-forest.gov.uk)

Website: [www.bracknell-forest.gov.uk/licencegamblingpremises](http://www.bracknell-forest.gov.uk/licencegamblingpremises)

Information is also available from:

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 230 6500

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

## Appendix A

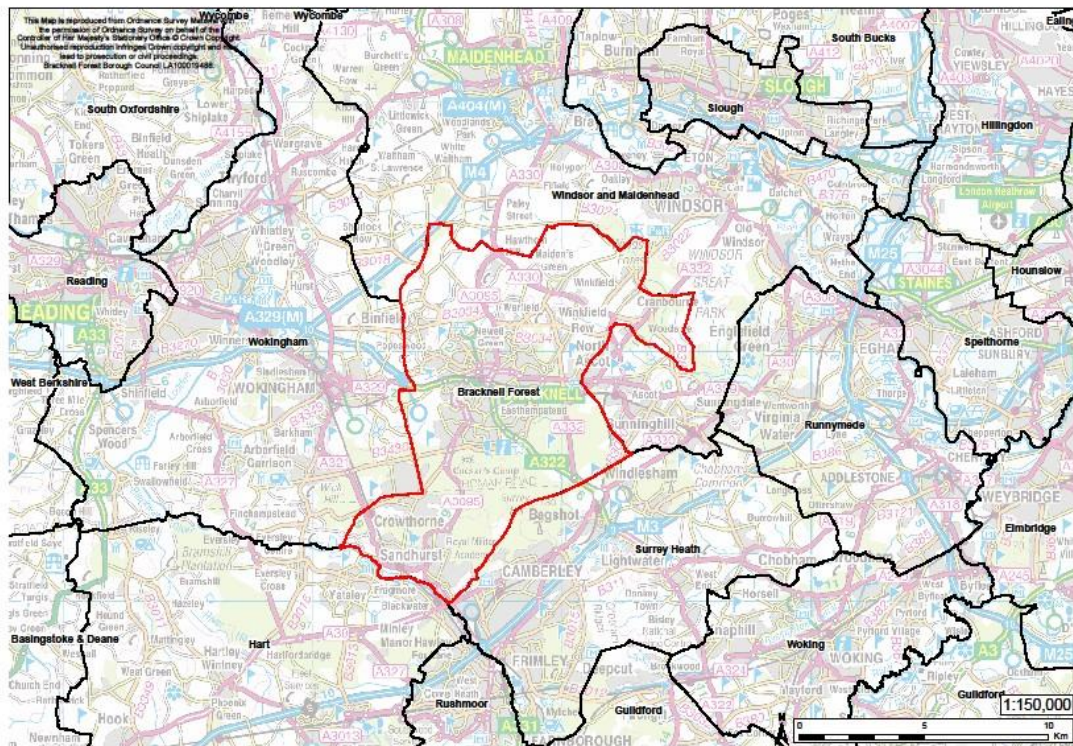
### List of Consultees

- Association of British Bookmakers
- Association of Licensed Multiple Retailers
- Bracknell Chamber of Commerce
- Bracknell Regeneration Partnership
- British Amusement Catering Trade Association
- British Institute of Inn Keeping
- British Beer and Pub Association
- Business in Sport and Leisure
- Committee of Registered Clubs Association
- Community Safety Partnership
- Gamblers Anonymous
- GamCare
- Holders of existing gambling licences
- Involve
- Local community associations
- Members of Bracknell Forest Council
- National Association of Bookmakers
- National Federation of Community Associations
- Parish and Town Councils
- Poppleston Allen Solicitors
- Premises licence / club premises certificate holders
- Pubwatch
- Public website consultation portal
- Thames Valley Police
- The Bingo Association



APPENDIX B

Map of Bracknell Forest Borough



## APPENDIX C

**Summary of Licensing Authority Delegations  
Permitted 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>
Approval of three year Statement of Gambling Principles	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)			X
Application for premises licences (new, variation and transfer) and provisional statements		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Cancellation of club gaming/club machine permits			X
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Revocation of premises licence due to failure to pay annual fee			X
Registration of small society lotteries			X
Cancellation of registration of small society lottery due to failure to pay annual fee			X

X indicates the lowest level to which decisions can be delegated

**APPENDIX D****Gambling Act Glossary**

<b>Adult Gaming Centres</b>	Adult Gaming Centres must have a premises licence from the licensing authority to make category B, C and D gaming machines available to their customers.
<b>Betting Premises</b>	The Act contains a single class of licence for betting premises, which includes track and non-track.
<b>Bingo</b>	Two types of bingo can be offered: Cash bingo - where the stakes paid made up the cash prizes that are won; or Prize bingo - where various forms of prizes are won and are not directly related to the stakes paid.
<b>Casinos</b>	The Act defines casino games as games of chance which are not equal chance gaming.
<b>Customer Lottery</b>	A lottery run by occupiers of a business for the benefit of the customers who buy tickets sold on the premises (e.g. supermarket holding a hamper raffle).
<b>Exempt Lottery</b>	Incidental non-commercial lotteries Private lotteries Customer lotteries Small Society lotteries
<b>Gambling Act 2005</b>	The Act governs the provision of all gambling in Great Britain, other than the National Lottery and spread betting. It received royal assent on 7 April 2005.
<b>Gambling Commission</b>	The Gambling Commission licenses larger gambling operators and provides advice and guidance to operators, stakeholders and licensing authorities. They also have a role in enforcement and ensuring promotion of the licensing objectives.
<b>Gaming Machines</b>	Category of machine and where they can be situated are contained at the end of this glossary.
<b>Incidental Non-Commercial Lottery</b>	Lottery that is run as an additional amusement at non-commercial events with tickets sold only during the event, such as a raffle at a dance or church fair.
<b>Licensed Family Entertainment Centres</b>	The Act creates two classes of family entertainment centres (FEC). Licensed FECs provide category C and D machines and require a premises licence.

<b>Lotteries</b>	A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.
<b>Non-track betting</b>	Betting that takes place other than at a race track.
<b>Occasional Use Notices</b>	Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.
<b>Private Lottery</b>	Lottery that requires membership of a society, place of work or single residential unit (e.g. raffle at a student hall of residence).
<b>Small Society Lottery</b>	Non-commercial societies if it is established and conducted for charitable purposes; for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or for any other non-commercial purpose other than private gain.
<b>Temporary Use Notices</b>	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 which might be suitable for temporary use notices would include hotels, conference centres and sporting venues.
<b>Track betting</b>	Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks both in the form of pool betting (often known as the "totalisator" or "tote") and also general betting, often known as "fixed-odds" betting.
<b>Travelling Fairs</b>	A travelling fair is one that "wholly or principally" provides amusements and they must be on a site that had been used for fairs for no more than 27 days per calendar year. No permit is required for gaming machines, but they must comply with age restrictions.
<b>Unlicensed Family Entertainment Centres</b>	Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits.