

# West Devon Planning and Licensing Committee



West Devon  
Borough  
Council

<b>Title:</b>	<b>Agenda</b>								
<b>Date:</b>	<b>Tuesday, 10th November, 2015</b>								
<b>Time:</b>	<b>10.00 am</b>								
<b>Venue:</b>	<b>Chamber - Kilworthy Park</b>								
<b>Full Members:</b>	<p style="text-align: center;"><b>Chairman</b> Cllr Sellis</p> <p style="text-align: center;"><b>Vice Chairman</b> Cllr Benson</p> <p><i>Members:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Cllr Baldwin</td> <td style="width: 33%;">Cllr Moyse</td> </tr> <tr> <td>Cllr Cann OBE</td> <td>Cllr Parker</td> </tr> <tr> <td>Cllr Hockridge</td> <td>Cllr Pearce</td> </tr> <tr> <td>Cllr Mott</td> <td>Cllr Roberts</td> </tr> </table>	Cllr Baldwin	Cllr Moyse	Cllr Cann OBE	Cllr Parker	Cllr Hockridge	Cllr Pearce	Cllr Mott	Cllr Roberts
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Cllr Cann OBE	Cllr Parker								
Cllr Hockridge	Cllr Pearce								
Cllr Mott	Cllr Roberts								
<b>Interests – Declaration and Restriction on Participation:</b>	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.								
<b>Committee administrator:</b>	Kathy Trant Specialist - Democratic Services 01803 861185								

**1. Apologies for Absence**

**2. Declarations of Interest**

Members are invited to declare any personal or disclosable pecuniary interests, including the nature and extent of such interests they may have in any items to be considered at this meeting.

*[If Councillors have any questions relating to predetermination, bias or interests in items on this Agenda, then please contact the Monitoring Officer in advance of the meeting]*

**3. Items Requiring Urgent Attention**

To consider those items which, in the opinion of the Chairman, should be considered by the Meeting as matters of urgency (if any).

**4. Confirmation of Minutes**

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Meeting held on 13th October 2015

**5. Planning Applications & Enforcement Reports**

To see Letters of Representation and further supplementary information relating to any of the planning applications on the agenda, please select the following link and enter the relevant Reference number: <http://westdevon.gov.uk/searchlanding>

**(a) 00715/2015**

**5 - 18**

Land at Martin Farm, Whiddon Down, Okehampton  
Installation of solar pv array (site area 11.82 Ha, estimated output 5MW, approx 19,230 panels) with associated infrastructure, landscaping, access and cable route

**6. Planning Appeals Update**

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**7. Review of Statement of Licensing Policy for 2016-2021**

**23 - 82**

**8. Three Yearly Review of Gambling Statement of Licensing Principles**

**83 - 142**

**9. Approval of Park Homes Fees and Charges Policy**

**143 - 152**

**10. Update on Licences issued from 1 Oct 2014 to 30 Sept 2015**

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# Agenda Item 4

At a Meeting of the **PLANNING & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **13<sup>th</sup>** day of **OCTOBER 2015** at **12 noon**

**Present:**  
Cllr D K A Sellis – Chairman  
Cllr M J R Benson – Vice-Chairman  
Cllr R E Baldwin  
Cllr L J G Hockridge  
Cllr D E Moyse  
Cllr G Parker  
Cllr A Roberts

**Substitute:**  
Cllr A F Leech for Cllr C W G Cann OBE  
Cllr C Edmonds for Cllr T G Pearce  
Cllr P R Sanders for Cllr C Mott

Planning Officer (NG)  
Solicitor (BF)  
Senior Case Manager (KT)

**In attendance:** Cllrs R F D Sampson & B Stephens

## **\*P&L 27 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllrs W G Cann OBE (Substitute: Cllr A F Leech) and Cllr T G Pearce (Substitute: Cllr C Edmonds) and Cllr C Mott (Substitute: Cllr P R Sanders).

(Note: Cllr C Mott had submitted her apologies to this meeting by virtue of being closely related to the applicant for applications: 00637/2015: Erection of building to cover silage clamp; 00665/2015: Erection of agricultural building to cover silage clamp and feed yard (Proposed cubicle building 1); and 00666/2015: Erection of livestock building (Proposed cubicle building 2) – Blue Meadow Cottage, Bridestowe).

## **\*P&L 28 DECLARATION OF INTEREST**

Cllr L J G Hockridge declared a personal interest in applications 00637/2015: Erection of building to cover silage clamp; 00665/2015: Erection of agricultural building to cover silage clamp and feed yard (Proposed cubicle building 1); and 00666/2015: Erection of livestock building (Proposed cubicle building 2) – Blue Meadow Cottage, Bridestowe by virtue of the agent being his wife's cousin and by virtue of the applicant being known to him and closely related to his fellow local Ward Member. He remained in the meeting and took part in the debate and vote thereon.

Cllr P R Sanders declared a personal interest in applications 00637/2015: Erection of building to cover silage clamp; 00665/2015: Erection of agricultural building to cover silage clamp and feed yard (Proposed cubicle building 1); and 00666/2015: Erection of livestock building (Proposed cubicle building 2) – Blue Meadow Cottage, Bridestowe by virtue of being well acquainted with the wife of the applicant, who was a fellow councillor. He remained in the meeting and took part in the debate and vote thereon.

**\*P&L 29 CONFIRMATION OF MINUTES**

The Minutes of the Planning and Licensing Committee Meeting held on 15 September 2015 (page 1 to the Agenda), and Licensing Sub Committee Meeting held on 2 June 2015, were confirmed and signed by the Chairman as a correct record.

**\*P&L 30 PLANNING, LISTED BUILDING AND ENFORCEMENT REPORTS**

The Committee considered the applications prepared by the Lead Specialist – Development Management and considered also the comments of Town and Parish Councils together with other representations received, which were listed within the presented agenda reports and summarised below, and **RESOLVED:**

**PLANNING APPLICATION REPORT**

**Case Officer:** Nicola Glanville

**Ward:** Bridestowe

**Ward Member:** Cllrs L J G Hockridge and Cllr C Mott

**Application No:** 00637/2015  
00665/2015; 00666/2015

**Agent/Applicant:**

Mr J Wale  
Roundacre Design Services  
Westacott Farm  
Inwardleigh  
Okehampton  
Devon EX20 3AP

Mr K Mott  
Ranches Limited  
Great Close Farm  
Bridestowe  
Devon EX20 4NT

**Site Address:** Blue Meadow Cottage, Bridestowe, Okehampton, Devon EX20 4NT

**Development:** 00637/2015 - Proposed roof over existing silage clamp area  
00665/2015 - Erection of agricultural building to cover silage clamp and feed yard  
00666/2015 - Erection of livestock building

**Reason item is being put before Committee:**

The application is made on behalf of a relative of Cllr Mott, an elected Member of the Council.

**COMMITTEE DECISION:** For all three applications: Conditional Approval subject to the following conditions:

1. Accord with plans
2. Time limit
3. Unsuspected contaminated land
4. Drainage
5. Landscaping
6. Any light fittings attached to the buildings to be downward facing
7. Rooflights to be of non- reflective material

**The Proposal:**

The proposals are for three agricultural buildings that wrap around the southern end of an existing agricultural building on the site to form an L shape:

00665/2015 – Building 1 is to provide a livestock cubicle building which measures 647m<sup>2</sup> and is 9027mm in height;

00666/2015 – Building 2 is to provide a livestock cubicle building measures 765 m<sup>2</sup> and is 8613mm in height;

00637/2015 – Building 3 is to provide a roof covering over an existing silage clamp area and measures 614 m<sup>2</sup> and is 9580mm in height.

**Consultations:**

Parish Council

Devon County Council Highways Authority

Drainage Engineer

Environmental Health

**Conclusion:** The Case Officer outlined the application and responded to questions. During the debate, Members discussed amendments to the conditions as presented in the report.

**\*P&L 31 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals. Members requested that future lists included all appeals, i.e. enforcement appeals and Ombudsman cases that were relevant to the Planning and Licensing Committee. In addition, it was agreed that where costs had been awarded this would be indicated where known.

(The Meeting terminated at 12.45pm)

Dated this

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**Chairman**

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## PLANNING APPLICATION REPORT

**Case Officer:** Thomas Jones

**Ward:** Drewsteignton

**Application No:** 00715/2015

**Agent/Applicant:**

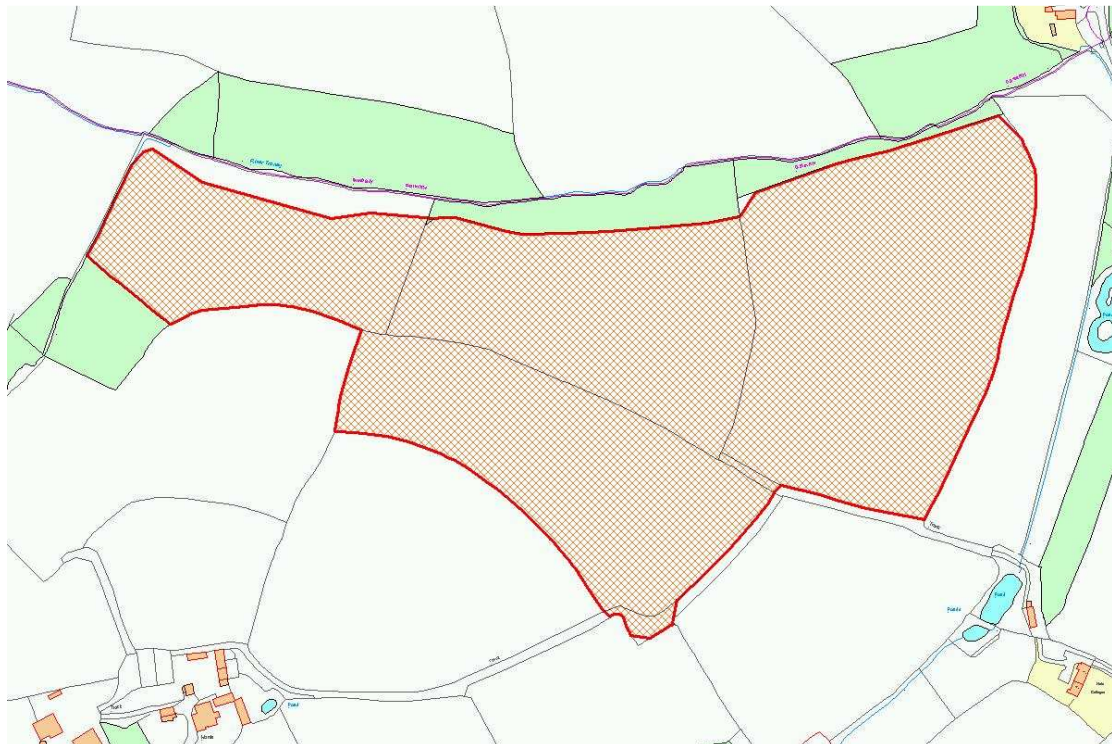
Aardvark EM Ltd  
Higher Ford  
Wiveliscombe  
Taunton  
Somerset  
TA4 2RL

**Applicant:**

Murex Martin Solar Limited  
Mells Park  
Mells  
Somerset  
BA11 3QB

**Site Address:** Land at Martin Farm, Whiddon Down, Okehampton, Devon  
EX20 2QL

**Development:** installation of solar pv array (site area 11.82ha, estimated output 5MW, approximately 19,230 panels) with associated infrastructure landscaping, access and cable route.



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### **Reason item is being put before Committee**

At the request of the Ward Member in light of the level of local interest.

### **Recommendation**

Approval subject to conditions covering:

Standard time limit  
Accord with plans  
Unsuspected contamination  
Landscape / Biodiversity (Prior to Commencement [PTC])  
Duration 30 years  
Notification of Operational Commencement  
Materials (PTC)  
Fencing  
CCTV (PTC)  
Construction Management Plan (PTC)  
Highway road condition survey (PTC)  
GPDO  
External lighting (PTC)  
Archaeology

### **Key issues for consideration**

Principle of Development  
Landscape and Visual Impact  
Ecology  
Highway safety and condition  
Impact on Tourism  
Impact on Heritage Assets  
Impact on residential amenity  
Flood risk

### **Site Description**

The site lies 0.5km north west of Whiddon Down and extends to some 11.82 hectares (29.2 acres), comprising four adjoining agricultural fields. Access is currently through an existing gateway to the south that is used by Martin Farm. The access track is a private highway that runs from the Whiddon Down road, which runs into the A382 and is a short distance from the A30, which runs almost north to south and approximately 0.5km to the north east of the site.

The highest point of the site, 240m Above Ordnance Datum (AOD), is found in the south and the lowest, 200 AOD, is found in the north. The southern field has a reasonably steep north facing aspect whereas the three northern fields are less steep, but still oriented with a slight north facing slope.

Trees and hedgerows bound the site with the River Troney running along the northern boundary.

The site is not affected directly by any planning designations, is not classed as Best and Most Versatile (BMV) Agricultural Land and falls within Flood Zone 1.

There are no public footpaths crossing the site and no footpaths running in close vicinity.

The surrounding land is predominantly agricultural with some large and isolated farm buildings. A number of residential properties lie within 1km of the site, with those lying to the south east and on the north side of Exeter Road having clear views into the east side of the proposed installation.

The A30 runs approximately in a west-east direction to the north. Inter-visibility is very limited, but noise from the road is intrusive.

The site is well contained with respect to views from and to land to the south. Views are more open to the north with limited inter-visibility to the west and to the east. The boundary of Dartmoor National Park is approximately 650km to the west and 500km to the south.

### **The Proposal**

It is proposed to install 19,320 solar photovoltaic (pv) panels to provide up to 5MW of energy to the National Grid. The connection point is off site with the associated cable run to be provided by the District Network Operator (DNO). As such, this is permitted development.

Permission is sought for 30 years, after which the installation would be removed and the land revert to its current state.

Energy from the panels would be transferred via cables, some underground, into one of four transformer houses. One of the transformer houses would contain switchgear to raise the voltage before being transferred, via underground cable, to the substation. The substation would be the property of the DNO and it is from here the power would be fed into the national grid, via underground cables.

Panels would sit on an aluminum frame one above the other (in threes) in landscape. Rows of panels would run west to east with a south-facing orientation (gradient 20 degrees). Rows in fields 1, 2 and 4 would be 3m apart with the rows in field 4, due to the topography of that area, being 6 metres apart. The highest point of the rows of panels would be up to 2.16m (at the rear), with the front no less than 0.63m from the ground. This would allow sheep to graze and for an appropriate regime to enhance biodiversity.

Hedgerows and trees would be retained such that the installation would sit within the existing landscape structure.

Internal access tracks would be constructed to be permeable and with inert material.

A community benefit is proposed, but this is not a material consideration.

The application is supported by the following documents:

- Layout and access plans
- DNO Building, Substation and Inverter Buildings Plans and Elevations
- Access road cross section
- Planning Statement
- Design and Access Statement
- Construction Environmental Management Plan
- Environmental Considerations Statement.
- Flood Risk Assessment
- Statement of Community Involvement
- Land Classification Report
- Archaeological Evaluation
- Archaeological Gradiometer Survey
- Archaeological Desk Based Assessment
- Extended Phase I Habitat Survey
- Landscape and Visual Impact Assessment
- Landscape and Ecological Management Plan

## **Consultations**

No comments have been received from **South West Water**.

The **County Highways Authority** (DCC) in their response dated 13th August confirms that the existing access arrangements from the former A30 are adequate to accommodate the traffic generated by the construction of the proposed development and there is more than adequate provision on-site to accommodate the parking and turning of the associated vehicles. DCC comments that a Construction Management Plan has been provided and recommends a condition to require compliance with this document throughout the construction phase.

The **Environment Agency** in their response dated 3<sup>rd</sup> September makes no formal comment, noting that development is within the low risk flood zone 1 and does not appear to be subject to any other environmental constraints which are of interest to the Agency.

The **Police Architectural Liaison Officer** in their response dated 7th August makes no specific comments, but refer to guidance with respect to crime and safety at solar farms.

**Natural England**, in their response dated 1<sup>st</sup> September, makes no objection and provides standing advice with respect to species.

**Historic England**, in their response dated 28th August confirms that specialist staff have considered the information received and does offer any comments.

The **County Archaeologist** advises that the archaeological assessment and evaluation have identified archaeological evidence of county and more local

importance within the site. These include farmstead enclosures of late prehistoric and/or Romano-British date.

Since groundworks are likely to damage and destroy archaeology a condition is recommended.

The **Landscape Specialist** has not expressed any concern with respect to the landscape and visual impact being unacceptable.

The **Ecology Specialist**, in an email dated 12th October, comments that it is reasonable to consider that the proposal is in accordance with relevant policy and good practice, and that the Landscape and Ecological Management Plan (LEMP) gives the LPA confidence that the ecological value of the site could be enhanced by the proposal. No objection is made subject to conditions being applied in this respect

The original comments of the **Borough Engineer**, provided by email on 21 August 2015, set out requirements with respect to drainage. Additional information provided by the application clarifies, in the view of the Engineer, that an appropriate drainage scheme would form an integral part of the development.

**Drewsteignton Parish Council**, in their comments dated 17th August 2015, supports the application because it is in line with National Planning Framework Policy, but notes strong objections from local residents. If permitted, the Parish Council requests enhanced planting plan to screen affected homes and that drainage plans are reviewed as there are serious concerns about run off during heavy rain, and potential risk to property and highway.

No comments have been received by the **Dartmoor Preservation Association**.

No comments have been received from **Dartmoor National Park Authority**.

### **Representations**

Some 15 letters of representation have been received from separate addresses in relation to the proposed development, 14 in objection, including South Tawton Parish Council, and 1 in support. The detail can be seen on the Council's website.

Objections raised, in no particular order and in so far as they relate to planning matters, are summarised as follows:

- visual impact on A30 and area in general;
- reflection visible from A30;
- loss of residential amenity;
- adverse impact on wildlife;
- unacceptable industrialisation of the countryside;
- need not demonstrated by the applicant;
- no sequential test provided by the applicant;

- impact on Dartmoor National Park;
- should use industrial land;
- the impact of noise on neighbours has not been assessed by the applicant;
- the applicant has not demonstrated that the site does not contain any Grade 3a Agricultural Land;
- adverse impact on tourism;
- impact of run off on Hollycombe Ford Cottage;
- no benefit to local area;
- concern that more land would be used for panels at a later date;
- if permitted the lifetime should be limited to 25 years;
- report of flooding risk is misleading; and
- residential properties would overlook the installation.

Expressions of support, in no particular order and in so far as they relate to planning matters, are summarised as follows:

- this is a good place to put the panels well out of the way;
- solar panels are also quite and will not affect anyone in the local area;
- preference for solar panels than massive wind turbines; and
- benefits in the long run.

### **Relevant Planning History**

None.

## **ANALYSIS**

### **Principle of Development / Sustainability**

Paragraph 93 of the National Planning Policy Framework NPPF establishes that planning plays a key role in helping shape places to secure reductions in greenhouse gas emissions, minimising vulnerability and providing resilience to the impacts of climate change, and supporting the delivery of renewable and low carbon energy and associated infrastructure. This is central to the economic, social and environmental dimensions of sustainable development. It continues, at paragraph 97, to clarify that ‘to help increase the use and supply of renewable and low carbon energy, local planning authorities should recognise the responsibility on all communities to contribute to energy generation from renewable or low carbon sources.’

The principles for judging the acceptability of a renewable energy installation are established at paragraph 98, which states that when determining planning applications, local planning authorities should:

- not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy; and
- approve the application, unless material considerations indicate otherwise, if its impacts are or can be made acceptable.

Planning Policy Guidance states that Local Planning Authorities should focus

large scale solar farms on previously developed and non-agricultural land, provided that it is not of high environmental value. This position was confirmed in a ministerial statement from the Secretary of State for Communities and Local Government on 25th March 2015, which requires that 'any proposal for a solar farm involving the best and most versatile agricultural land would need to be justified by the most compelling evidence'.

With reference to the above; to policies of the West Devon Development Plan, as listed at the end of this report; and the non-statutory guidance 'Solar Arrays in West Devon: Interim Planning Guidance for Prospective Developers 2013' the key issues for this application are the sequential test for justifying the location together with landscape impact, design, heritage and amenity.

A detailed consideration of each of these matters follows.

### **Sequential test**

The Council considers that there is currently no alternative site that is likely to come forward for a renewable energy installation of this scale within a settlement boundary close enough to the point of connection (poc) to the grid that is available; neither is there suitably located and sized previously developed land in the locality that is available to accommodate the installation.

The Land Classification Report confirms that the site is Grade 3b Agricultural Land. Council Specialists are satisfied, therefore, that it is not necessary to consider whether other land of a lesser grade could provide a viable or more acceptable alternative site.

### **Landscape**

The provisions of Policies ED117 and ED21 of the Local Plan in relation to rural diversification make clear that such schemes will only be permitted where the proposal will not be visually intrusive or damaging to the appearance or character of the landscape. Policy SP17 of the Core Strategy also emphasises that development will not be permitted which would damage the natural beauty character or special qualities of the landscape.

Similarly, Policy SP3, 'renewable energy developments' makes provision for the protection, preservation and / or mitigation of features of importance, including landscape character.

National Planning Policy Guidance (NPPG) also emphasises the importance of investigating potential to mitigate landscape and visual impacts through, for example, screening with native hedges.

A Landscape and Visual Impact Assessment has been submitted and this includes a consideration of the impact on Dartmoor National Park (DNP).

The LVIA describes landscape impact, including glint and glare and heritage assets and provides montages to illustrate some of the photographic

viewpoints.

It is noted that Dartmoor National Park (DNP) lies to the south and west of the site, but inter-visibility is limited and distant. Views are available from the north and north east where the DNP forms a backdrop to the application site. These views are limited, the DNP is distant (generally more than 1km) and the proposed development would form a small part of the view. The site is screened from views to the south / south-west by topography and intervening vegetation. This precludes inter-visibility with DNP at its nearest point, which is the south side of Exeter Road. It is considered, therefore, that the impact on DNP would be negligible.

The surrounding land is predominantly agricultural with isolated farmsteads and some residential properties. The A30 runs to the north, providing a physical and psychological barrier between the site and the countryside to the north.

The site is well contained with respect to views from and towards land to the south, but views are more open towards and from the north with distant residential receptors and the possibility of distant views from footpaths.

The proposed development has been considered in terms of other local renewable schemes, both proposed and in place. With consideration to the relevant factors related to cumulative effects, there are no perceived impacts from this proposal.

The LVIA, at page 33 and page 34 Table 4.4, provides an accurate and detailed summary of views. A number of properties have distant views from parts of their curtilage, but these are not from living areas and the views are not, in any case, dominant in the wider panorama. Views from properties on the north side of Exeter Road are, however, available into the eastern part of the site. A public view is also available from a lay by / farm gate some 50m to the west of these properties.

Viewpoint 1 / Photomontage 1 as shown in the LVIA provides a reasonable interpretation of these views. It is considered that whilst there are views from living areas of the properties and from a public vantage point, only part of the solar farm can be seen and this is in the context of a wider panorama. It is concluded that whilst the occupiers would experience a change in outlook, it is not considered that this would be to an extent that the installation would have an unpleasantly overwhelming presence.

A Landscape and Ecological Management Plan has been provided that sets out treatment of boundaries in terms of retention and enhancement. It is not possible to fully screen views from the residential properties on the north side of Exeter Road on land within the ownership / control of the applicant. The applicant has, however, offered to provide trees for screening to be planted at the properties on Exeter Road that are affected.



## **Ecology**

The application is supported by an Extended Phase 1 Habitat Survey. The fields subject to the proposed solar farm are described as supporting cereal crops, with surrounding hedge banks containing native species and occasional mature trees.

There is limited value from the fields to protected species. Tall grassland at boundaries of two of the fields have potential for use by common reptiles, and the hedge banks have potential for use by nesting birds, dormice and foraging/commuting bats.

Recommendations within the Ext Ph 1 Survey are carried forward into a detailed Landscape and Ecological Management Plan (LEMP) which has been submitted with the application.

The LEMP confirms that the proposal retains the hedgerows (using existing gateways) and includes a hedgerow buffer which would be prepared and planted with a wildflower mix. Ongoing management of the buffer would be by cutting, while the grassland between and beneath the solar panels is proposed to be maintained by low intensity sheep grazing (with no grazing over spring and summer). Hedgerow cutting is specified, with the intention of allowing the hedgerows to grow to circa 3m in height and to develop a dense canopy (benefitting the various protected species which use the hedgerows). The proposals within the LEMP are in line with best practice and the Ecology Specialist is satisfied that they suit the habitats as described within the Survey.

The Survey has shown that the ecological value of the fields is limited, with most value to protected species being offered by the hedgerows. These hedgerows would be maintained, and through management could be enhanced. The LEMP has detailed proposed operational management which could improve the ecological value of the site through increasing the species mix and management regime.

A condition is recommended that the development shall adhere to the Landscape and Ecological Management Plan (Landscape Visual, June 2015), including habitat protection and creation, construction and operational management, and monitoring measures.

## **Design**

The proposed design is a standard frame for solar panels that would be oriented to run from east to west across the site. Retained and re-enforced hedgerows would result in a cellular approach to the development that would reflect the current character of small irregularly shaped enclosed fields.

The proposed security fencing would extend to a height of 2.5 metres, timber post and wire fencing and include badger gates to allow the movement of small mammals across the site. Inverter buildings would extend to a maximum height

of 3.7 metres and painted green to minimise their impact.

The applicant has confirmed that the fencing would be deer fencing and this is considered to have a substantially lower impact than more 'industrial' designs.

The sub-station buildings would be 2.6 metres in height and are located sensitively with respect to visual impact and potential for noise impact. The colour would be green or grey so as not to be prominent when viewed in the landscape and / or the context of the development.

Whilst the installation would introduce an 'industrial-looking' development in the countryside it is considered that the limited visibility, retention of the hedgerows and sensitive design is acceptable given the substantial benefit of providing renewable energy and a diverse income to the farm.

### **Heritage**

Two Grade II Listed Buildings lie to the east of the site: Hollycombe Ford Cottage and Hole Cottages. It is noted that open land would be retained between the boundary of the site and these properties. It is considered that there would be no impact on the properties and that the settings would be preserved.

Groundworks are likely to damage and destroy archaeology. The County Archaeologist recommends a condition to require a programme of work for targeted archaeological excavation. The results of the fieldwork and any post-excavation analysis undertaken would need to be presented in an appropriately detailed and illustrated report.

### **Tourism**

Concern has been raised regarding the impact of the proposed development on the tourist economy. There is no evidence that demonstrates that such development does an adverse impact on Tourism. With regards to this specific site, as set out in this report, the proposal does not have an adverse visual impact to the wider area and would not therefore be detrimental to the character and appearance the area. As such it is not considered that the proposal would have an adverse impact on the tourist economy.

### **Residential amenity**

In addition to the matters described and discussed above, it is noted that construction traffic and operations would generate noise that, at times, would be intrusive. The most intrusive noise would be piling and this would be controlled by condition to preclude working before 08:00am and after 18:00pm. This control and the temporary (approximately 4 months) nature of the construction period mean this is not likely to result in unreasonable harm to amenity.

During the operation phase noise would be limited to occasional vehicle movements and low-level noise from inverters and from ancillary buildings. Whilst this is not likely to result in noise nuisance, it would be appropriate to

secure this by condition, given the proximity and position of residential properties to the site.

There are some residential properties that would have a view of the development. It is considered that whilst the occupiers may experience a change in outlook, the relationship of the dwellings to the site is such that this change would not be to the extent that the installation would have an unpleasantly overwhelming presence.

#### **Other material considerations**

The County Highways Authority (DCC), in their response dated 13th August, confirms that the existing access arrangements from the former A30 are adequate to accommodate the traffic generated by the construction of the proposed development and there is more than adequate provision on-site to accommodate the parking and turning of the associated vehicles. DCC comments that a Construction Management Plan has been provided and recommends a condition to require compliance with this document throughout the construction phase.

The application is supported by a Flood Risk Assessment and the Environment Agency has confirmed no objection to the proposed development with respect to flood risk.

The Parish Council and third party objectors have, however, raised concerns with respect to particular features / structures that they consider to be at risk from the potential from increased flooding. This includes a bridge, which is described by third parties as having two tunnels which link to a tunnel that goes under the road, which is not considered to be sufficient to take any additional water. Third parties conclude that the solar farm in combination with the 'new link road' would accumulate water drainage at this water converging point. Third parties also express concern that the FRA does not take into account the changeable effects of the River Troney, reporting (with photographic evidence) that the road drainage is currently insufficient leading to hazardous conditions and potential flooding of local properties.

In recognition of the expressed concerns the Council has requested and the applicant has provided a detailed drainage strategy as part of the application rather than addressing this matter through condition. The Borough Engineer is satisfied that the proposed drainage strategy, which employs extensive swales, would ensure that there is no increased risk to flooding off site. The drainage strategy forms an integral part of the proposed development and would be further secured by condition.

The Statement of Community Involvement provides a record of consultation with the community prior to the submission of the planning application.

Given the well contained nature of the site and absence of intrusive visibility it is not considered likely that the installation of a solar farm as proposed would result in adverse impacts on tourism

## **Conclusion**

The site is classified as Grade 3b Agricultural Land and lies outside major landscape designations. Inter-visibility with the National Park would be limited such that the impact is considered to be negligible.

It would produce up to 5MW of renewable energy, which is considered to be a significant benefit in environmental, social and economic terms.

The layout and design, including Landscape and Ecological Management Plan, would ensure benefits with respect to biodiversity.

Construction impacts would be significant, but temporary and controlled through the provisions of a Construction Management Plan.

The application is, therefore, considered to be sustainable development and there are no material considerations that indicate planning permission should not be approved. The recommendation is for approval subject to conditions.

## **Planning Policy**

***This application has been considered in accordance with Section 38 of the Planning & Compulsory Purchase Act 2004 and, where relevant, with Sections 66 and 72 of the Town and Country Planning Act 1990 (Listed Buildings and Conservation Areas).***

### **Planning Policy**

#### **West Devon Borough Council Core Strategy 2011**

- SP1 – Sustainable Development
- SP3 – Renewable Energy
- SP5 – Spatial Strategy
- SP10 – Supporting the Growth of the Economy
- SP11 – Rural Regeneration
- SP16 – Safer Communities
- SP17 – Landscape Character
- SP18 – The Heritage and Historical Character of West Devon
- SP19 – Biodiversity
- SP20 – Promoting High Quality Design
- SP21 – Flooding

#### **West Devon Borough Council Local Plan Review 2005(as amended 2011)**

- NE10 – Protection of the Countryside and Other Open Spaces
- BE3 – Listed Buildings
- BE7 – Archaeology and Sites of Local Importance
- BE8 – Archaeology and Sites of Local Importance
- BE9 – Archaeology and Sites of Local Importance
- BE10 – Archaeology and Sites of Local Importance
- BE13 – Landscaping and Boundary Treatment
- ED16 – Development for Employment in the Countryside
- ED17 – Farm Diversification
- ED21 – Rural Diversification

T9 – The Highway Network  
PS2 – Sustainable Urban Drainage Systems

**WDBC Core Strategy Policy SP19d, NPPF Para 118, NERC Act 2006.**

**National Planning Policy Framework (2012):**

Paras. 17, 28, 56, 97, 98, 100, 103, 111, 112, 118, 128, 131 and 132

**Non Statutory Guidance: Solar Arrays in West Devon: Interim Planning Guidance for Prospective Developers 2013.**

**Considerations under Human Rights Act 1998 and Equalities Act 2010**

The provisions of the Human Rights Act 1998 and Equalities Act 2010 have been taken into account in reaching the recommendation contained in this report.

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**WEST DEVON BOROUGH COUNCIL**  
**Agenda Item 6**  
PLANNING & LICENSING COMMITTEE 02 December 2015  
PLANNING APPEALS UPDATE from 28-Sep-2015 to 28-Oct-2015

**APPLICATION NO :** [01182/2014](#)  
**APPELLANT :** R Phillips  
**PROPOSAL :** Demolition of existing workshop and erection of 3 bed dwelling with associated car parking and garden.  
**LOCATION :** Land Adjacent To Primrose Cottage, Bratton Clovelly, Devon  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 9-Apr-2015  
**APPEAL DECISION :** Appeal Allowed with Conditions  
**APPEAL DECISION DATE :** 07-Oct-2015

**APPLICATION NO :** [00635/2014](#)  
**APPELLANT :** Mr J Dennis  
**PROPOSAL :** Erection of 1 turbine (estimated output of 900kw) with 50m hub height, 77m tip height and associated infrastructure.  
**LOCATION :** Heane Farm, Runnon Moor Lane, Hatherleigh, Okehampton, Devon, EX20 3PL  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 13-Feb-2015  
**APPEAL DECISION :** Appeal Dismissed  
**APPEAL DECISION DATE :** 20-Oct-2015

**APPLICATION NO :** [01285/2014](#)  
**APPELLANT :** Mrs T Barton  
**PROPOSAL :** Prior Notification for Change Of use of Agricultural building to dwelling (C3) Class MB.  
**LOCATION :** Barn at NGR SX491962, Burden Farm, Broadbury, Devon, EX20 4LF  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 16-Apr-2015  
**APPEAL DECISION :** Appeal Allowed  
**APPEAL DECISION DATE :** 05-Oct-2015

**APPLICATION NO :** [00060/2015](#)  
**APPELLANT :** Mr & Mrs Bennett  
**PROPOSAL :** Retrospective permission for alterations to levels and retention of the building as built in connection with the change of use to internet sales.  
**LOCATION :** Stables, Edgecumbe Road, Milton Abbot, Devon  
**APPEAL STATUS :** **APPEAL LODGED**  
**APPEAL START DATE :** 8-Oct-2015  
**APPEAL DECISION :**  
**APPEAL DECISION DATE :**

**APPLICATION NO :** [00452/2015](#)  
**APPELLANT :** Mr & Mrs D Bennett  
**PROPOSAL :** Retrospective permission for alterations to levels and retention of the building as built in association with part use for an internet sales business (93sqm) and part use for a barn/agricultural store (126sqm) together with the regrading and seeding of land around the existing building and removal of the field shelter.  
**LOCATION :** Stables, Edgecumbe Road, Milton Abbot, Devon  
**APPEAL STATUS :** **APPEAL LODGED**  
**APPEAL START DATE :** 8-Oct-2015  
**APPEAL DECISION :**  
**APPEAL DECISION DATE :**

**APPLICATION NO :** [01061/2014](#)  
**APPELLANT :** Mr D Kirst  
**PROPOSAL :** Change of use from holiday accommodation to full residential  
**LOCATION :** Cider Cottage, Yeo Farm, Yeo Lane, North Tawton, Devon, EX20 2DD  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 17-Jul-2015  
**APPEAL DECISION :** Appeal Allowed with Conditions  
**APPEAL DECISION DATE :** 19-Oct-2015

**APPLICATION NO :** [00006/2015](#)  
**APPELLANT :** Mrs J Askew  
**PROPOSAL :** Outline application for the erection of a dwelling and double garage with all matters reserved for subsequent approval.  
**LOCATION :** Land Adjacent To Sandy Lane Barn, Kilworthy Road, Tavistock, Devon  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 4-Jun-2015  
**APPEAL DECISION :** Appeal Dismissed  
**APPEAL DECISION DATE :** 19-Oct-2015

**APPLICATION NO :** [00405/2015](#)  
**APPELLANT :** The Old School  
**PROPOSAL :** Outline application for erection of two detached dwellings on the site of two portal classrooms.  
**LOCATION :** The Old School, Church Hill, Whitchurch, Tavistock, Devon, PL19 9ED  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 21-Jul-2015  
**APPEAL DECISION :** Appeal Allowed with Conditions  
**APPEAL DECISION DATE :** 21-Oct-2015

**APPLICATION NO :** [01304/2014](#)  
**APPELLANT :** Mr Paul Watkinson  
**PROPOSAL :** Prior Notification for Change of Use from agricultural building to a dwelling  
**LOCATION :** Langham House, Lifforddown, Lifton, Devon, PL16 0BZ  
**APPEAL STATUS :** **APPEAL DECIDED**  
**APPEAL START DATE :** 24-Jun-2015  
**APPEAL DECISION :** Appeal Dismissed  
**APPEAL DECISION DATE :** 30-Sep-2015



**WEST DEVON BOROUGH COUNCIL**

PLANNING & LICENSING COMMITTEE 02 December 2015  
ENFORCEMENT APPEALS UPDATE from 28-Sep-2015 to 28-Oct-2015

**None to report**

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# Agenda Item 7

Report to: **Licensing Committee**  
Date: **10 November 2015**  
Title: **Review of Statement of Licensing Policy for 2016 - 2021**  
Portfolio Area: **Customer First**  
Wards Affected: **All**  
Relevant Scrutiny Committee:

Urgent Decision: **Y** Approval and clearance obtained: **Y**

Date next steps can be taken: **Full Council on 15 December 2015 – see below recommendation**

Author: **Naomi Wopling** Role: **Specialist - Licensing**

Contact: **01803 861268 / naomi.wopling@swdevon.gov.uk**

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## **Recommendations:**

1. That the Licensing Committee considers the draft Licensing Policy (**Appendix A**) and responses received during the public consultation and makes any changes it deems necessary.
2. That the Licensing Committee recommends to Council that the draft Licensing Policy, as amended, is adopted at the meeting on 15 December 2015 for the period 7 January 2016 to 6 January 2021.
3. That should further responses be received after 28<sup>th</sup> October, responsibility for including any minor changes that may be required are delegated to the Community of Practice Lead for Environmental Health in agreement with the Planning and Licensing Committee Chair.

## 1. Executive summary

1.1 Section 5 of Licensing Act 2003 (the 'Act') requires that Licensing Authorities have in place a Statement of Licensing Policy with respect to the exercise of its licensing functions and that this policy is reviewed at least every five years. West Devon Borough Council's current Licensing Policy was adopted in December 2010 and came into effect on 7 January 2011, it is therefore necessary for an updated Statement of Licensing Policy to be adopted in advance of 7 January 2016.

1.2 Before determining the Licensing Policy, Licensing Authorities must first consult with certain persons or bodies, namely:

- The Chief Officer of Police;
- The Fire and Rescue Authority'
- Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;
- Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;
- Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and
- Such other persons as the licensing authority considers to be representative of businesses and residents in its area.

A list of the organisations/persons consulted is provided at **Appendix B**. The Statement was subject to a public consultation during the period 14 August to 6 November. During this time the document was available on the Council website and in local libraries, as well as promoted on social media.

1.3 Prior to the consultation period a working group of the Planning and Licensing Committee considered the proposed draft and amended where thought appropriate. A summary of the changes from the current version (2011-2016), is provided at **Appendix C**.

1.4 The current Statement of Licensing Policy for 2011-2016 and the original consultation responses for the draft version are included within the background documents and are available upon request. A summary of the consultation responses, together with suggested amendments can be found at **Appendix D**. The suggested amendments have been provisionally incorporated into the revised draft 2016-2021 Statement, attached at **Appendix A**.

## 2. Background

2.1 In determining its Licensing Policy, the Authority must have regard to Guidance issued by the Secretary of State under Section 182 of the Act, and give appropriate weight to representations made within the consultation period.

- 2.2 The Licensing Authority must carry out its licensing functions with a view to promoting the licensing objectives. These are:-
- a) The prevention of crime and disorder
  - b) Public safety
  - c) The prevention of public nuisance
  - d) The protection of children from harm

The Licensing Authority must also have regard to its Licensing Statement of Policy and guidance issued by the Secretary of State under section 182 of the Act.

- 2.3 The purpose of the Licensing Policy is to assist the Licensing Authority in determining applications and to provide clarity for applicants, residents and members of the business community. It provides information and guidance on the general approach that the Licensing Authority will take when assessing applications and sets out expected operating standards.

- 2.4 This Licensing Authority covers a wide variety of licensed premises undertaking a range of activities, including pubs, restaurants, private members' clubs, village and community halls, cinemas, off-licences and late night food premises. It is therefore important that the Licensing Policy is sufficiently flexible to reflect their differing needs and characteristics.

- 2.5 This is the fourth version of the Licensing Policy since 2005 and while it may look quite different to the current version due to an updated format, much of the content remains the same. Many of the amendments are due to changes in legislation that have occurred over the last five years (see **Appendix C** for summary of changes).

- 2.6 The draft Licensing Policy was prepared in consultation with other Licensing Authorities in Devon through the Devon Licensing Officers' Group. We have tried to align our policies to promote a consistent approach to regulation. This is particularly helpful for Responsible Authorities, such as the police, which cover the whole Devon area.

- 2.7 At the meeting of the Licensing Committee on 10 November 2015, Members will have a final opportunity to make any further amendments before the Licensing Committee is asked to recommend the approval of the draft to Council.

### **3. Outcomes/outputs**

#### **3.1 Adoption Procedure**

- 3.2 Legislation prescribes that Council is empowered to adopt the Draft Statement of Licensing Policy. Adoption cannot be delegated to the Licensing Committee.

3.3 The following timetable is proposed in respect of the consultation and adoption of the Statement of Principles:

<b>Action</b>	<b>Date</b>
Draft Statement of Licensing Policy published and distributed for consultation following meeting of Licensing Committee working group.	14 August 2015
Consultation concludes	6 November 2015
Licensing Committee approval of revised Statement of Licensing Policy and agrees to recommend to Council for adoption	10 November 2015
Revised Licensing Policy approved by Council	15 December 2015
Licensing Policy comes into effect	7 January 2016

#### **4. Options available and consideration of risk**

- 4.1 Failure to produce a licensing policy statement in accordance with the Act and accompanying Regulations is a breach of statutory duty and will render the Authority susceptible to criticism and legal challenge. Without adoption of the Statement of Licensing Policy the Licensing Authority is powerless to make decisions or exercise the licensing objectives in its locality.
- 4.2 The correct consultation process was undertaken following consideration of the draft policy by the working group of the Licensing Committee. See **Appendix B** for full list of those consulted. Following meeting of Licensing Committee on 10 November 2015, on track for adoption of Statement of Principles at Council meeting on 15 December 2015.
- 4.3 Members will need to consider the consultation responses and give proper weight to comments, amending the draft policy as considered appropriate. The consultation responses and provisional suggested amendments can be found in **Appendix D**.

#### **5. Proposed Way Forward**

- 5.1 The Licensing Committee recommends to Council that the draft Statement of Licensing Policy, as amended, is adopted at the meeting on 15 December 2015 for the period 7 January 2016 to 6 January 2021.

## 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/ Governance	Y	<p>Section 5 of Licensing Act 2003 requires that Licensing Authorities have in place a Statement of Licensing Policy with respect to the exercise of its licensing functions and that this policy is reviewed at least every five years.</p> <p>Before determining the Licensing Policy, Licensing Authorities must first consult with certain persons or bodies, namely:</p> <ul style="list-style-type: none"> <li>• The Chief Officer of Police;</li> <li>• The Fire and Rescue Authority'</li> <li>• Such persons as the licensing authority considers to be representative of holders of premises licences issued by that authority;</li> <li>• Such persons as the licensing authority considers to be representative of holders of club premises certificates issued by that authority;</li> <li>• Such persons as the licensing authority considers to be representative of holders of personal licences issued by that authority; and</li> <li>• Such other persons as the licensing authority considers to be representative of businesses and residents in its area.</li> </ul> <p>Legislation requires the Statement to take effect from 7 January 2016.</p>
Financial		<p>The associated preparation and publication costs will be met in full from Licensing Act 2003 applications and annual fees income. Therefore, there are no financial implications to the Council from this report.</p>
Risk		<p>Failure to produce a Statement of Licensing Policy in accordance with the Licensing Act 2003 and its accompanying Regulations is a breach of statutory duty and will render Council powerless to make decisions or exercise the licensing objectives in its locality.</p> <p>Not adopting a Licensing Policy could leave Council open to criticism and legal challenge.</p>

Comprehensive Impact Assessment Implications		
Equality and Diversity		There is the duty on Council when considering applications or enforcement action to comply with Human Rights Act 1998. Equality Impact Assessment carried out prior to publication.
Safeguarding		The protection children from harm is one the licensing objectives underpinning the Licensing Act 2003.
Community Safety, Crime and Disorder		The prevention of crime and disorder is one of the licensing objectives underpinning the Licensing Act 2003.
Health, Safety and Wellbeing		Since 2011 health bodies (directors of public health) have been included as responsible authorities under Licensing Act 2003. They are able to make representations in relation to applications or apply to review licences should they have reason to do so in relation to the licensing objectives.
Other implications		

### **Supporting Information**

#### **Appendices:**

Appendix A – Draft Statement of Licensing Policy

Appendix B – List of organisations/persons consulted

Appendix C – Summary of changes

Appendix D – Summary of consultation responses and suggested amendments

#### **Background Papers:**

- Licensing Act 2003 and associated relevant Regulations
- Guidance issued under section 182 Licensing Act 2003
- West Devon Borough Council's Statement of Licensing Policy, which expires January 2016
- Consultation responses

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes/No</b>
SLT Rep briefed	<b>Yes/No</b>
Relevant Exec Director sign off (draft)	<b>Yes/No</b>
Data protection issues considered	<b>Yes/No</b>
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	<b>Yes/No</b>





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# **West Devon Borough Council**

**DRAFT**

## **STATEMENT OF LICENSING POLICY**

Under the Licensing Act 2003

2016 – 2021

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## Contact details

This section does not form part of the policy and is for information purposes only.

### West Devon Borough Council Equality Vision

We are committed to acknowledging the full diversity of our community and to promoting equality of opportunity for everyone in policy making, service delivery, employment practice, regulation and enforcement.

This Policy was subject to a 360 Assessment on XXXXXXXXX.

### If you have any questions or queries about this document:

#### **Write to us at:**

Licensing Section  
West Devon Borough Council  
Kilworthy Park  
Tavistock  
Devon  
PL19 0BZ

#### **Or contact us by fax or email or via our website on:**

**Phone:** 01822 813 600

**Fax:** 01822 813 731

**Email:** [licensing@westdevon.gov.uk](mailto:licensing@westdevon.gov.uk)

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

## Foreword

This is the third review of our Statement of Licensing Policy which West Devon Borough District Council ('the Council') is required, by law, to carry out every five years.

Since the Licensing Act 2003 came into force in November 2005, the Authority has gained valuable experience in the administration and enforcement of the legislation. We have been keen to develop good working relationships with all licence holders and hope we have succeeded in achieving this aim. We recognise that licensed premises come in all shapes and sizes – whether they are a pub, a restaurant, a community hall or the village shop selling a few bottles of wine – and that our licensing policy must be sufficiently flexible to reflect their differing character and needs. This policy therefore seeks to provide information and guidance to applicants, licence holders, interested parties and responsible authorities on the general approach that the Authority will take when assessing applications and sets out the operating standards we will expect to see.

This revision of our Policy has been carried out as part of the closer working arrangements between Devon authorities. It also makes good sense – given similar characteristics and demographics of some of the Districts – to align our policies as closely as practicable in order to achieve a consistent approach to regulation. This should assist the Responsible Authorities – particularly the police – as it will provide a common baseline for regulation throughout the Authority area.

We will endeavour to apply the Policy fairly, consistently and in a way which promotes the objectives set out in the legislation. Good decision-making makes for good licensing regulation. Officers and Members of the Authority are trained to have a sound understanding of licensing law and the principles which underpin it. This means that applicants and licence holders can be confident that their applications will be dealt with competently and professionally.

The leisure and entertainment industry is a major contributor to the economy of the District. It attracts tourists and visitors to our area, makes for vibrant towns and communities and is a major employer. The Council recognises the value of the industry to the economic health of the area and is keen to promote well managed premises. However, the Council – as the Authority – also has to take account of the needs of its residents who have the fundamental human right to the peaceful enjoyment of their property and possessions. Through this policy, the authority will try to reconcile these often conflicting demands, balancing the legitimate needs of business with the rights of persons living near licensed premises.

In the preparation and publication of this policy West Devon Borough Council as the Licensing Authority has had regard to the guidance issued by the Home Office under Section 182 of the Licensing Act 2003, including the amended guidance published in March 2015. Nothing in this policy document should be regarded or interpreted as an indication that any requirement of licensing or other law may be overridden.

# West Devon Borough Council (The Licensing Authority)

## Statement of Licensing Policy

NB. This Policy is intended to provide general guidance only. It does not constitute a definitive statement of law. Applicants who require legal advice on a specific licensing topic are advised to consult a licensing solicitor. Text in the shaded boxes within this policy is advisory or explanatory and intended only to give general assistance.

### 1. Introduction

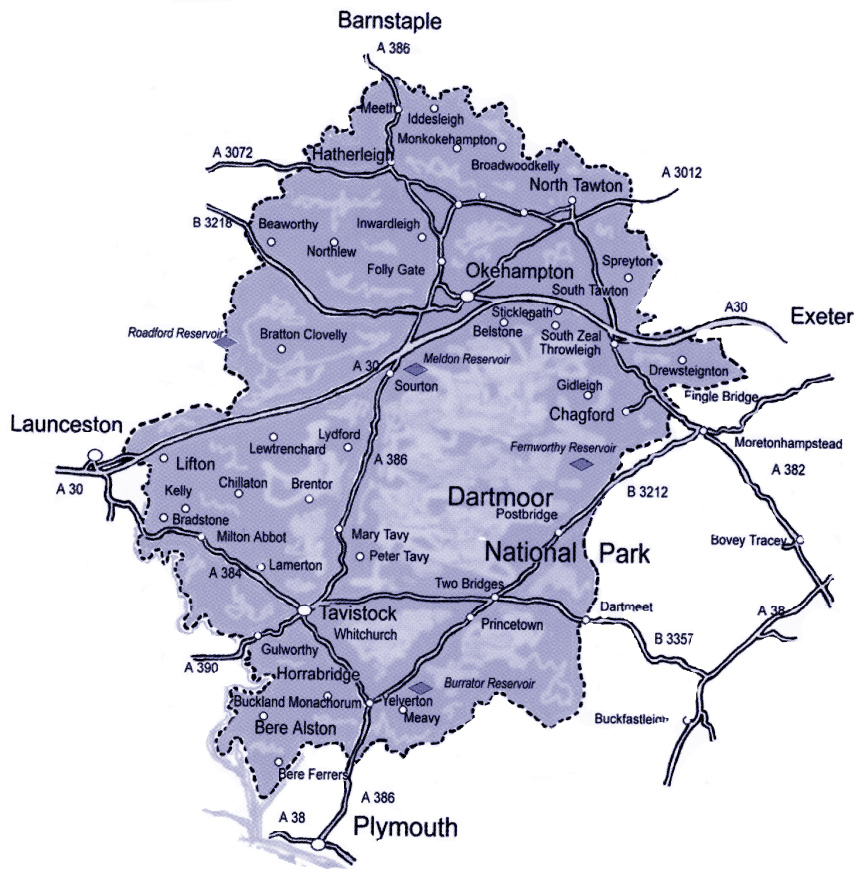
- 1.1 This Statement of Licensing Policy is based upon the Licensing Act 2003 ("the Act") and is in line with the Home Office Guidance to local authorities and takes effect from the **XXXXXXXXXX**.
- 1.2 The policy relates to all those licensable activities identified as falling within the provisions of the Act wherever they take place, namely: -
- Retail sale of alcohol
  - Supply of alcohol to club members
  - The supply of hot food and /or hot drink from any premises including food stalls between 11pm and 5am.
  - Provision of 'regulated entertainment' - to the public, to club members or with a view to profit
    - A performance of a play
    - An exhibition of a film
    - An indoor sporting event
    - Boxing or wrestling entertainment
    - A performance of live music
    - Any playing of recorded music
    - A performance of dance
    - Entertainment of a similar description to live music, recorded music or dance
- 1.3 The purpose of this Policy is to assist the Licensing Authority in determining licence applications and in setting out those matters that are normally taken into account. Additionally, the document seeks to provide clarity for applicants, residents and members of the business community, thus enabling them to make plans to move to, remain in or invest in the District, with some measure of

The Licensing Act 2003, section 5 (as amended by s.122 of the Police Reform and Social Responsibility Act 2001) requires a Licensing Authority to prepare and publish a Statement of Licensing Policy every five years. Such a policy must be published before the Authority carries out any function in respect of individual applications made under the Act. The Licensing Authority will keep the policy statement under regular review and make such revisions it feels appropriate. Where revisions are made, the Licensing Authority shall publish a statement of revisions or a revised licensing policy statement.

Officers should be aware of the potential for misunderstanding where English is not the first language.

certainty.

## 1.4 Description of the Licensing Authority Area



West Devon is one of the largest, geographical local authorities in England with a rural area of 458 square miles, or 1160 square kilometres.

The Borough extends from the northern outskirts of Plymouth to within 13 kilometres of Exeter. Its western boundary is the River Tamar on the Cornish border, from which it stretches eastwards and northwards to encompass a major part of the Dartmoor National Park (520 square kilometres).

With its historic market towns and beautiful countryside, West Devon is a highly desirable area in which to live.

Being predominantly rural in nature; West Devon has a population of 54,000 as measured in the 2011 Census. The largest towns are Tavistock and Okehampton, with populations of 12,280 and 7,647 respectively (National Census 2011) however, nearly 66% of the population of West Devon live outside of these two settlements.

The Borough has a higher proportion of older people than the national average, with a small but steady outward migration of younger people.

At the time of preparing this Policy (August 2015), the Authority has responsibility for regulating:



- 267 Alcohol licensed premises/clubs
- 56 non alcohol licensed premises
- 338 temporary events (2014/15 figure).

The corporate priorities are to promote “Homes, Economy, Community Life and the Environment”.

## **1.5 Better Businesses for All (BBfA)**

- 1.5.1 South Hams District Council are fully committed to the Devon and Somerset Better Business for All (BBfA) Regulatory Services Partnership, which is endorsed by the Better Regulatory Delivery Office (BRDO), part of the Department for Business, Innovation and Skills (BIS). The purpose is to build a local partnership between businesses and regulators across Devon and Somerset to promote economic prosperity, whilst maintaining public protection. This document will ensure that the Regulator will work in accordance with the BBfA principles. In doing so the Authority will create an environment and culture which will support our local businesses by making the activity that is being regulated easy to access, simple and clear to understand, whilst ensuring public protection
- 1.5.2 The Council will listen to business needs and act in an open and transparent way to help shape the way support is provided, this will be done following business consultations and throughout service use.
- 1.5.3 Better Business for All is business-focused, using business-led improvements to create better regulation, support business growth and create a level playing field for businesses. In order to achieve this the Policy will be implemented in a consistent manner with competent enforcement staff who are working with the right attitudes and behaviours for the benefit of our Communities.

## **2. Consultation**

- 2.1 Before determining this Policy, the Licensing Authority (the Authority) consulted with the following statutory consultees, in accordance with the requirements of Licensing Act 2003: -
- the Chief Officer of the Devon & Cornwall Constabulary
  - the Devon & Somerset Fire & Rescue Service
  - Public Health Devon
  - such persons as the Licensing Authority considered to be representative of the holders of premises licences issued by this authority
  - such persons as the Licensing Authority considered to be representative of holders of club premises certificates issued by this authority
  - such persons as the Licensing Authority considered to be representative of holders of personal licences issued by this authority
  - such other persons as the Licensing Authority considered to

be representative of businesses and residents in the area

A full list of all of the bodies that this Licensing Authority consulted with can be found at Appendix D

- 2.2 The consultation was carried out in accordance with the HM Government Code of Practice on Consultation. Proper weight has been given to the views of all those consulted prior to implementing this Policy.
- 2.3 The Policy was formally adopted by the Council on **XXXXXXXXXXXX**
- 2.4 The policy statement will remain in existence for a maximum period of 5 years and will then be subject to review and further consultation.

The Licensing Authority may consult beyond the statutory requirements to seek comments from particular bodies or representatives of groups associated with the entertainment industry, arts and culture, Community Safety Partnership and the legal profession. Those consulted include a body competent to advise on child protection, Weights and Measures (Trading Standards), Health and Safety Executive, Environmental Health, Planning and Building Control, Maritime and Coastguard Agency and the Environment Agency.

### 3. Licensing Objectives

- 3.1 The Licensing Authority has a duty under the Act to carry out its licensing functions with a view to promoting the four licensing objectives. These are: -
  - **the prevention of crime and disorder**
  - **public safety**
  - **the prevention of public nuisance and**
  - **the protection of children from harm**

These objectives are the only matters to be taken into account in determining the application and any conditions attached must be appropriate to achieve the licensing objectives. Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is a paramount consideration at all times.

- 3.2 A licence will only be granted where the Licensing Authority is satisfied that these objectives have been met.

If there are no relevant representations then an application must be granted and subject only to mandatory conditions and conditions consistent with the applicant's operating schedule.

- 3.3 The Licensing Authority requires applicants to address the licensing objectives in their operating schedules having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

### **3.4 Prevention of Crime and Disorder**

3.4.1 The Authority will endeavour to reduce crime and disorder throughout the Borough, in accordance with its statutory duty under section 17 of the Crime and Disorder Act 1998.

3.4.2 The Authority will expect applicants to take appropriate and proportionate measures to promote the crime and disorder objective. Examples of the sources of crime and disorder which the Authority would require applicants to take into consideration may include, but are not limited to:

- Underage drinking;
- Drunkenness on the premises
- Public drunkenness
- Drugs
- Violent behaviour
- Overcrowding/occupancy capacity;
- Anti-social behaviour

3.4.3 Such measures to be taken to promote the crime and disorder objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

### **3.5 Public Safety**

3.5.1 The Act covers a wide range of premises that may require licensing. Each type of premises presents a mixture of safety risks, with many common to most premises and others unique to specific operations. It is essential that the premises are constructed or adapted and operated so as to safeguard occupants against these risks.

3.5.2 The Licensing Authority will have regard to the measures to be taken by applicants to ensure that the physical safety of any person visiting or working in licensed premises is not compromised. This should be demonstrated in an applicant's operating schedule. Factors that may be considered include, but are not limited to:

- The total occupancy capacity (staff, customers, others) of the premises
- Physical environment of the premises
- Customer profile
- Traffic management including access for emergency vehicles
- Crowd management
- Special arrangements for large events
- Use of special effects
- Lighting – emergency and general
- Temporary electrical installations

3.5.3 The Licensing Authority recognises that the Regulatory Reform (Fire Safety) Order 2005 replaced the previous fire safety legislation. Accordingly the Authority will not seek to impose the fire safety conditions on a licence/certificate

where the Order applies.

3.5.4 Such measures to be taken to promote the public safety objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

### **3.6 Prevention of Public Nuisance**

3.6.1 Public nuisance can include low level nuisance affecting a few people living locally, as well as a major disturbance affecting the wider community. Nuisance is generally attributable to noise (from loud music or from rowdy customers), vibration, light pollution, noxious smells and litter. Applicants will be required to demonstrate that they have adequate measures in place in their applications to prevent nuisance and disturbance.

3.6.2 The Authority would expect applicants to have demonstrated in their operating schedule that public nuisance concerns have been identified, with suitable control measures implemented and maintained. Factors that may be considered include, but are not limited to:

- The location of the premises and proximity to residential and other noise sensitive premises.
- The hours of opening, including times when licensable activities may not be taking place, last admission time and 'wind down period'.
- Nature of activities provided.
- Supervision of customers including managing dispersal.
- Odour and light nuisance
- Litter and waste disposal
- Noise management plan (where appropriate)

3.6.3 The Licensing Authority will normally expect premises selling hot food or hot drink that is taken off the premises for consumption, or the distribution of flyers or other promotional literature, to make adequate arrangements for the disposal of litter in the vicinity, which is discarded as a result.

3.6.4 Such measures to be taken to promote the public nuisance objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

The Licensing Act 2003 does not exempt licence holders from their statutory obligations under the Environmental Protection Act 1990. But in certain circumstances where existing legislation does not provide adequately for the prevention of public nuisance and representations have been received, consideration might be given to imposing conditions.

### **3.7 Protection of Children from Harm**

3.7.1 The Authority recognises the great variety of premises for which licences may be sought. These include theatres, members' clubs, sports clubs, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls, schools and off-licences. The Authority will not restrict access by children to any particular

type of premises unless it is considered appropriate to do so in order to protect them from harm.

3.7.2 The Licensing Authority will expect applicants to demonstrate in their operating schedule that they have considered how they will ensure children using their premises will be protected from harm. Factors that may be considered include, but are not limited to:

- Limitation of access dependent on the nature of activities.
- Specific underage policy – e.g. Challenge 21 or Challenge 25 with staff fully trained on its use.
- Use of British Board of Film Classification for film exhibition.
- Limitation of access to areas used for gambling purposes.
- Child Sexual Exploitation

3.7.3 Such measures to be taken to promote the protection of children from harm objective may include those listed in the Authority's guidance for applicants which can be viewed on the Council website.

The above lists are not exhaustive. Applicants are advised to contact the Licensing Team and other Responsible Authorities for advice on addressing the licensing objectives prior to submission of a premises licence or club premises certificate application

## **4. The Licensing Function**

### **4.1 Regulation**

4.1.1 Licensing is about regulating licensable activities on licensed premises, in qualifying clubs and at temporary events within the terms of the Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licence holders and others with relevant authorisations, i.e. the premises and its vicinity.

4.1.2 It is recognised that the licensing function is only one means of securing the delivery of the licensing objectives and should not therefore be seen as a panacea for solving all problems within the community. The Licensing Authority will continue to work in partnership with its neighbouring authorities, South Devon and Dartmoor Community Safety Partnership (CSP), the police, fire authority, local businesses and local people towards the promotion of the objectives as outlined.

Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of such control and licensing law will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.

4.1.3 The Licensing Act is not a cure-all for all anti-social behaviour. Once away from licensed premises, a minority of consumers will behave badly and unlawfully. There is a breadth of other strategies and mechanisms for addressing these problems, for example:

- planning controls
- police enforcement of the normal law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- powers of police and local authorities under the Anti-Social Behaviour, Crime and Policing Act 2014
- the prosecution of any personal licence holder or member of staff selling alcohol to people who are drunk
- confiscation of alcohol from adults and children in designated areas
- police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
- the power of the police, other Responsible Authorities or a local resident or business to seek a review of the licence or certificate.

The Licensing Authority will continue to work in partnership with other Licensing Authorities, the Responsible Authorities and other agencies, and with local businesses and residents in a co-ordinated approach to tackling alcohol-related crime and anti-social behaviour.

4.1.4 When making licensing decisions, the Licensing Authority will have regard to and take into consideration other legislation, strategies, policies and guidance, including: -

(i) Legislation

- Crime and Disorder Act 1998 (in particular obligations under section 17 relating to the prevention of crime and disorder)
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- Equality Act 2010
- Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- Health and Safety at Work etc Act 1974
- Environmental Protection Act 1990
- Anti-Social Behaviour, Crime and Policing Act 2014
- Building Regulations
- Regulatory Reform (Fire Safety) Order 2005
- Town and Country Planning Act 1990
- Private Security Industry Act 2001
- Violent Crime Reduction Act 2006
- Police Reform and Social Responsibility Act 2011
- Live Music Act 2012

The Council has a duty to do all that it reasonably can to prevent crime and disorder, under Section 17 of the Crime and Disorder Act 1998.

The Council is under a duty to protect the rights of residents to privacy and family life under Article 8 of the European Convention on Human Rights. At the same time, the Council must recognise the right of legitimate business to operate their premises without unnecessary restraint.

Public authorities have a legal obligation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between persons of different groups.

(ii) Strategies

- Community Safety Partnership Peninsula Strategic Assessment
- Department for Business Innovation & Skills – Age Restricted Products and Services: A Code of Practice for Regulatory Delivery
- West Devon Community Safety Strategy
- Current Government alcohol strategy

(iii) Policies

- Better Regulation Delivery Office: Regulators' Code
- Hampton Principles (see glossary)
- Local Plan
- Local Transport Plan
- Enforcement Policies of each Responsible Authority

(iv) Guidance

- Guidance issued under s. 182 of the Licensing Act (Home Office)
- Guidance to Health and Safety at Outdoor Events (The Purple Book)
- Guide to Fire Precautions in Existing Places of Entertainment and Like Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network.
- HSE Managing Crowds Safely: A guide for organisers at events and venues
- Technical Standards for Places of Entertainment
- Good Practice Guide on the Control of Noise from Pubs and Clubs (Institute of Acoustics)
- Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
- Home Office guide to 'Safer Clubbing'
- Local Government Regulation policy on licensing large events
- The Security Industry Authority's guidance on security at large outdoor events.

4.1.5 The aim of the licensing process is to regulate licensable activities so as to promote the licensing objectives. It is the Licensing Authority's wish to

facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on the quality of life of persons living and/or working in the vicinity of the premises.

- 4.1.6 The Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of West Devon attracting tourists and visitors, making for a vibrant Borough and is a major employer. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses. The Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering and fouling, noise, street crime and the capacity of the infrastructure and police resources to cope with the influx of people, particularly at night.
- 4.1.7 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not generally be imposed where other regulatory regimes provide sufficient protection to the public (e.g. health and safety at work and fire safety legislation) unless considered appropriate.
- 4.1.8 Functions under the Act are to be taken or carried out by its licensing committee who may delegate these functions to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. Many of the decisions and functions will be purely administrative in nature and so will be delegated in the interests of speed, efficiency and cost-effectiveness.
- 4.1.9 The schedule of delegated authority in accordance to which applications will be dealt, is attached in Appendix A.

## **4.2 The Licensing Authority as a Responsible Authority**

- 4.2.1 The Licensing Authority is included as one of the Responsible Authorities under the Act. This enables the Licensing Authority to make representations about an application for a premises licence or a club premises certificate, or to apply for a review of a premises licence or club premises certificate.
- 4.2.2 When the Licensing Authority is acting as a responsible authority it is important to maintain a separation of responsibilities within the Authority's Licensing Team so that there is procedural fairness and to avoid a conflict of interest.
- 4.2.3 In these cases, different responsibilities will be allocated to delegated officers within the Authority. This procedure is set out within the Environmental Health Community of Practice delegation of powers.

## **4.3 Integrating Strategies and Avoiding Duplication**

- 4.3.1 By consulting widely prior to this policy statement being published, the Licensing Authority will endeavour to secure proper integration with local crime prevention, planning, transport, tourism and cultural strategies.



- 4.3.2 The Licensing Authority will integrate its various strategies to achieve the licensing objectives in the interests of clarity for applicants and effective determination. It will particularly support the Council priorities of the 'Economy' and 'Community Life'.
- 4.3.3 Where any protocols to be agreed with the police identify a particular need to disperse people from town centres swiftly and safely to avoid concentrations which lead to disorder and disturbance, the Licensing Authority will aim to inform those responsible for providing local transportation so that arrangements can be made to reduce the potential for problems to occur.
- 4.3.4 The Licensing Authority's Licensing Committee will keep itself informed and consider wider issues which may need to be given due consideration when making licensing decisions. These may include:-
- needs of the local tourist economy
  - cultural strategy for the area
  - employment situation in the area and the need for new investment and employment where appropriate
- 4.3.5 The Licensing Authority recognises that it is a fundamental principle of the Act that the licensing function should not duplicate other statutory regulation. In particular, the Authority recognises that licensing applications should not be seen as a repeat of the planning application process and that there is no legal basis to refuse a licence application because it does not have planning permission. It is however recommended that appropriate planning permissions be obtained before an application for a premises licence or club premises certificate is made.
- 4.3.6 In order to avoid duplication with other statutory regimes as far as possible the Licensing Authority will not attach conditions on a licence unless they are considered appropriate for the promotion of the licensing objectives. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation e.g. The Health and Safety. At Work Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.

The planning and licensing systems involve consideration of different (albeit related) matters. Home Office guidance makes it clear that Licensing committees are not bound by decisions made by a planning committee, and vice versa. There are circumstances when as a condition of planning permission, a terminal hour has been set for the use of premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time.

An alternative example would be if a planning condition relating to noise control was imposed at a premises and the owner subsequently applied for a premises licence. If a planning officer had evidence that there had been a breach of the planning condition it may be appropriate for said officer to make a representation in respect of the licence application. This is because it would relate to the Prevention of Public Nuisance licensing objective.

#### **4.4 Large Scale Public Events and the Safety Advisory Group (SAG) Function**

4.4.1 Organisers of large scale public events such as festivals, outdoor music concerts, sporting events etc, are recommended to contact the Council to discuss licensing requirements as soon as practicable.

4.4.2 The Licensing Authority will expect organisers to work with them and other Responsible Authorities to ensure a co-ordinated approach to the organisation of these types of events. When planning a large scale event – whether this involves licensable activities or not – organisers are likely to be invited to attend a Safety Advisory Group (SAG). The SAG consists of representatives of relevant statutory authorities to provide advice and guidance to help ensure public health and safety. A SAG meeting would generally be recommended for those organising large scale events, however, where there are perceived high risks to public safety, smaller events for up to 500 persons usually authorised by a temporary event notice may also require a SAG meeting.

4.4.3 See Appendix E for a list of those authorities included in the SAG meetings.

## **4.5 Other Legislation**

4.5.1 Other statutory requirements may apply to the provision of any regulated activities at a premises and the responsibility for compliance lies with the licence holder.

4.5.2 The grant of a licence does not imply the approval of other legislative requirements.

### **4.5.3 Public Spaces Protection Order**

Under the provisions of the Act, consumption of alcohol is not a licensable activity. However, the Authority recognises that consumption of alcohol can be a major contributory factor to disorder and nuisance both within and outside licensed premises. The Council adopted the relevant powers under the Criminal Justice and Police Act 2001 to designate parts of the District as places where public consumption of alcohol may be restricted.

The Designated Public Place Order (DPPO) has since been replaced by the Public Spaces Protection Order (PSPO) in the Anti-Social Behaviour Crime and Policing Act 2014. PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable.

DPPOs will continue to be valid for a period of three years following commencement of the PSPO in October 2014. A PSPO may not have effect for a period of more than 3 years, unless extended prior to expiration of the order by the local authority in accordance with regulations.

Areas within Tavistock, Okehampton and Bere Alston currently have DPPOs. These orders and the specific areas they apply to can be found on the Council website.

#### 4.5.4 Live Music Act 2012; The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013; The Legislative Reform (Entertainment Licensing) Order 2014

Since 2012, the Government has de-regulated various types of entertainment which previously fell under the control of the Licensing Act 2003.

Included in this de-regulation are the following:

- the provision of live and recorded music at certain times of the day (dependent upon the nature of the premises and other licences in place);
- removal of requirement to licence the provision of facilities for making music or dancing;
- Performance of plays or performance of dance for audiences up to 500 persons;
- Indoor sporting events for audiences up to 1000 persons
- Greco-Roman and freestyle wrestling between 8am and 11pm for audiences up to 1000 persons;
- Exhibition of film that is incidental to another activity;
- Reduced requirements for travelling circuses.

Full details of the de-regulation can be found on the Council's website. If further clarification is required, it is recommended that applicants contact the Licensing Team prior to providing entertainment.

The Authority recognises the importance of encouraging live music as part of the Authority's wider cultural strategy and will endeavour to promote this activity through its licensing function. However, applicants and licence holders must be aware that, although certain types of live music are no longer licensable, this does not mean that such activity is totally exempt from licensing controls. Also the Authority would draw to the organisers' attention the legislation within The Environmental Protection Act 1990 to limit noise nuisance. The legal duty on licence holders to promote the licensing objectives remains. A Responsible Authority or any other person may apply for a review of a premises licence where it can be demonstrated that live music provided under the provisions of the Live Music Act undermines any of the licensing objectives.

When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance constitutes live music or not. If in doubt, organisers of events should check with the Licensing Team prior to the event.

#### 4.5.5 Sexual Entertainment Venues

Performances of dance which are "relevant entertainment" within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 ("the 1982 Act") are not affected by The Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, regardless of the size of the audience or the time of day. "Relevant entertainment" is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be

provided solely or principally for the purpose of sexually stimulating any member of the audience.

In almost all cases where a performance of dance is potentially licensable as both the provision of *relevant* entertainment (under the 1982 Act) and *regulated* entertainment (under the 2003 Act), the 1982 Act disapplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments. However, an authorisation under the 2003 Act will be required where:

- the premises are not licensed as a sex entertainment venue under the 1982 Act, and
- relevant entertainment has been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.

Where the promoter of a sexual entertainment venue wishes to provide any of the licensable activities as outlined in the Licensing Act 2003, in addition to relevant entertainment, a premises licence will also be required to authorise such activities.

The Council's Sexual Entertainment Venues Policy is the subject of separate public consultation and the adopted policy stands separate from this Licensing Policy. The Sexual Entertainment Venues policy can be viewed on the Council's website.

## **5. The Licensing Process**

### **5.1 Applications**

- 5.1.1 Applications may be submitted in hardcopy or (apart from personal licences) they may be submitted electronically. Prior to submitting an application for a premises licence or club premises certificate (or variation to such authorisation), applicants are advised to contact the Licensing Team to discuss. This will usually aid the avoidance of errors when completing the application and will often help to avoid potential representations to the application.
- 5.1.2 Applications, notices or representations shall be treated as having been 'given' to West Devon Borough Council if delivered personally to any Council office between 09:00 and 17:00 on a working day. Otherwise, documents shall be treated as having been 'given' to the authority in accordance with the principles of 'deemed service' as set out in the Civil Procedure Rules.
- 5.1.3 Where an application or notice is sent via an electronic facility, the application will be deemed to have been 'given' when the applicant has submitted a valid application form and paid the prescribed fee and the application becomes accessible to the Licensing Authority by means of the facility. Where a representation is submitted electronically, it will be treated as having been 'given' at the point when it is submitted and becomes accessible to the Authority.

5.1.4 Once submitted, applications for premises licences and club premises certificates must be advertised in accordance with regulations. If an application has not been correctly advertised, the Licensing Authority may reject the application. The Licensing Authority will publish on its website a summary of all new, variation and review applications for premises licences and club premises certificates.

5.1.5 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

## 5.2 Representations

5.2.1 Representations must be made to the Licensing Authority in writing within the statutory consultation period. For this purpose, a representation made by email, a website submission, or facsimile transmission will be deemed acceptable.

A hearing is not required where an application has been properly made and no Responsible Authority or other person has made a relevant representation. In these cases, the Licensing Authority must grant the application on the terms sought subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions under the Act.

5.2.2 To be considered 'relevant', representations must relate to the likely effect of the grant of a licence on the promotion of one or more of the four licensing objectives. Both positive and negative representations will be considered. However, if a representation is deemed to be repetitious, frivolous or vexatious it may be disregarded.

5.2.3 Where relevant representations are received in respect of an application, it will be considered at a licensing sub-committee meeting (or hearing). Any application for a review of a licence will be considered at such a hearing. If no relevant representations are received, the application will be granted as applied for.

Where a notice of a hearing is given to an applicant, the Licensing Authority is required under the Licensing Act 2003 (Hearings) Regulations 2005 to provide the applicant with copies of the relevant representations that have been made. In exceptional circumstances, persons making representations to the Licensing Authority may be reluctant to do so because of fears of intimidation or violence if their personal details, such as name and address, are divulged to the applicant. Where the Licensing Authority consider that the persons has a genuine and well-founded fear of intimidation and may be deterred from making a representation on this basis, they may wish to consider alternative approaches.

## 5.3 Determining Applications

5.3.1 In determining a licence application, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits in the context of the four licensing objectives.

- 5.3.2 A key consideration of the Licensing Authority when determining applications will be the adequacy of measures proposed by the applicant to promote the licensing objectives. The Licensing Authority will also have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems appropriate to promote the licensing objectives. The Authority may depart from the guidelines in this policy if it has justifiable and compelling reasons to do so. The Authority will give reasons for any such departure from policy.
- 5.3.3 The Authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, anti-social behaviour, littering, fouling, noise and the capacity of the infrastructure and police resources to cope with the movement of large numbers of people, particularly late at night and in the early morning.
- 5.3.4 In reaching a decision on whether or not to grant a licence, the Licensing Authority may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.
- 5.3.5 When determining an application, the Authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant may be disregarded. The Authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the Authority will consider their application or representation but may attach less weight to it.
- 5.3.6 When determining an application, the Authority is making a judgement about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened, but to make an informed assessment of the risk of such things occurring if a licence is granted. The Authority will then take such steps as it considers appropriate to prevent or minimise such risks.
- 5.3.7 The Authority will generally give its decision on an application at the end of a hearing and will give clear reasons for its decision. In all other cases, the authority will make its determination within five working days.
- 5.3.8 Applicants, Responsible Authorities and any person who has made a representation in respect of an application, may appeal the Licensing Authority's decision to the Magistrates' Court. An appeal must be made within 21 days of formal notification of the decision.

The Licensing Committee will consist of between 10 and 15 elected members of the Council and will establish Sub-Committees consisting of 3 members of the Committee.

The Act provides that decisions and functions may be taken or carried out by Licensing Committees or delegated to Sub-Committees or in appropriate cases, to delegated officers supporting the Licensing Authority.

## **5.4 Mobile Vehicles, Remote, Internet and Other Delivery Sales**

- 5.4.1 The Licensing Authority shall have regard to sales of alcohol which are made remotely, by mobile methods, internet or by other delivery sales.
- 5.4.2 The expectation of the Authority is that conditions suggested by way of operating schedules for these types of activities are extremely robust in order to negate any perceived issues.
- 5.4.3 Persons who wish to run premises providing 'alcohol delivery services' should notify the Licensing Authority that they are operating such a service in their operating schedule. Premises with an existing licence permitting 'off-sales' who wish to include such a service as a new way of operating should consider applying to vary their licence to incorporate additional conditions to address the licensing objectives (this would usually be by way of a minor variation).

## **6. Licensing Hours**

- 6.1 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When the Authority's discretion is engaged, consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by a Responsible Authority or other persons on the basis of the licensing objectives. However, when issuing a licence with hours beyond midnight it is more likely that relevant representations will be made unless there are higher standards of control included within operating schedules in order to promote the licensing objectives especially for premises which are situated near residential areas or in areas where anti-social disorder takes place.
- 6.2 There is no presumption within the legislation for longer opening hours over objections from local residents and businesses located in the vicinity of licensed premises. The Licensing Authority will consider extensions of hours in the interests of avoiding a concentration of disturbance while ensuring that nuisance is minimised to local residents. Entertainment providers will be encouraged to provide and promote a range of entertainment during their opening hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 6.3 When relevant representations are made to the Licensing Authority relating to the potential for crime, disorder and/or nuisance, the discretion of the Licensing Authority will be engaged. The Authority strongly encourages the adoption of best practice. This includes the expectation, as an item of best practice that CCTV will be provided in those premises that wish to trade in the sale of alcohol beyond midnight, for the purpose of preventing crime and disorder and to promote public safety. Applicants for such licences should undertake a risk assessment with

regard to CCTV and are expected to include CCTV in their operating schedule. Where they elect not to do so, they are strongly advised to provide information explaining that omission. For example, that the risk assessment has shown CCTV to be unnecessary.

- 6.4 The terminal hours will normally be approved where the applicant can show that the proposal would not adversely affect the licensing objectives unless, after hearing relevant representation the Licensing Authority believe it appropriate to restrict the hours required due to the nature of the activities and the amenity of the area.
- 6.5 The Licensing Authority will generally require there to be a greater time gap between the terminal hour for the sale or supply of alcohol and the closing time, in premises used primarily for the consumption of alcohol on the premises such as nightclubs and pubs, than those premises where alcohol is very much ancillary to a substantial meal.
- 6.6 Zoning refers to the setting of fixed trading hours within a designated area and will not be introduced as this can lead to the significant movement of people across boundaries in search of premises opening later. The Licensing Authority recognises that this can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Flexible licensing hours in relation to the sale of alcohol may therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other 'flashpoints' in areas where there have been incidents of disorder and disturbance.
- 6.7 Because opening hours, (even those when no licensable activity is taking place) may themselves impact on the licensing objectives, the Authority will require any proposed change to opening hours for an existing licence to be authorised by way of a variation to the licence. In many cases this could be achieved by way of a minor variation application.
- 6.8 Shops, stores and supermarkets will generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes unless there are exceptional reasons relating to the licensing objectives, in particular the prevention of crime and disorder and public nuisance. This could be if an individual shop is known to be a focus of disorder and disturbance and relevant representations have been received. Another such reason may be a particularly early opening time, where there are reasons to believe that the availability of alcohol at that hour could impact adversely on the licensing objectives.

'Drinking Up Time' – It is important for applicants for Premises Licences and Club Premises Certificates to note that there is no additional 'drinking up time' in the 2003 Act. Applicants must stipulate on their operating schedule the times during which they propose to sell or supply alcohol to customers and also stipulate the overall times the premises will be open. It therefore follows the applicant may wish to build into their operating schedule sufficient time to allow customers to consume their alcohol and allow sufficient time for the customer to vacate the premises in a quiet and orderly manner and to achieve the licensing objectives.



## 7. Licence Conditions

- 7.1 Conditions include any limitations or restrictions attached to a licence or certificate and essentially are the steps or actions that the holder of the premises licence or the club premises certificate will be required to take or refrain from taking in relation to the carrying on of licensable activities at the premises in question. There are three types of condition:
- mandatory conditions set out in the Act;
  - conditions consistent with the operating schedule; and
  - conditions imposed by the Licensing Authority
- 7.2 Conditions will relate to the premises being used for licensable activities and the impact of those activities in the vicinity. In this regard the Licensing Authority will primarily focus on the direct impact of any activities taking place on those living, working or otherwise engaged in the area concerned.
- 7.3 Conditions attached to licences and the various other permissions issued under the Act will focus on matters falling within the control of individual licence holders. It is recognised that the licensing function is not to be seen as a mechanism for the general control of anti-social behaviour by individuals/groups once they are beyond the direct control of the licence holder of any premises concerned. However, the Licensing Authority's discretion may be engaged if there is an evidential link between the disorderly behaviour and the licensed premises.
- 7.4 The Licensing Authority will avoid imposing disproportionate and over burdensome conditions on premises. The Authority may, however, impose conditions where existing legislation does not provide adequate controls and additional measures are considered to be appropriate for the promotion of the licensing objectives. The Licensing Authority does not propose to implement standard conditions on licences across the board but instead, if its discretion is engaged, will attach conditions as appropriate given the circumstances of each individual case.

The Licensing Authority will only be able to consider imposing conditions if a relevant representation has been received. If no representations are received, the application must be granted in the terms sought and no additional conditions imposed.

- 7.5 Failure to comply with any condition attached to a licence or certificate is a criminal offence. It is therefore paramount that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:
- be appropriate, reasonable and proportionate
  - be enforceable
  - not duplicate other statutory requirements
  - be relevant to the particular type, location and character of the premises concerned
  - not be standardised
  - not replicate offences set out in the Act or in other legislation
  - be written in a prescriptive format

Home Office guidance states that the conditions that are appropriate for the promotion of the licensing objectives should emerge initially from the risk assessment carried out by a prospective licence or certificate holder, which they should undertake before making their application for a premises licence or club premises certificate.

- 7.6 The Licensing Authority encourages applicants to consult with responsible authorities (such as Police and Environmental Health) when preparing their operating schedules to allow for liaison before representations (objections) prove necessary. The Licensing Authority's experience has shown that many of the conditions requested on applications have been vague, uncertain, imprecise and unenforceable. As an aid to applicants or their representatives, the Licensing Authority has formulated a menu of common conditions which applicants are invited to use when preparing their operating schedules. The Authority, in consultation with the applicant, may amend the wording of proposed conditions where this is unclear, ambiguous or unenforceable.

Home Office guidance states that it is not acceptable for Licensing Authorities to simply replicate the wording from an applicant's operating schedule. A condition should be interpreted in accordance with the applicant's intention.

## **7.7 Designated Premises Supervisors (DPS)**

- 7.7.1 It is a requirement that all premises licensed for the sale of alcohol (other than certain Community Premises and Members' Clubs) must have a Designated Premises Supervisor (DPS) specified on the licence. This person must be a Personal Licence Holder. The Licensing Authority will normally expect the DPS to be given the day-to-day responsibility for running the premises by the premises licence holder and therefore be present on the premises on a regular basis in order to ensure the licensing objectives are being complied with.
- 7.7.2 Although not a legal requirement, the Licensing Authority recommends as good practice – in respect of premises licensed to sell or supply alcohol for consumption on the premises – that a Personal Licence Holder is on the premises at all times to make or authorise such sales or supplies. The Authority is keen to encourage the presence of properly trained staff on licensed premises. Applicants may wish to consider including this as a condition of licence, where appropriate, as a measure to promote the licensing objectives.
- 7.7.3 Should the DPS or other Personal Licence Holder be unavailable for a significant length of time, a responsible person should be authorised to oversee the sale of alcohol in their place. The Authority will expect the authorisation to be made in writing, kept securely on the premises and made available for inspection by an authorised person if requested.

NB. 'Authorisation' does not mean direct supervision. The government recommends that Personal Licence Holders give specific written authorisations to individuals they are authorising to sell or supply alcohol and that such individuals are clearly identified.

## **7.8 Disapplication of Certain Mandatory Conditions for Community Premises**

7.8.1 An amendment to the Licensing Act 2003 made in 2009 allows certain community premises which have or are applying for a premises licence that authorises alcohol sales to also apply to include the 'alternative licence condition' instead of the usual mandatory conditions in sections 19(2) and 19(3) of the Act (requirement for a DPS and for alcohol sales to be made or authorised by a Personal Licence Holder). Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises. The Licensing Authority will expect such applicants to provide information about the committee structure, how events will be managed and a robust hiring agreement.

7.8.2 Where it is not clear whether premises are community premises, the Authority will approach the matter on a case by case basis. The main consideration will be how the premises are predominantly used. If they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which include those beneficial to the community as a whole, the premises will be likely to meet the definition.

## **8. Cumulative Impact**

'Cumulative impact' is not mentioned specifically in the Act, but Home Office guidance states that it means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the customers of all premises taken together will still be greater than the impact of customers of individual premises. Where a Licensing Authority believes that a particular area is becoming saturated with licensed premises, it may adopt a 'special policy' of refusing applications for new premises licences where relevant representations relating to cumulative impact have been received.

8.1 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can take into account. This should not, however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

8.2 If the Licensing Authority receives relevant representations suggesting that the cumulative impact of new licences is leading to an area becoming saturated with premises of a particular type and thereby creating exceptional problems

of disorder and nuisance over and above the impact of the individual premises, the Authority may consider the issue of cumulative impact when determining an application. The onus is on any person or organisation making such representations to prove the assertion that the addition of the premises concerned would cause the cumulative impact claimed.

8.3 The Licensing Authority does not propose to operate a quota of any kind which would pre- determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, cinemas and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community and the licensing objectives.

8.4 In determining whether to adopt a 'special' policy for a particular area the Licensing Authority may, among other things: -

- Gather evidence or identify that a particular concentration of licensed premises in a particular part of West Devon is causing concern about crime and disorder; public safety; public nuisance; or protection of children from harm.
- Consider whether there is robust evidence of crime and disorder or public nuisance and whether this is caused by customers of licensed premises or that the risk of cumulative impact is imminent.
- Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific street or localities where such problems arise).
- Make an assessment of the cause(s)
- Consult those specified in section 5(3) of the Act
- Include and publish details of any special policy in this licensing policy.
- Review any such special policy regularly

The effect of adopting a saturation policy of this kind is to create a rebuttable presumption that applications for new premises licences or club premises certificates or material variations which are likely to add to the existing cumulative impact will normally be refused, if relevant representations to that effect are received, unless the applicant can demonstrate in the operating schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

However, a special policy must stress that this presumption does not relieve Responsible Authorities and other persons of the need to make relevant representations before the Licensing Authority may lawfully consider giving effect to its special policy.

8.5 Where there is evidence that a particular area of West Devon is already suffering adverse effects arising from the concentration of late night premises, or that residential areas are under stress, this will be taken into account in determining any further applications for premises within the area identified. As such the Licensing Authority may take into account matters such as: -

- The character of the surrounding area
- The impact of the licence on the surrounding area, both individually and cumulatively with existing licences
- The nature and character of the proposed operation
- Evidence from a Responsible Authority of potential or actual negative impact on the licensing objectives in any given area
- The number of substantiated complaints about licensed premises received from residents and /or businesses in any given area.

8.6 Following the consultation process the Licensing Authority have decided it is not necessary for a special saturation policy in West Devon at this time.

## **9. Enforcement**

### **9.1 Enforcement Activity and Policy**

9.1.1 The Licensing Authority has established protocols with the police and other enforcing authorities. These protocols will provide for the targeting of agreed problem and high-risk premises, but with a lighter touch being applied to those premises which are shown to be well managed and maintained.

9.1.2 The Licensing Authority will continue to liaise with the Police Licensing Section and the Devon & Somerset Fire & Rescue Service to inspect licensed premises. This joint partnership approach is intended to maximise the potential for controlling crime, disorder and hazards at premises and to ensure compliance with relevant conditions as appropriate.

9.1.3 In general, action will only be taken in accordance with agreed enforcement principles and in line with the Licensing Authority's own enforcement policy. To this end the key principles of consistency, transparency and proportionality will be maintained.

9.1.4 A graduated response is effected where there is evidence of contravention of licensing legislation or licence conditions. Whilst an isolated or minor breach might be dealt with by way of an oral or written warning, more serious breaches are likely to attract prosecution and/or a review of the licence.

### **9.2 Review**

9.2.1 A Responsible Authority or any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the Licensing Authority to review the licence/certificate because of concerns arising at the premises which may have an adverse impact on any of the licensing objectives. The Authority regards this as a valuable protection for residents and businesses. Applications for a review must be made in writing and will be considered by a Licensing Sub-Committee at a hearing.

9.2.2 Any application for a review should be treated seriously. Responsible authorities will aim to give licence/certificate holders early warning of any

concerns identified at a premises, and talk to the licence/certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. Similarly those seeking a review which are not a responsible authority are encouraged to take initial steps such as:

- Asking the Licensing Authority to talk to the licence/certificate holder on their behalf
- Asking their local MP or Councillor to speak to the licence/certificate holder on their behalf
- Talking to the relevant responsible authority to establish whether there is other action that can be taken to resolve the problem

9.2.3 The review process is not intended as a means of challenging the grant of a licence following the failure of representations to persuade the Licensing Authority on an earlier occasion. No more than one review from a person other than a Responsible Authority will be entertained in relation to a particular premises within a period of twelve months on similar grounds, save in compelling circumstances (e.g. where new problems have arisen) or where it arises following a closure order made under s.160 or s.161 of the Act.

9.2.4 When considering a review of a premises licence or club premises certificate, the Authority will expect applicants for the review to provide evidence of previous infringements of licensing regulations, failure to comply with the licence conditions and/or failure to promote the licensing objectives.

9.2.5 Following a review, the Authority will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable and proportionate to the nature of the problems giving rise to the review. Options available are:

- to modify the conditions of the premises licence
- to exclude a licensable activity from the scope of the licence);
- to remove the designated premises supervisor
- suspend the licence for a period not exceeding three months;
- revoke the licence.
- to take no action

9.2.6 In cases where the crime and disorder objective has been undermined or where it can be demonstrated that a premises has a history of persistent offending, suspension or revocation of a licence, even in the first instance, may be seriously considered as a form of deterrence.

9.2.7 Any person aggrieved by a decision of the Authority has the right of appeal to the Magistrates' Court. An appeal must be made within 21 days of the Licensing Authority's decision.

## **10. Children and Licensed Premises**

10.1 The Licensing Authority recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants,

pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited unless it is considered appropriate to do so in order to protect them from physical, moral or psychological harm. In all other cases it will generally be left to the discretion of the licence holder.

- 10.2 When deciding whether to limit the access of children, the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children would include premises:
- where entertainment of an adult or sexual nature is provided
  - where there is a strong element of gambling taking place
  - with a known association with drug taking or dealing
  - where there have been convictions of current management for serving alcohol to those under 18
  - where the supply of alcohol for consumption on the premises is exclusive or primary purpose of the services provided at the premises.
  - where there are unsupervised areas (for example toilets, beer gardens, play zones).
- 10.3 One of the risks at licensed premises is that of sexual exploitation. To minimise the risk to children and young people, premises need to have preventative systems in place.
- 10.4 In such circumstances as listed in paragraph 10.2 above the Licensing Authority would expect for the applicant to suggest restrictions in relation to access for children. If such restrictions are not contained within the operating schedule, then if relevant representations are made the Licensing Authority will consider making such restrictions as are deemed appropriate to meet the licensing objectives.
- 10.5 Where relevant representations have been received, the Authority may impose conditions on licences for premises where children will be present at places of regulated entertainment so that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may also be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances.
- 10.6 The Licensing Authority will take strong measures to protect children where any licence holder is convicted of serving alcohol to minors, premises have a known association with drug taking or dealing, gambling takes place on the premises or where entertainment of an adult or sexual nature is commonly provided. The options available for limiting access by children would include: -
- a limit on the hours when children may be present
  - a limitation or exclusion when certain activities are taking place
  - the requirement to be accompanied by an adult
  - access may be limited to parts of the premises but not the whole
  - an age limitation (for under 18s)
  - full exclusion of people under 18 from a premises when any licensable activities are taking place.

- 10.7 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.
- 10.8 In relation to exhibition of films a mandatory condition will apply requiring access to be restricted to those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification or by the Licensing Authority itself.
- 10.9 In relation to theatrical entertainment it may be appropriate to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be appropriate where entertainment is provided specifically for children to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.
- 10.10 The Licensing Authority recognises Children and Young People's Services of Devon County Council as being competent to advise on matters relating to the protection of children from harm.

The protection of children from harm includes the protection of children from moral, psychological and physical harm and this would include the protection of children from too early an exposure to strong language and sexual expletives for example in the context of film exhibitions or where adult entertainment is provided.

## 11. Drugs / Illegal Substances

- 11.1 The Licensing Authority recognises that drug use is not something that is relevant to all licensed premises. However, if relevant representations are made, special conditions may need to be imposed for certain types of venues in support of the prevention of the sale and consumption of drugs and to create a safer environment for those who may have taken them. The conditions to be imposed in such cases are taken from the Home Office pool of conditions which take into account the report "Safer Clubbing" issued by the Home Office. The sale or use of new psychoactive substances (NPS) – previously known as 'Legal Highs' – is not regulated under the Act. However the Authority will consider any issue with NPS in line with current legislation and government policy. In all cases where the Authority deems such conditions are appropriate for the promotion of the licensing objectives, advice will be taken from the local Drugs Action and Alcohol Team and the Police.

New psychoactive substances (NPS) mimic the effects of illegal drugs (like cocaine, cannabis and ecstasy) while being designed to evade controls. For this reason they were previously known as 'Legal Highs'. Home Office guidance advises that Licensing Authorities may wish to consider whether conditions are appropriate to prevent the sale of such products alongside the sale of alcohol at a licensed premises, including at off-licences. Some NPS contain controlled drugs, and therefore are illegal, in which case the Authority would involve the police. But some NPS are not illegal; there is evidence that such NPS products can cause harm, particularly if taken in combination with alcohol



## **12. Door Supervisors**

- 12.1 Whenever any persons are employed at licensed premises to carry out any security activity, all such persons must be licensed by the Security Industry Authority (SIA). Competent and professional door supervisors are key to public safety at licensed premises.
- 12.2 The Licensing Authority, having regard to advice from relevant Responsible Authorities, may consider that certain premises, because of their nature of operation, their capacity, their licensing hours and the licensable activities provided, may require stricter supervision for the purpose of promoting the reduction of crime and disorder and public nuisance. In such cases, if relevant representations are made, the Licensing Authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 12.3 The Authority recognises that door supervisors have an important function in terms of supervising customers not only inside premises but also outside. Door supervisors will therefore be expected to take a pro-active role in managing the behaviour of customers within the immediate vicinity of the premises in order to minimise disturbance and nuisance to nearby residents. Licence holders should ensure in particular that, at closing times, they have sufficient door supervisors to effectively control 'surges' of customers leaving premises.

## **13. Licensed Vessels**

- 13.1 There are additional Responsible Authorities stipulated in the Act which relate to the licensing of vessels (see Appendix C). The Licensing Authority will consider any representations made by these Responsible Authorities when considering applications for premises licences in respect of vessels. Where, in the opinion of the Licensing Authority, any of the four licensing objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.

## **14. Temporary Event Notices (TENs)**

- 14.1 The Licensing Act 2003 makes provision for regulating temporary events involving the supply of alcohol, the provision of regulated entertainment or the provision of late night refreshment at a premises which are not authorised by a premises licence or club premises certificates to authorise extensions to their permitted hours.
- 14.2 The system of temporary activities is intended as a light touch process, and as such, the carrying on of licensable activities does not have to be authorised by the licensing authority on an application. Instead, a person wishing to hold an event at which such activities are proposed to be carried on (the 'premises user') gives notice to the Licensing Authority of the event (a 'temporary event notice' or 'TEN').

14.3 A number of limitations are imposed on the use of TENs by the Act. The limitations apply to:

- the number of times a premises user may give a TEN (50 times in a calendar year for a personal licence holder and five times in a calendar year for other people);
- the number of times a TEN may be given for any particular premises (12 times in a calendar year, due to increase to 15 times in Jan 2016);
- the maximum duration of an event authorised by a TEN is 168 hours;
- a maximum total duration of the events authorised by TENs in relation to individual premises (21 days in a calendar year);
- the maximum number of people attending at any one time (fewer than 500); and
- the minimum period between events authorised under separate TENs in relation to the same premises (not including withdrawn TENs) by the same premises user (24 hours).

14.4 A TEN can be used for any 'premises'. This could be a building, a room in a building, a vehicle, a marquee, an open field etc. A TEN may only be given by an individual (aged over 18) and not by an organisation or club or business.

14.5 There are two types of TEN; a standard TEN and a late TEN. A standard TEN must be given no later than ten working days before the event to which it relates; a late TEN must be given not before nine and no later than five working days before the event. (NB. Notice periods do not include the day the Notice is given to the Licensing Authority or the day of the event. If this minimum period of notice is not given, the Authority will reject the Notice and the licensable activities may not take place).

14.6 The police and West Devon Borough Council's Environmental Health ('relevant persons') may object to a TEN. If the Authority receives an objection notice from a relevant person that is not withdrawn, it must (in the case of a standard TEN only) hold a hearing to consider the objection (unless all parties agree that this is unnecessary). The Authority must consider any objection on the basis of the licensing objectives and decide whether the event should go ahead. Relevant persons may also intervene by agreeing a modification of the proposed arrangements directly with the person giving the TEN.

14.7 Where an objection is received, the Authority may impose conditions on a TEN but only where the venue at which the event is to be held has an existing premises licence or club premises certificate. The Authority may only otherwise intervene if the statutory permitted limits on TENs would be exceeded.

14.8 When giving a TEN, the premises user should consider the promotion of the four licensing objectives. Organisers are strongly advised to contact relevant persons for advice at the earliest opportunity when planning events. Planning at an early stage may well minimise or avoid potential objections. Where amplified music is to be provided after 11pm, it is recommended that organisers provide a noise management plan with their TEN, as this is likely to be required by Environmental Health to avoid a representation.

14.9 Where the TEN includes the supply of alcohol, the responsibility for the supply rests with the person giving the Notice (the 'premises user'). The premises user does not have to be on the premises for the entire duration of the event but will be liable for any offences committed.

## **15. Late Night Levy**

15.1 At the time of approving this Policy, this Authority has taken no decision to implement the Late Night Levy, but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives.

15.2 The Late Night Levy is a power conferred on Licensing Authorities by Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011. This provision came into force on 31<sup>st</sup> October 2012 and enables the Authority to charge a levy on premises in the Authority's area which are licensed to sell alcohol late at night as a means of raising a financial contribution towards the costs of policing the late-night economy. The levy applies to the whole of the Authority's area.

15.3 The levy will be payable by the holder of any premises licence or club premises certificate in the Authority's area which authorises the sale or supply of alcohol on any days during the 'late night supply period'. This is a period beginning at or after midnight and ending on or before 6am.

15.4 The decision to introduce the levy is for the Licensing Authority to make. Before making any such decision, the Licensing Authority must consult the Chief Officer of Police, the Police and Crime Commissioner and the holders of relevant late night licences or certificates. Local residents can use existing channels and forums to put forward views and call for the implementation of the levy in their area if they wish to do so.

15.5 The Licensing Authority must pay at least 70% of the net levy to the police. A Licensing Authority can deduct the costs it incurs in connection with the introduction, administration, collection, variation and enforcement of the levy prior to the levy revenue being apportioned between the police and Licensing Authority. The Licensing Authority has discretion to exempt certain premises – prescribed by regulations – from the levy and to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes

15.6 The Authority will review the need for a Late Night Levy at least every five years in conjunction with the review of this policy. The Authority will, however, consider the introduction of a Late Night Levy at any time if circumstances change and evidence supports this course of action.

## **16. Early Morning Restriction Orders**

16.1 Early Morning Restriction Orders (EMROs) are a new licensing power conferred on Licensing Authorities by s.119 of the Police Reform and Social Responsibility Act and came into force on 31<sup>st</sup> October 2012. This power enables a Licensing Authority to prohibit the sale of alcohol for a specified time period between the hours of midnight and 6am in the whole or part of its area if it is satisfied that this

would be appropriate for the promotion of the licensing objectives.

- 16.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol-related anti-social behaviour which are not directly attributable to specific premises.
- 16.3 The decision to implement an EMRO must be evidence based. Evidence will be considered from partners including Responsible Authorities and local Community Safety Partnerships alongside the Authority's own evidence to determine whether an EMRO is appropriate for the promotion of the licensing objectives.
- 16.4 Measures that may be considered in advance of making an EMRO include:
- introducing a Cumulative Impact Policy
  - reviewing licences of specific problem premises
  - encouraging the creation of business-led practice schemes in the area
  - other mechanisms designed for controlling cumulative impact see 8.4
  - encouraging licence or certificate holders to make variations with respect of hours of licensable activities
- 16.5 The only exemptions relating to EMROs are premises which are authorised to sell alcohol between midnight and 6am on New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.
- 16.6 At the time of approving this Policy, this Authority has taken no decision to introduce an EMRO, but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives.
- 16.7 The Authority will review the need for an EMRO at least every five years in conjunction with the review of this policy. The Authority will consider the introduction of an EMRO at any time if circumstances change and evidence supports this course of action.

## **17. Fees**

- 17.1 Following amendments that came into force in October 2012, the Act requires a Licensing Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.
- 17.2 It is the practice of this Authority to issue an invoice for the annual fee. Non-payment will then result in a suspension notice being served. Regulations state that the premises licence or club premises certificate holder will be given notice of a suspension that is at least 2 working days before the suspension is to take place.
- 17.3 The Authority will not generally refund fees for licensing applications, particularly where the Authority has incurred costs in accepting and processing applications. Each case will be decided on merit.

## **18. Equality and Human Rights Issues**

- 18.1 In developing this policy, the Authority recognises its responsibilities under the Equality Act 2010, to consider the need to eliminate unlawful discrimination and to promote equal opportunities. The Policy therefore supports and is supported by the Council's Equality Scheme and any equality issues will be addressed in an Equality Impact Needs Assessment.
- 18.2 The Human Rights Act 1998 incorporated the European Convention on Human Rights and makes it unlawful for the Authority to act in a way that is incompatible with a convention right. The Authority will have regard to the Human Rights Act when exercising its licensing functions.
- 18.3 Conditions relating to disabled access will not be attached to licences, as this would duplicate existing statutory requirements. The Authority therefore takes this opportunity to remind holders of premises licences and club premises certificates of their duties under the Equality Act 2010.

## **19. Further Information**

- 19.1 Contact details of the Authority and Responsible Authorities are given in Appendix C.
- 19.2 Further information and guidance on the Act can be viewed on the Authority's website. Application forms can be downloaded from the site or electronic applications submitted online.
- 19.3 Further information on alcohol and entertainment licensing is available on the Home Office website at [www.gov.uk/government/organisations/home-office](http://www.gov.uk/government/organisations/home-office) and on the website for the Department of Culture, Media and Sport at [www.gov.uk/government/organisations/department-for-culture-media-sport](http://www.gov.uk/government/organisations/department-for-culture-media-sport) .

## **Appendix A – Delegation of Functions**

Matters to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representations made
Application for provisional statement		If a relevant representation made	If no relevant representations made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representations 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
Application for interim authority		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 relevant authority considering the application		All cases	
Determination of an objection to a temporary event notice		All cases	
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application			All cases
Suspension of premises licence/club premises certificate for non-payment of annual fee			All cases
Review of Statement of Licensing Policy	All cases		
Implementation of Late Night Levy	All cases		
Creation of an Early Morning Restriction Order	All cases		

## Appendix B – Glossary of Terms

### Club Premises Certificate

Authorises the use of premises by a qualifying club for one or more licensable activity

### Designated Premises Supervisor

Means the person (who must be a Personal Licence holder), in the case of premises selling alcohol, who will normally have been given the day to day responsibility for running the premises by the holder of the Premises Licence or will be the Premises Licence holder himself (who must also be a Personal Licence holder).

### Hampton Principles : from enforcement to compliance

What it will deliver – full implementation of the Hampton principles will result in more proportionate and risk-based compliance and enforcement activity, meaning fewer forms, no inspection without a reason, better advice for businesses, and swift treatment of non-compliance with meaningful sanctions.

<http://www.publications.parliament.uk/pa/cm201213/cmselect/cmspeak/1069/106911.htm>

### Late Night Refreshment

- The provision, between 11 pm and 5 am, of hot food or hot drink, for a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am

or

- at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.

Hot Food or Hot Drink - food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:

- (i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,  
or
- (ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.

### Licensable Activities and Qualifying Club Activities

- The sale by retail of alcohol
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the club
- The provision of regulated entertainment
- The provision of late night refreshment
- The supply of alcohol by or on behalf of a club to, or to the order of, a member of the Club for consumption on the premises where the supply takes place
- The sale by retail of alcohol by or on behalf of a club to a guest of a member of the Club for consumption on the premises where the sale takes place
- The provision of regulated entertainment where that provision is by or on behalf of a Club for members of the club or members of the club and their guests

## **Licensing Authority**

West Devon Borough Council acting as the Licensing Authority,

## **Operating Schedule**

Means a document containing a statement including the following matters:-

- The relevant Licensable Activities
- The times at which the Licensable Activities are to take place and any other times when premises are open to the public
- Information regarding the person who will be specified in the Premises Licence as The Premises Supervisor
- Where the Licensable Activities involve the supply of alcohol, whether it is for the supply on and/or off the premises
- The steps being taken in sufficient details so as to enable the Responsible Authority to determine whether or not they are adequate to promote the Licensing Objectives

## **Personal Licence**

Authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence

## **Premises Licence**

Authorises the premises to be used for one or more licensable activity

## **Regulated Entertainment -**

- (a) A performance of a play
- (b) An exhibition of a film
- (c) An indoor sporting event
- (d) A boxing or wrestling entertainment
- (e) A performance of live music
- (f) Any playing of recorded music
- (g) A performance of dance
- (h) Entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the presence of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).

## **Residential Area**

An area whose character is residential at the material time of day. Where there is doubt, the Licensing Authority will consider the number of residential units in the area and the proportion of such units to units used for other purposes.

## **Responsible Authority -**

The public bodies that must be fully notified of applications and that are entitled to make relevant representations to the Licensing Authority in relation to the grant, variation, minor variation or review of a premises licence (See Appendix C).

## **Temporary Event Notice**

A Notice authorising a permitted temporary activity involving one or more licensable activities subject to certain conditions and limitations (see section 15)



## Appendix C – Responsible Authorities

### Responsible Authority Contacts –

The list of Responsible Authorities and their respective contact details may change where additional responsible authorities are designated by regulations from the Secretary of State or where existing contacts change their details.

An up-to-date contact list of Responsible Authorities can be obtained by accessing West Devon Borough Council's licensing web pages [www.westdedvon.gov.uk](http://www.westdedvon.gov.uk), by emailing [licensing@westdevon.gov.uk](mailto:licensing@westdevon.gov.uk) or by telephoning 01822 813 600.

### List of designated responsible authorities under Licensing Act 2003:

#### **Licensing Authority**

Licensing, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ  
Tel: 01822 813600  
Email: [licensing@westdevon.gov.uk](mailto:licensing@westdevon.gov.uk)

#### **Devon and Cornwall Police**

Licensing Department, Devon and Cornwall Police Headquarters, Middlemoor, Exeter, EX2 7HQ  
Tel: 01392 452225  
Email: [licensingeast@devonandcornwall.pnn.police.uk](mailto:licensingeast@devonandcornwall.pnn.police.uk)

#### **Devon and Somerset Fire and Rescue Service** **Depending on the location of the premises:**

Devon and Somerset Fire and Rescue Service, Glen Road, Plympton, Plymouth, PL7 3XT  
Tel: 01752 333600  
Email: [plymouthfs@dsfire.gov.uk](mailto:plymouthfs@dsfire.gov.uk)

Devon and Somerset Fire and Rescue Service, Middlemoor Fire Station, Sidmouth Road, Exeter, EX2 7AP  
Tel: 01392 357200  
Email: [exeterfs@dsfire.gov.uk](mailto:exeterfs@dsfire.gov.uk)

#### **Health and Safety**

Environmental Health - Health and Safety, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ  
Tel: 01822 813600  
Email: [environmentalhealth@westdevon.gov.uk](mailto:environmentalhealth@westdevon.gov.uk)

If the premises is a factory, farm, school or college, fairground, hospital, nursing home or government premises, please send a copy of the application to the Health & Safety Executive:

Health and Safety Executive, Ballard House, West Hoe Road, Plymouth, PL1 3BL  
Tel: 01752 668481

## **Environmental Health**

Environmental Health – Pollution Control, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ  
Tel: 01822 813600  
Email: [environmentalhealth@westdevon.gov.uk](mailto:environmentalhealth@westdevon.gov.uk)

## **Planning**

### **Depending on location of premises:**

Development Management, West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ  
Tel: 01822 813600  
Email: [developmentmanagement@westdevon.gov.uk](mailto:developmentmanagement@westdevon.gov.uk)

For areas within Dartmoor National Park:

Dartmoor National Park Authority (Planning), Parke, Bovey Tracey, Newton Abbot, TQ13 9JQ  
Tel: 01626 832093  
Email: [planning@dartmoor.gov.uk](mailto:planning@dartmoor.gov.uk)

## **Child Protection**

Devon Safeguarding Children Board, CP Checks, MASH, PO Box 723, Exeter, EX1 9QS  
Tel: 01392 383000  
Email: [cpchecks@devon.gcsx.gov.uk](mailto:cpchecks@devon.gcsx.gov.uk)

## **Health Authority**

Devon Drug and Alcohol Action Team, NHS Devon, Room 255, County Hall, Topsham Road, Exeter, EX2 4QD  
Tel: 0845 002 3456  
Email: [alcohollicensing-mailbox@devon.gov.uk](mailto:alcohollicensing-mailbox@devon.gov.uk)

## **Weights and Measures**

Devon Trading Standards Service, County Hall, Topsham Road, Exeter, EX2 4QD  
Tel: 01392 381381  
Email: [tsslicensingact2003@devon.gov.uk](mailto:tsslicensingact2003@devon.gov.uk)

In relation to vessels responsible authorities also include navigation authorities (within the meaning of section 221(1) of the Water Resources Act 1991 (c. 57) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is, or is proposed to be, navigated at a time when it is used for licensable activities,

## **Maritime & Coastguard Agency (Boats only)**

Plymouth Marine Office, New Fish Market, Sutton Harbour, Plymouth, PL4 0LH  
Tel: 01752 266211  
Email: [plymouthmo@mcga.gov.uk](mailto:plymouthmo@mcga.gov.uk)

## **Environment Agency – South West (Boats only)**

Manly House, Kestrel Way, Sowton Industrial Estate, Exeter, EX2 7LQ  
Tel: 01392 444000  
Email: [enquiries@environment-agency.gov.uk](mailto:enquiries@environment-agency.gov.uk)

## **Appendix D – Consultees**

List of those bodies and persons consulted upon prior to the adoption of this policy:

All premises licence holders  
All members' clubs holding a club premises certificate  
All responsible authorities – see Appendix C  
Chief of Devon and Cornwall Police  
District Councillors  
Town and Parish Councils  
Local libraries  
British Beer and Pub Association  
Okehampton LVA Group  
Tavistock and District Chamber of Commerce  
Okehampton Chamber of Trade  
H M Principal Inspector of Health & Safety  
Campaign for Real Ale Limited  
ISAN – Developing Outdoor Arts  
Popleston Allen Licensing Solicitors  
Association of Convenience Stores  
Association of Licensed Multiple Retailers  
British Board of Film Classification  
British Institute of Innkeepers  
British Retail Consortium  
UK Cinema Association  
Department for Culture, Media and Sport  
Federation of Licensed Victuallers Association  
National Pubwatch  
The Portman Group  
Arts Development: UK

## **Appendix E – Safety Advisory Group**

**Authorities that attend the West Devon Safety Advisory Group meetings include:**

- Dartmoor National Park (if applicable)
- Devon and Cornwall Police
- Devon and Somerset Fire and Rescue Service
- Devon County Council Highways
- Environmental Health
- Health and Safety
- HM Coastguard (if applicable)
- Licensing
- Parish and Town Councils
- South Devon and Dartmoor Community Safety Partnership
- South West Ambulance Service Trust
- West Devon Borough Council Assets

## **List of Organisations/Persons consulted**

### **Responsible Authorities:**

- Devon and Cornwall Police
- Devon and Somerset Fire and Rescue Service
- West Devon Borough Council's Environmental Health Authority
- West Devon Borough Council's Planning Authority
- Dartmoor National Park Planning Authority
- Devon and Torbay Safeguarding Children Boards
- Devon Drug and Alcohol Action Team
- Devon Trading Standards Service
- Maritime and Coastguard Agency
- Environment Agency

### **Licence Holders/Representatives of Licence Holders, Interested Parties/Representatives of Interested Parties:**

- All premises licence holders
- All members' clubs holding a club premises certificate
- Chief of Devon and Cornwall Police
- District Councillors
- Town and Parish Councils
- Local libraries
- British Beer and Pub Association
- Okehampton LVA Group
- Tavistock and District Chamber of Commerce
- Okehampton Chamber of Trade
- H M Principal Inspector of Health & Safety
- Campaign for Real Ale Limited
- ISAN – Developing Outdoor Arts
- Poppleston Allen Licensing Solicitors
- Association of Convenience Stores
- Association of Licensed Multiple Retailers
- British Board of Film Classification
- British Institute of Innkeepers
- British Retail Consortium
- UK Cinema Association
- Department for Culture, Media and Sport
- Federation of Licensed Victuallers Association
- National Pubwatch
- The Portman Group
- Arts Development: UK

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## Summary of main changes from Statement of Licensing Policy 2011 - 2016

Part	Brief Description
Foreword	Updated in collaboration with other Devon Licensing Authorities and the Licensing Chairman.
1.5	Inclusion of section relating to the Council's commitment to the BBfA Regulatory Services Partnership (see Appendix D response summary)
3.	Licensing Objectives: Rationalised lists of considerations and added reference to our example conditions list which is a separate document that can be updated outside of the policy.
4.	The Licensing Function: new chapter to incorporate information regarding other legislation and strategies.
4.2	The Licensing Authority as a Responsible Authority: new section due to Police Reform and Social Responsibility Act 2011.
4.4	Large Scale Public Events and the Safety Advisory Group (SAG) Function: additional section promoting the SAG to give advice to applicants for outdoor events to help ensure the correct permissions are in place and events run smoothly.
4.5.3	Public Spaces Protection Order: new section due to Anti-Social Behaviour Crime and Policing Act 2014
4.5.4	Live Music Act 2012: new section due to Live Music Act 2012, Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 and The Legislative Reform (Entertainment Licensing) Order 2014.
5.	The Licensing Process: new chapter to give overview of the licensing application process. Addition of reference to electronic application submission and the publishing of summaries of licence applications on the Council website.
5.4	Mobile Vehicles, Remote, Internet and Other Delivery Sales: new section to give advice on our expectations in relation to these types of alcohol sales to address the licensing objectives.
6.3	An expansion on what would be expected in relation to inclusion of CCTV systems, particularly at premises wishing to trade beyond midnight. This is in line with advice given to applicants and licence holders by Devon and Cornwall Police Licensing.
6.8	Additional sentence in paragraph relating to alcohol sales from shops, stores and supermarkets. Inclusion that consideration may be given to early opening hours and alcohol sales in areas where this could have a negative impact on the licensing objectives.
7.7	Designated Premises Supervisors (DPS): Expansion of the Licensing Authority's expectations of designated premises supervisors and

	encouragement for additional personal licence holders to be employed where appropriate.
7.8	Disapplication of Mandatory Conditions for DPS at Community Premises: due to amendment to the Licensing Act 2003 made in 2009. Section to explain implications of this exemption.
9.2	New section to give information on the 'review' process for applicants and licence holders.
10.2	Addition of final bullet point under 10.2 of examples of issues which may give rise to concern in respect of children.
10.3	Reference to the risk of sexual exploitation of children and young people at licensed premises and the advice that preventative systems should be in place.
11.1	Drugs/Illegal Substances: expansion of this section and additional information box explaining new psychoactive substances (NPS) previously known as 'legal highs'.
12.3	Expansion on the role of door supervisors in supervising customers and having a pro-active role in managing customer behaviour to meet the licensing objectives.
14.5	Addition of information regarding 'late temporary event notices (TENs)' – due to changes made by the Police Reform and Social Responsibility Act 2011.
15.	Late Night Levy: new section due to Police Reform and Social Responsibility Act 2011.
16.	Early Morning Restriction Orders: new section due to Police Reform and Social Responsibility Act 2011.
17.	Fees: additional section relating to suspension of licences for non-payment of annual fees – due to Police Reform and Social Responsibility Act 2011.
18.	Equality and Human Rights Issues: new section explaining the Licensing Authority's position in relation the Equality Act 2010 and the Human Rights Act 1998.
Appendix A	Delegation of Functions: description of how functions under Licensing Act 2003 are delegated.
Appendix D	List of persons and organisations consulted on the Statement of Licensing Policy
Appendix E	List of authorities that are invited to attend the Safety Advisory Group meetings.

*Please note: minor alterations (i.e. dates/grammar etc.) and replication of insignificant guidance changes made to the draft document Policy are not included in this list.*



**West Devon Borough Council**

**STATEMENT OF PRINCIPLES (Gambling Act 2005) CONSULTATION RESPONSE**

NAME OR ORGANISATION	COMMENTS	APPRAISAL	SUGGESTED AMENDMENTS
<p><b>Mr Stephen Court</b></p>	<p>“I assume you have written to me personally as I am a licence holder. As you probably know then, I run the Wharf – mainly a live music venue – in Tavistock. Our average age group is 30-60 and because of this and the fact our clients are pre-occupied with the enjoyment of music, we therefore have very little issue with drunkenness.</p> <p>However, as I have very little opportunity to air my views on this very serious matter, I am replying to your request for any comments on the council’s policy.</p> <p>It is my opinion that 80% of the alcohol consumed by drunken people is purchased from supermarkets and similar cut-priced outlets. The fact is that most of the drunks are that way before they even enter a licensed premises. Having said that I have forty years’ experience of finding supermarket bottles of spirits hidden in every quarter of night clubs and discos. By the same token, cheap beer, cider and lager sales represent a vast proportion of supermarket sales.</p> <p>It is my opinion that so specialised is the sale and control of alcohol, that it should be handled only by those trained in its sales – that is mainly publicans</p>	<p>The restriction of alcohol sales at supermarkets and similar premises is not an issue which can be addressed through the licensing policy. It is a matter for central government as it would require a change to legislation.</p> <p>See section 7.7 Designated Premises Supervisors - All premises licensed to sell alcohol (other than certain community premises and Members’ Clubs), must adhere to the same requirement of having a ‘designated premises supervisor’ (DPS) who must hold a personal licence.</p> <p>Para 7.7.2: “Although not a legal requirement, the Licensing Authority recommends as good practice – in respect of premises licensed to sell or supply alcohol for consumption on the premises – that a Personal Licence Holder is on the premises at all times to make or authorise such sales or supplies. The Authority is keen to encourage the presence of properly trained staff on licensed premises.”</p>	<p>No amendment to policy required.</p>

	<p>and off-licences. I believe supermarkets and the like should be limited to the sale of wine – part of the food chain, and stopped from the sale of cheap alcohol.</p> <p>Thank you for reading this letter and hope that my views may have some effect on the liberal ways that licences are issued to the general public.”</p>		
<p><b>Ms Louise Harwood</b></p>	<p>“I am responding to the article in the Tavistock Times, inviting residents to comment &amp; have a say about the new alcohol &amp; entertainment licensing policy. I would like to put my concerns forward in relation to the HQ Bar and its frequent contraventions to their evening licence. I have had to contact the council before about HQ and this to which they said they were aware of some contraventions and they would keep an eye.</p> <p>Unfortunately the owner keeps pushing the boundary and I regularly see and have to experience the following</p> <p>The HQ Bar regularly has an over the number of people that it has the capacity to cater for. These people then regularly spill out on to and out of the area designed for smoking. I have filmed then drinking out of this area as well. The windows to the club are then opened to the venue so that the music blares out up till midnight after which the customers sit outside causing noise well on to 1am or later. This can occur during the week and causes disturbance. If the weather is hot (which isn't often at the mo) you can't open windows at night. There also seems to be on a Sunday night a reoccurring loud group that sit outside causing</p>	<p>Matters related to individual premises are not something that can be addressed through the policy and should be dealt with through the appropriate channels.</p> <p>Licensing staff and Environmental Health will investigate complaints relating to noise and disturbance from individual premises – see section 9 on Enforcement.</p>	<p>No amendment to policy required.</p>

	<p>noise disturbance and having children who need to get to sleep for school the next day this is causing problems</p> <p>The HQ Bar is billed as a cocktail/wine bar, I would describe the venue as a nightclub, especially at weekends and regularly causes disturbance. It is catering for numbers more than they should who then spill out on to the road front area making lots of noise however I have witnessed on a couple of occasions near miss collisions on the pedestrian crossing right outside the venue involving people in in drink from this venue.”</p>		
<p><b>Hilary and Richard Waller, Eastcott Vineyard &amp; Winery</b></p>	<p>“Premises with existing premises licences who wish to include such a service should apply to vary their licence to add this activity.’ Existing holders of a Premises Licence have been required by law to ensure that alcoholic goods are only despatched from licensed premises. There has as far as I am aware been no requirement to notify the Council. I think it is unreasonable to now make any change retrospectively and allowance should be given for existing operators to notify the council without having to make this a formal licence change. The cost of a licence change is not inconsiderable and where businesses have been selling online for many years without issue, I cannot see what sense there is in erecting new barriers to their commercial operation. But I have no problem with requiring such businesses to make notification.</p> <p>The proposal in para 5.4.3 is disproportionate and places an over burdensome condition on existing premises licence holders who offer internet sales. Also I would not expect West Devon to vary in this</p>	<p>Legally there is nothing to prevent premises which hold a licence to sell alcohol for consumption off the premises to include an ‘alcohol delivery service’ without specifying this on their application. However, there are a number of risks associated with this operation, particularly in relation to underage sales.</p> <p>In respect of paragraph 5.4.3, applicants are encouraged to include conditions addressing this style of operation in their operating schedule. However, it would be unreasonable to force those that had been carrying on this activity with no issue for many years to apply to vary their licence to include additional conditions.</p>	<p>Amendment to final sentence in para 5.4.3 from “Premises with existing premises licences who wish to include such a service should apply to vary their licence to add this activity” to:</p> <p>“Premises with an existing licence permitting ‘off-sales’ who wish to include such a service as a new way of operating should consider applying to vary their licence to incorporate additional conditions to address the licensing objectives (this would usually be by way of a minor variation).”</p>

	<p>regard from what is current national policy. After all, online sales are almost certainly going to be distributed nationally i.e. not be for delivery within West Devon and typically to tourists who want a further supply of products that they enjoyed whilst visiting the area.</p> <p>However if this requirement is to be brought in then a) there must be a suitable notice period before it becomes effective in order to allow businesses to make application without removing their ability to trade and b) it should be be classed as a 'minor variation'."</p>		
<p><b>Devon and Cornwall Police</b></p>	<p>Confirmation that no amendments required.</p>	<p>In support of the policy.</p>	<p>No amendment to policy required.</p>
<p><b>Fleur Barr, South Hams District Council and West Devon Borough Council BBfA lead Specialist</b></p>	<p>"The Devon and Somerset Better Business for All (BBfA) Partnership are encouraging all members to incorporate the BBfA principles within internal regulatory Policy and Procedures. I have asked some members of the group for some examples, however I have put together something in the interim.</p> <p>I note many new Policies and Procedures are being produced now across the authority with different Regulators. Our Partnership is committed to embedding the BBfA principles now into all internal regulators Policy and Procedures. I hope if you are reviewing any you will consider the attached document please, or discuss the item further for consideration.</p>	<p>The Statement of Licensing Policy is relevant to many businesses across the District.</p> <p>It would therefore be appropriate to include reference to the Council's commitment to the BBfA Partnership's principles when dealing with businesses.</p>	<p>Insert at 1.5 wording recommended by the Devon and Somerset BBfA:</p> <p>1.1 West Devon Borough Council are fully committed to the Devon and Somerset Better Business for All (BBfA) Regulatory Services Partnership, which is endorsed by the Better Regulatory Delivery Office (BRDO), part of the Department for Business, Innovation and Skills (BIS). The purpose is to build a local partnership between businesses and regulators across Devon and Somerset to promote economic prosperity, whilst maintaining public protection. This document will ensure that the Regulator will work in accordance with the BBfA principles. In doing so the Authority will create an environment and culture which will support</p>

	<p>Better Business for All (BBfA) is not a short term project but a better way of working, which is mutually beneficial in times of austerity and beyond. The partnership is passionate about making a cultural change between businesses and regulators, which encourages the building of trust to establish good working relationships.”</p>		<p>our local businesses by making the activity that is being regulated easy to access, simple and clear to understand, whilst ensuring public protection.</p> <p>1.2 The Council will listen to business needs and act in an open and transparent way to help shape the way support is provided, this will be done following business consultations and throughout service use.</p> <p>1.3 Better Business for All is business-focused, using business-led improvements to create better regulation, support business growth and create a level playing field for businesses. In order to achieve this the Policy will be implemented in a consistent manner with competent enforcement staff who are working with the right attitudes and behaviours for the benefit of our Communities.</p>
<p><b>David Sexton, Environmental Health Officer, South Hams District Council and West Devon Borough Council</b></p>	<p>“The comments I have is that under public nuisance provisions perhaps there should be reference to noise management plans</p> <p>Under TEN's can a noise management plan be required for any live music after 11pm? I know there is no provision in the regs but can it be council policy that they provide one else EH are very likely to object, or I do need to suggest that via an EH policy?”</p>	<p>There is a separate document available for applicants with a more in depth list of factors and potential conditions to consider under ‘prevention of public nuisance’. However, noise management plans are a key consideration and could be added to the short bullet point list at 3.6.2.</p> <p>As the TEN process is meant to be a ‘light-touch’ process for one-off occasions it would be seen to be unreasonable to demand a noise management plan for any live music after 11pm. However, it would be useful to include reference noise management plans</p>	<p>Add under Prevention of Public Nuisance as a bullet point under 3.6.2: Noise management plan provided (where appropriate).</p> <p>an extra sentence in 14.8 (pg32-33): <i>When giving a TEN, the premises user should consider the promotion of the four licensing objectives. Organisers are strongly advised to contact relevant persons for advice at the earliest opportunity when planning events. Planning at an early stage may well minimise or avoid potential objections. <b>Where amplified music is to be provided after 11pm, it is recommended that organisers provide a noise management plan</b></i></p>

		as a recommended consideration to avoid potential objections from Environmental Health when events involving amplified music (not just live music) finish after 11pm.	<b><i>with their TEN, as this is likely to be required by Environmental Health to avoid a representation.</i></b>
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# Agenda Item 8

Report to: **Planning and Licensing Committee**

Date: **10 November 2015**

Title: **Three-Yearly Review of Gambling Statement of Licensing Principles**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **Y** Approval and clearance obtained: **Y**

Date next steps can be taken: **Full Council on 15 December 2015 – see below recommendation**

Author: **Naomi Wopling** Role: **Specialist - Licensing**

Contact: **01803 861268 / naomi.wopling@swdevon.gov.uk**

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## **Recommendations:**

1. That the Licensing Committee considers the draft Statement of Principles and responses received during the public consultation and makes any changes it deems necessary.
2. That the Licensing Committee recommends to Council that the draft Statement of Principles, as amended, is adopted at the meeting on 15 December 2015 for the period 31 January 2016 to 30 January 2019.

## **1. Executive summary**

1.1 The Council's Licensing Authority has responsibilities under the Gambling Act 2005 (the 'Act') to issue premises licences, registrations, various types of permits and temporary permissions in respect of premises where it is proposed gambling take place.

1.2 Section 349 of the Act requires the Licensing Authority to prepare and publish a statement of the principles that it proposes to apply in exercising its functions under the Act during the three-year period to which the Policy relates. West Devon Borough Council adopted the initial Gambling Statement of Principles in December 2006. This fourth review of the Policy must be adopted in advance of January 2016.

1.3 Before determining the Statement, Licensing Authorities must first consult with certain persons or bodies in accordance with Section 349 of the said Act, namely:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

A list of the organisations/persons consulted is provided at **Appendix B**. The Statement was subject to a public consultation during the period 28 August to 23 October.

1.4 Prior to the consultation period a working group of the Licensing Committee considered the proposed draft and amended where thought appropriate. A summary of the changes from the current version (2013-2016), is provided at **Appendix C**.

1.5 The current Statement of Principles for 2013-2016 and the original consultation responses for the draft Statement are included within the background documents and are available upon request. A summary of the consultation responses, together with suggested amendments can be found at **Appendix D**. The suggested amendments have been provisionally incorporated into the revised draft 2016-2019 Statement, attached at **Appendix A**.

## **2. Background**

2.1 Not all gambling is dealt with by District Councils, for example, the Financial Services Authority and the National Lottery Commission continue to regulate spread betting and the National Lottery respectively. The Gambling Commission are responsible for granting operating and personal licences for commercial gambling (such as casinos and bingo halls) and to personnel working in the industry.



District Councils issue the premises licences and permits for betting shops, bingo halls and for gambling machines etc.

- 2.2 The Act contains three licensing objectives which underpin the functions of the Licensing Authority. These are:-
- a) Preventing gambling from being a source of crime and disorder, being associated with crime or disorder, or being used to support crime;
  - b) Ensuring that gambling is conducted in a fair and open way; and
  - c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.3 In determining its Policy, the Authority must have regard to Guidance issued by the Gambling Commission under Section 25 of the Act, and give appropriate weight to representations made within the consultation period.
- 2.4 The draft Policy has been prepared in consultation with the Devon Licensing Officers' Group and takes account of advice issued by the Local Government Association and the Gambling Commission Guidance to Local Authorities 5<sup>th</sup> Edition, issued 2015.
- 2.5 At the meeting of the Licensing Committee on 12 November 2015, Members will have a final opportunity to make any further amendments before the Licensing Committee is asked to recommend the approval of the draft to Council.

### **3. Outcomes/outputs**

#### **3.1 Adoption Procedure**

- 3.2 Legislation prescribes that Council is empowered to adopt the Draft Statement of Principles. Adoption cannot be delegated to the Licensing Committee.
- 3.3 The following timetable is proposed in respect of the consultation and adoption of the Statement of Principles:

<b>Action</b>	<b>Date</b>
Draft Statement of Principles published and distributed for consultation following meeting of Licensing Committee working group.	28 August 2015
Consultation concludes	23 October 2015
Licensing Committee approval of revised Statement of Principles and agrees to recommend to Council for adoption	10 November 2015
Revised Statement of Principles approved by Council	15 December 2015
Statement of Principles published (at the latest)	3 January 2016
Statement of Principles comes into effect	31 January 2016

#### **4. Options available and consideration of risk**

- 4.1 Failure to produce a Gambling Statement of Principles in accordance with s.349 Gambling Act 2005 and its accompanying Regulations would be a breach of statutory duty. It would render the Council powerless to make decisions or exercise the licensing objectives in its locality.
- 4.2 Should the Statement not be adopted, the Council would be open to criticism and legal challenge.
- 4.3 The correct consultation process was undertaken following consideration of the draft policy by the working group of the Licensing Committee. See **Appendix B** for full list of those consulted. Following meeting of Licensing Committee on 12 November 2015, on track for adoption of Statement of Principles at Council meeting on 15 December 2015.

#### **5. Proposed Way Forward**

- 5.1 The Licensing Committee recommends to Council that the draft Statement of Principles, as amended, is adopted at the meeting on 15 December 2015 for the period 31 January 2016 to 30 January 2019.

#### **6. Implications**

<b>Implications</b>	<b>Relevant to proposals Y/N</b>	<b>Details and proposed measures to address</b>
Legal/ Governance	Y	<p>Section 349 of the Act requires the Licensing Authority to prepare and publish a statement of the principles it proposes to apply in exercising its functions under the Act during the three-year period to which the policy relates.</p> <p>Section 349(3) requires the Licensing Authority to consult the following persons/bodies:</p> <ul style="list-style-type: none"><li>• In England and Wales, the chief officer of police for the authority's area;</li><li>• One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;</li><li>• One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.</li></ul>

		<p>Before publishing the revised Policy, the Licensing Authority is required to publish a notice of its intention to public a statement or revision on its website and in/on one or more of the following places:</p> <ul style="list-style-type: none"> <li>• A local newspaper circulating in the area covered by the statement;</li> <li>• A local newsletter, circular, or similar document circulating in the area covered by the statement;</li> <li>• A public notice board in or near the principal office of the authority;</li> <li>• A public notice board on the premises of public libraries in the area covered by the statement.</li> </ul> <p>Legislation requires the Statement to take effect from 31 January 2016, but to be published and in place 4 weeks before.</p>
Financial		The associated preparation and publication costs will be met in full from Gambling Act 2005 applications and annual fees income. Therefore, there are no financial implications to the Council from this report.
Risk		<p>Failure to produce a Gambling Statement of Principles in accordance with the Gambling Act 2005 and its accompanying Regulations is a breach of statutory duty and will render Council powerless to make decisions or exercise the licensing objectives in its locality.</p> <p>Not adopting Policy could leave Council open to criticism and legal challenge.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		There is the duty on Council when considering applications or enforcement action to comply with Human Rights Act 1998. Equality Impact Assessment carried out prior to publication.
Safeguarding		Protecting children and other vulnerable persons from being harmed or exploited by gambling is one of the licensing objectives underpinning the Gambling Act 2005.
Community Safety, Crime and Disorder		Preventing gambling from being a source of crime or disorder, being associated with crime and disorder, or being used to support crime is one of the licensing objectives underpinning the Gambling Act 2005.
Health, Safety and Wellbeing		
Other implications		

## **Supporting Information**

### **Appendices:**

Appendix A – Draft Gambling Statement of Licensing Principles

Appendix B – List of organisations/persons consulted

Appendix C – Summary of changes

Appendix D – Summary of consultation responses and suggested amendments

### **Background Papers:**

- Gambling Act 2005 and associated relevant Regulations
- Guidance issued under the Gambling Act 2005 (5<sup>th</sup> edition)
- Gambling Commission Licence Conditions and Codes of Practice (LCCP)
- West Devon Borough Council's Gambling Statement of Principles, which expires January 2016
- Consultation responses

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes/No</b>
SLT Rep briefed	<b>Yes/No</b>
Relevant Exec Director sign off (draft)	<b>Yes/No</b>
Data protection issues considered	<b>Yes/No</b>
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	<b>Yes/No</b>



**West Devon  
Borough  
Council**

**DRAFT**

**Statement of Principles**

**Under the Gambling Act 2005**

**FOR THE PERIOD OF JANUARY 2016 TO  
JANUARY 2019**

Approved by Full Council on XXXXXXXXXXXX

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## **Foreword**

This document sets out a Statement of Principles (Licensing Policy) which will guide the Licensing Authority for the period of 2013 – 2016 when considering applications under the Gambling Act 2005.

This is the fourth review of our Policy, and following public consultation, the Council adopted this Statement of Principles on XXXXXXXXXXXXX.

### West Devon Borough Council Equality Vision

We are committed to acknowledging the full diversity of our community and to promoting equality of opportunity for everyone in policy making, service delivery, employment practice, regulation and enforcement.

If you have any questions or queries about this document:

**Write to us at:**

Licensing Section  
West Devon Borough Council  
Kilworthy Park  
Tavistock  
Devon  
PL19 0BZ

**Or contact us by fax or email or via our website on:**

**Phone:** 01822 813 600  
**Fax:** 01822 813 731  
**Email:** [licensing@westdevon.gov.uk](mailto:licensing@westdevon.gov.uk)  
**Website:** [www.westdevon.gov.uk](http://www.westdevon.gov.uk)

This document can be made available in large print, Braille, tape format or in other languages upon request.

# **STATEMENT OF PRINCIPLES**

Text in the shaded boxes within this Statement of Principles are advisory only intended to give assistance to applicants, interested persons and responsible authorities.

## **Part A**

### **1 The Licensing Objectives**

1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The relevant licensing objectives are:

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

1.2 This Licensing Authority particularly notes the Gambling Commission's Guidance 5.34) to local authorities that:

"Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a Licensing Authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met. This is because such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers)."

Applicants are also advised to note Part B of this Statement of Principles:-  
Premises Licences – General Principles.

### **2 Introduction**

2.1 The Act gives licensing authorities a number of important regulatory functions. The main functions are:-

- license premises for gambling activities;
- consider notices given for the temporary use of premises for gambling;
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
- regulate gaming and gaming machines in alcohol licensed premises;
- grant permits to family entertainment centres for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider occasional use notices for betting at tracks; and
- register small societies' lotteries.



Current details of the different categories of gaming machines, including the limits on stakes and prizes, can be found in Appendix D.

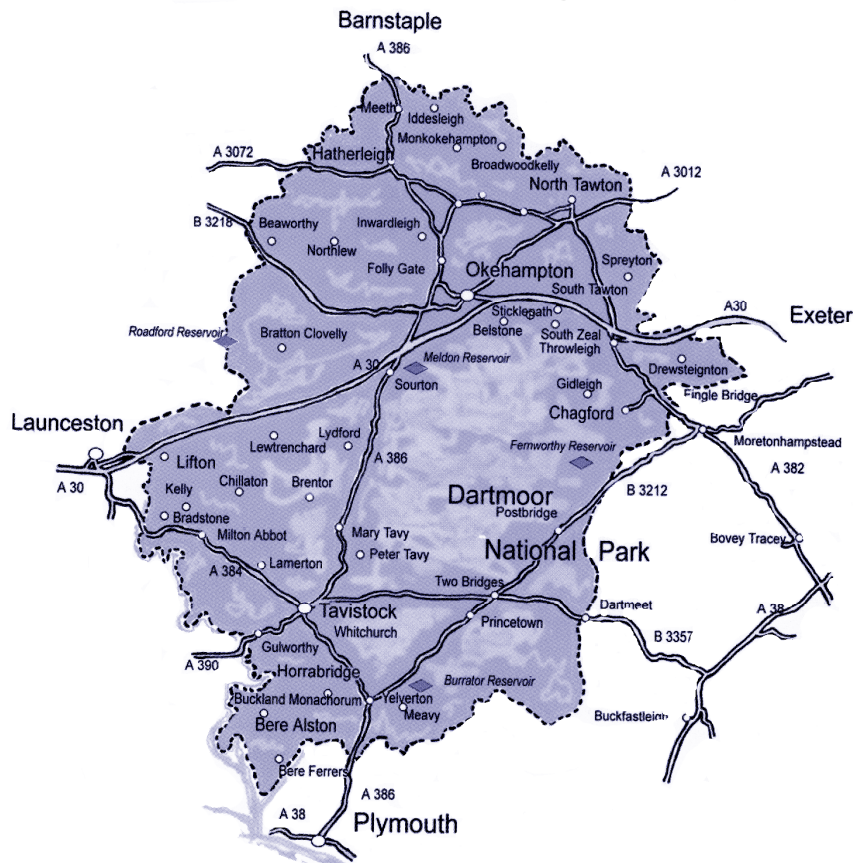
- 2.1 This Statement of Licensing Principles is written pursuant to the provisions of the Act and the Guidance issued under s.25 of the Act by the Gambling Commission.
- 2.2 All references to 'the Guidance' refer to the Gambling Commissions Guidance to licensing authorities 5th Edition due to be published imminently
- 2.3 The Statement takes effect on 31 January 2016.

The Statement of Principles was approved at a meeting of Council on XXXXXX and was published via our website on XXXXXX. A paper copy of the Policy may be viewed during normal office hours at the offices of West Devon Borough Council, Kilworthy Park, Tavistock, PL19 0BZ.

Should you have any comments to make regards this Statement, please write to us at the above address or email [licensing@westdevon.gov.uk](mailto:licensing@westdevon.gov.uk)

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

### 3 Description of the Licensing Authority Area



- 3.1 West Devon is one of the largest, geographical local authorities in England with a rural area of 458 square miles, or 1160 square kilometres.
- 3.2 The Borough extends from the northern outskirts of Plymouth to within 13 kilometres of Exeter. Its western boundary is the River Tamar on the Cornish border, from which it stretches eastwards and northwards to encompass a major part of the Dartmoor National Park (520 square kilometres).
- 3.3 With its historic market towns and beautiful countryside, West Devon is a highly desirable area in which to live.
- 3.4 Being predominantly rural in nature; West Devon has a population of 54,000 as measured in the 2011 Census. The largest towns are Tavistock and Okehampton, with populations of 12,280 and 7,647 respectively (National Census 2011) however, nearly 66% of the population of West Devon live outside of these two settlements.
- 3.5 The Borough has a higher proportion of older people than the national average, with a small but steady outward migration of younger people.
- 3.6 At the time of preparing this Policy (August 2015), the Authority has responsibility for 3 betting shops, located in the towns of Tavistock and Okehampton. West Devon currently has 267 licensed premises and members clubs under the Licensing Act 2003, some of which have notifications for gaming machines or hold club machine permits.
- 3.7 The corporate priorities are to promote “Homes, Economy, Community Life and the Environment”.

### **3.8 Local Area Profile**

- 3.8.1 The Gambling Commission recommends that the Licensing Authority completes its own Local Area Profile to ‘map out’ local areas of concern, to develop a better awareness of the local area and risks. It is recommended that when considering risks, possible future emerging risks are taken into consideration, as well as current risks.
- 3.8.2 An effective local area profile will take into account a wide range of factors, data and information held by the Licensing Authority and its partners. An important element would include proactive engagement with Responsible Authorities as well as other organisations in the area that can give input to ‘map’ local risks in the area.
- 3.8.3 Due to the wide range of information required to input into such a profile, this Authority is not currently in a position to publish and consult upon a draft Local Area Profile. However, this will be reviewed and if such a Profile is developed it will be consulted upon and any information that may assist in its production would be welcomed.

### **3.9 Better Businesses for All (BBfA)**

- 3.9.1 West Devon Borough Council are fully committed to the Devon and Somerset Better Business for All (BBfA) Regulatory Services Partnership, which is endorsed by the Better Regulatory Delivery Office (BRDO), part of the Department for Business, Innovation and Skills (BIS). The purpose is to build a local partnership between businesses and regulators across Devon and Somerset to promote economic

prosperity, whilst maintaining public protection. This document will ensure that the Regulator will work in accordance with the BBfA principles. In doing so the Authority will create an environment and culture which will support our local businesses by making the activity that is being regulated easy to access, simple and clear to understand, whilst ensuring public protection

- 3.9.2 The Council will listen to business needs and act in an open and transparent way to help shape the way support is provided, this will be done following business consultations and throughout service use.
- 3.9.3 Better Business for All is business-focused, using business-led improvements to create better regulation, support business growth and create a level playing field for businesses. In order to achieve this the Policy will be implemented in a consistent manner with competent enforcement staff who are working with the right attitudes and behaviours for the benefit of our Communities.

## **4 Review of Statement of Principles (Consultation)**

- 4.1 Licensing authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 4.2 The Gambling Act requires that the following parties are consulted by Licensing Authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 4.3 List of persons this authority will consult include the following:
- All Responsible Authorities under Gambling Act 2005 – see Appendix A
  - British Amusement Catering Trade Association (BACTA)
  - Borough Councillors
  - Citizens Advice Bureau
  - Dartmoor National Park Authority
  - Devon Primary Care Trust
  - Devon Safeguarding Children Board
  - Devon County Council Social Services Department
  - Gamble Aware
  - Gamblers Anonymous
  - Gambling Commission
  - GamCare
  - Mencap
  - MIND
  - NSPCC
  - Okehampton Chamber of Trade
  - Police and Crime Commissioner
  - Representatives of existing licence-holders

- South Devon & Dartmoor Community Safety Partnership
- Tavistock and District Chamber of Commerce
- Town and Parish Councils within the Borough

4.4 Proper weight will be given to the views of all those who have been consulted prior to the date of implementation of the Statement of Principles.

Our consultation took place between 28 August 2015 and 23 October 2015 and we followed the HM Government Code of Practice on Consultation (published 2013).

## **5 Declaration**

5.1 In producing the final Statement of Principles, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement.

## **6 The Overriding Principle**

6.1 In exercising its functions under the Act, this Licensing Authority will aim to permit the use of premises for gambling in so far as it thinks that the practice will:

- be in accordance with the Gambling Act & associated legislation;
- be in accordance with any relevant Code of Practice under section 24;
- have regard to the relevant guidance issued by the Gambling Commission under section 25;
- be reasonably consistent with the licensing objectives; and
- have regard to this Statement of Principles under section 349.

6.2 Each case will be considered on its merits.

6.3 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are subject to the application.

6.4 The overriding principle does not, however, apply to the consideration of an application for a casino licence if this authority resolves not to issue casino premises licenses.

## **7 Relationship with other legislation**

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

7.2 The grant of a licence does not imply the approval of other legislative requirements.

Applicants for Premises Licences for Casinos, Bingo Halls, Adult or Family Entertainment Centres (licensed or unlicensed) or Permits are advised to speak to the Planning Department of this Council before making a formal application to the Licensing Authority. Please quote the 'General Policies of the Local Plan'.

## **8 Responsible Authorities**

- 8.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licence. Such bodies are entitled to make representations to the Licensing Authority in relation to the applications. The Responsible Authorities are detailed in Appendix A.
- 8.2 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.
- 8.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates Devon and Torbay Safeguarding Children Boards (formerly known as the Local Safeguarding Children Board) for this purpose.
- 8.4 In relation to the determination of who is competent to advise the Authority about the protection of other vulnerable persons, this Authority has consulted with the Devon County Council Social Services Department and Mencap.

## **9 Interested Parties**

- 9.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows: "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the applications is made, the person-
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - b) has business interests that might be affected by the authorised activities, or
  - c) represents persons who satisfy paragraph (a) or (b)"
- 9.2 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party.
- 9.3 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to local authorities. The following factors will be taken into account:
- the size of the premises;

- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises. For example, it would be reasonable for an authority to conclude that 'sufficiently close to be likely to be affected' could have a different meaning for (a) a private resident; (b) a residential school for children with truanting problems; and (c) residential hostel for vulnerable adults;
- the 'catchment' area of the premises (i.e. how far people travel to visit);
- whether the person making the representation has business interests in that catchment area, that might be affected.

This list is not exhaustive and other factors may be taken into consideration in an individual case.

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

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Section who may be contacted at the address and on the telephone number set out at the beginning of this document.

## 10 Exchange of Information

Licensing authorities are required to include in their Statement the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 of the Act.

- 10.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 10.2 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 11 Enforcement

Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

- 11.1 This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance for local authorities and in line with the Regulatory Compliance Code:
- 11.2 This Licensing Authority's principles are that enforcement should be:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
  - Consistent: rules and standards must be joined up and implemented fairly;
  - Transparent: regulators should be open, and keep regulations simple and user friendly; and
  - Targeted: regulation should be focused on the problem, and minimise side effects.
- 11.3 In line with the Gambling Commission's Guidance for local authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 11.4 This Licensing Authority has adopted and implemented a risk-based inspection programme, based on:
- The licensing objectives
  - Relevant codes of practice
  - Guidance issued by the Gambling Commission, in particular at Part 36  
The principles set out in this statement of licensing policy
- 11.5 The Licensing Authority will take account of the Gambling Commissions' guidance document issued in February 2015 (or subsequent amendments) 'Approach to Test Purchasing' when considering making test purchases at gambling premises.

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

This Licensing Authority also keeps itself informed of developments as regards the work of the Better Regulation Executive (BIS - Department for Business Innovation and Skills) in its consideration of the regulatory functions of local authorities. Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request to the Licensing Section at West Devon Borough Council. Our risk methodology will also be available upon request.



## 12 Licensing Authority functions

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

It should be noted that this Licensing Authority will not be involved in licensing remote gambling. This being the responsibility of the Gambling Commission via Operator Licences.

## 13 The Licensing Process

- 13.1 A Licensing Committee, a Sub-Committee, or the Licensing Manager acting under delegated authority may carry out the powers of the authority under the Gambling Act.
- 13.2 Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.
- 13.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing Committee have received adequate training for their role under the Gambling Act.
- 13.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.
- 13.5 A table showing a summary of the recommended delegation for decisions made under the Gambling Act 2005 is in Appendix C.
- 13.6 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.



## **Part B - Premises Licences**

### **1 General Principles**

- 1.1 Premises Licences will be 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.
- 1.2 This Licensing Authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives and
  - in accordance with the authority's Statement of Principles.
- 1.3 It is appreciated that as per the Gambling Commission's Guidance for local authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a Licensing Authority.
- 1.4 **Definition of "premises"**
- 1.4.1 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- 1.4.2 The Gambling Commission states in the fourth edition of its Guidance that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."
- 1.4.3 This Licensing Authority takes particular note of the Guidance which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:
- The third licensing objective seeks to protect children from being harmed by

gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to. or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit
- Customers should be able to participate in the activity named on the premises licence

1.4.4 The Guidance also gives a list of factors which this Licensing Authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

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

1.4.5 The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

<b>Type of premises</b>	<b>Access provisions</b>
Casinos	<ul style="list-style-type: none"> <li>• the principal access entrance to the premises must be from a ‘street’.</li> <li>• no entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons</li> <li>• no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.</li> </ul>
Adult Gaming Centre	<ul style="list-style-type: none"> <li>• no customer must be able to access the premises directly from any other licensed gambling premises</li> </ul>
Betting Shops	<ul style="list-style-type: none"> <li>• access must be from a street or from another premises with a betting premises licence</li> <li>• no direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.</li> </ul>
Tracks	<ul style="list-style-type: none"> <li>• no customer should be able to access the premises directly from: <ul style="list-style-type: none"> <li>- a casino</li> <li>- an adult gaming centre</li> </ul> </li> </ul>
Bingo Premises	<ul style="list-style-type: none"> <li>• no customer must be able to access the premises directly from: <ul style="list-style-type: none"> <li>- a casino</li> <li>- an adult gaming centre</li> <li>- a betting premises, other than a track</li> </ul> </li> </ul>

Family Entertainment Centre	<ul style="list-style-type: none"> <li>• No customer must be able to access the premises directly from: <ul style="list-style-type: none"> <li>- a casino</li> <li>- an adult gaming centre</li> <li>- betting premises, other than a track</li> </ul> </li> </ul>
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1.4.6 Part 7 of the Guidance contains further guidance on this issue, which this Licensing Authority will also take into account in its decision-making.

## 1.5 Premises “ready for gambling”

1.5.1 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that this 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.

1.5.2 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.

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

- First, whether the premises ought to be permitted to be used for gambling
- 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.

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

1.5.5 More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

## 1.6 Location

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

## 1.7 Planning:

1.7.1 The Guidance states:

7.56 – In determining applications the Licensing Authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant

matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

- 1.7.2 This Licensing Authority will not take into account irrelevant matters as per the above guidance. In addition this Licensing Authority notes the following excerpt from the Guidance:

7.63 - When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

## 1.8 Licensing objectives

- 1.8.1 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to local authorities and some comments are made below.
- 1.8.1 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This Licensing Authority is aware of the distinction between disorder and nuisance and will consider 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. Issues of nuisance cannot be addressed via the Gambling Act provisions.
- 1.8.2 **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however more of a role with regarding to tracks which is explained in more detail in the tracks section later.
- 1.8.3 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted 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.

1.8.4 This Licensing Authority is also aware of the Gambling Commissions Codes of Practice regards this licensing objective, in relation to specific premises.

1.8.5 As regards the term “vulnerable persons” it is noted that the Gambling Commission is not seeking 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.

## 1.9 **Conditions**

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

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

1.9.2 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 way in which the licensing objectives can be met effectively.

1.9.3 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.

1.9.4 This 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.

1.9.5 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 consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

1.9.6 It is noted that there are conditions which the Licensing Authority cannot attach to premises licences. There are:

- conditions 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.

### **1.10 Door Supervisors**

1.10.1 The Gambling Commission advises in its Guidance 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.

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

### **1.11 Appropriate Licensing Environment**

1.11.1 The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (LCCP) commencing May 2015, set out additional matters that the Council should take into account when considering licence applications for premises licences.

1.11.2 Gambling Commission Guidance and LCCP condition 16 and code 9 prescribe restrictions on gambling activities on premises, previously known as primary gambling activity. The Council will consider any application based on the provisions in these codes and guidance. Where gaming machines are made available for use in licensed gambling premises, they should only be available when sufficient facilities are made available for the primary gambling activity (e.g. bingo, betting etc).

1.11.3 Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises, e.g. motorway service areas and shopping malls, the Council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

### **1.12 Licence Conditions and Codes of Practice**

1.12.1 Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children and young people from accessing gambling premises.

1.12.2 The Licence Conditions and Codes of Practice (LCCP) issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

1.12.3 In particular, operators must ensure that:

- all staff are trained
- that all customers are supervised when on gambling premises
- must have procedures for identifying customers who are at risk of gambling related harm

1.12.4 The Council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records.

1.12.5 Further provision with regard to self-exclusion and marketing are included in the social responsibility code. The Council will take all conditions and codes into account when considering applications or performing enforcement activities.

### **1.13 Local Risk Assessments**

1.13.1 The Gambling Commissions Licence Conditions and Codes of Practice (as above) will require operators to consider local risks with effect from the 6 April 2016.

1.13.2 The Gambling Commission's Social Responsibility Code 10.1.1 will require licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this policy statement and any associated local area profile produced by this Licensing Authority.

1.13.3 Licensees will be required to review (and update as necessary) their local risk assessments:

- When applying for a variation of a premises licence.
- To take account of significant changes in local circumstances, including those identified in this policy.
- When there are significant changes at a licensee's premises that may affect the level of risk or the mitigation of those risks.
- In any case, undertake a local risk assessment when applying for a new premises licence.

1.13.4 This above Social Responsibility Code provision is supplemented by an Ordinary Code that will require licensees to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Council.

1.13.5 Whilst there are no plans to request that licensed premises share their risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licensee share a copy of its risk assessment. The risk assessment will set out the measures the licensee has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required.

1.13.6 When comprising their risk assessments operators should consider:

- The risks posed to the licensing objectives by the provision of gambling facilities at each of their premises in the local authority area.
- Reference to any specific local risks (outlined in any local area profile formulated by the Licensing Authority– see Section 3.8).
- How the operator proposes to mitigate these risks.
- How the operator will monitor specific risks.

1.13.7 Although not forming an exhaustive list, the following factors are ones which operators may wish to consider when comprising and reviewing their risk assessments:

- The geographical location of the premises and socio-economic makeup of the area.
- The type and usage of the premises.
- The layout and size of the premises, e.g. access and egress, position of counters and gaming machines, lines of sight between counters and entrance points and machines, the physical structure of the premises, presence of any visual obstacles.
- Specific types of gambling premises in the local area (e.g. seaside resorts typically have more arcades or FECs) and their density.
- The opening hours of the premises and the possible interaction of the gambling premises with any surrounding night time economy.
- Client demographics, the presence of children and vulnerable adults.
- Staff numbers, training and supervision.
- Staff roles and their engagement with other activities.
- Issues of lone working and staff working closely with children.

Operators will also wish to consider the potential risk of under-age gambling and the increased risk of problem gambling in certain groups. This Authority will therefore expect operators to consider the following when undertaking their risk assessment:

- Self-exclusion data – the number of self-exclusions and underage attempts to gamble.
- The proximity of the premises to any school, centre, or establishment for the education, training or care of young and/or vulnerable persons.
- The proximity of the premises to leisure centres used for sporting and similar activities by young and/or vulnerable persons.
- The proximity to the premises to any youth club or similar establishment.
- The proximity of the premises to any community, ecclesiastical, welfare, health or similar establishment used specifically, or to a large extent, by young and/or vulnerable persons.
- The proximity of any other area or location where young and/or vulnerable persons could congregate.
- The proximity of any hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater risk of problem gambling among these groups.

## **2 Adult Gaming Centres**

2.1 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 Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- CCTV
- Door supervisors



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

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

- 2.2 The question of sub-division of such premises has been the subject of further Gambling Commission Guidance. This Licensing Authority will have regard to any relevant additional guidance that may be issued by the Gambling Commission in respect to such applications.
- 2.3 This Authority accepts that there must be no direct entry from one adult gaming centre into another and will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications.
- 2.4 This Licensing Authority recognises that the design and layout of adult gaming centres will vary. It will have particular regard to the siting of age restricted gaming machines within individual premises to ensure, so far as is reasonably practicable, that staff properly monitor the use of these machines by children and young persons. This Licensing Authority reserves the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so.
- 2.5 Factors to be taken into consideration will include the following:
- CCTV;
  - Re-location of the machines;
  - Door buzzers;
  - Remote cut off switches;
  - Training provision;
  - Any other factor considered relevant.

### **3 (Licensed) Family Entertainment Centres**

- 3.1 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.
- 3.2 Children and young persons will be able to enter licensed family entertainment centres and play on category D machines but will not be permitted to play on category C machines.
- 3.3 As family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are

available in licensed family entertainment centres, the Council will normally require that:

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

Applicants are therefore encouraged to consider the steps set out at Part C para 1.8 of this statement in order to prevent children and young persons from gaining access to category C machines. In addition, applicants are encouraged to consider the following:

- Physical separation of areas
- 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.

## **4 Casinos**

### **Casino – Local Policy**

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

## **5 Bingo premises**

- 5.1 This Licensing Authority notes that the Gambling Commission's Guidance states:

Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. In these circumstances it is not permissible for all the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.

- 5.3 Before issuing additional bingo premises licences, the Licensing Authority will consider whether bingo can be played at each of those new premises. In these cases this Licensing Authority will have particular regard to the Gambling Commission Guidance on the 'meaning of premises' and how it relates to the primary gambling activity.

5.4 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. The Licensing Authority will normally require that:

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

## **6 Betting premises**

### **6.1 Betting machines**

This Licensing Authority will, as per the Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of 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.

6.2 The Licensing Authority recognises that the design and layout of betting premises (or any other premises including tracks) will vary so will have particular regard to the siting of age restricted gaming machines within each individual premises to ensure, so far as is reasonably practicable, and that staff properly monitor the use of these machines by children and young persons. This Licensing Authority reserve the right to request that gaming machines are re-positioned where circumstances demonstrate that it is appropriate to do so.

6.3 Factors to be taken into consideration will include the following:

- CCTV
- Re-location of the machines
- Door buzzers
- Remote cut off switches
- Training provision
- Any other factor considered relevant

6.4 The Licensing Authority will expect applicants to have fully considered these issues in their application and risk assessments and may ask for alterations to plans where it is not satisfied that adequate supervision of the machines can be ensured.

## **7 Tracks**

7.1 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 third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young 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.

7.3 This Licensing Authority may consider measures to meet the licensing objectives such as:

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

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

#### 7.4 **Gaming machines**

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

7.4.2 This Licensing Authority will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.

#### 7.5 **Betting machines**

7.5.1 This Licensing Authority will, per the Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (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 proposes to offer.

7.5.2 On tracks where the potential space for such machines may be considerable, there may be significant problems in relation to the proliferation of such machines, the ability of track staff to supervise them if they are scattered around the track and the ability of the track operator to comply with the law and prevent children betting on the machines. In such cases, this Licensing Authority will generally consider restricting the number and location of betting machines, in the light of the circumstances of each application.

## 7.6 Applications and plans

- 7.6.1 The Act (s151) requires applicants to submit plans of the premises with their application, in order to ensure that this 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 this Licensing Authority to plan future premises inspection activity.
- 7.6.2 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.
- 7.6.3 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.
- 7.6.4 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.
- 7.6.5 The Licensing authority will require the following information from applicants for premises licences in respect of tracks:-
- Detailed plans for the racetrack itself and the area that will be used for temporary 'on-course' betting facilities (often known as the 'betting ring')
  - In the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.
- 7.6.6 Plans will need to make it clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.
- 7.6.7 When considering applications for tracks, the Licensing Authority will take into consideration the Gambling Commission's Guidance and information under Part 20 of the Guidance. It is recommended that applicants are familiar with this information prior to submitting an application.

## 8 Travelling Fairs

- 8.1 It will fall to this Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. From 28 days per year it would be regarded as "permitted development" under Part 4 of the Town and Country Planning Order 1995 and is thus deemed to require

planning permission. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

- 8.4 Higher stake category B and C fruit machines are not permitted. Fairground operators must source their machines from a Gambling Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

## **9 Provisional Statements**

- 9.1 Developers may wish to apply to this Licensing Authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 Section 204 of the Act provides for a person to make an application to this 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.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. This 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, this Licensing Authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in this Licensing 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.

## **10 Reviews**

- 10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the Licensing Authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below
- in accordance with any relevant code of practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's Statement of Principles.
- 10.2 The request for the review will also be subject to the consideration by this Licensing Authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this Licensing Authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 10.3 This 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.
- 10.4 Once a valid application for a review has been received by this Licensing Authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by this Licensing Authority, who will publish notice of the application within 7 days of receipt.
- 10.5 This Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether this Licensing Authority should take any action in relation to the licence. If action is justified, the options open to this Licensing Authority are:-
- (a) add, remove or amend a licence condition imposed by this Licensing Authority;
  - (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 10.7 In determining what action, if any, should be taken following a review, this Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 10.8 In particular, this 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.
- 10.9 Once the review has been completed, this Licensing Authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Custom



## **PART C**

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

#### **1 Unlicensed Family Entertainment Centre**

##### **Gaming machine permits (Statement of Principles on Permits – Schedule 10 Para 7)**

- 1.1 The term ‘unlicensed family entertainment centre’ is one defined in the Act and refers to a premises which provides category D gaming machines along with various other amusements such as computer games and penny-pushers. The premises is ‘unlicensed’ in that it does not require a premises licence but does require a permit to be able to provide its category D gaming machines. It should not be confused with a ‘licensed family entertainment centre’ which does require a premises licence because it contains both category C and D gaming machines.
- 1.2 Unlicensed family entertainment centres (uFECs) will be most commonly located at seaside resorts, in airports and at motorway style service centres, and will cater for families, including unaccompanied children and young persons.
- 1.3 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 (Section 238).
- 1.4 The Licensing Authority will only grant a uFEC gaming machine permit where it is satisfied that the premises will be operated as a bona fide unlicensed family entertainment centre.
- 1.5 In line with the Act, while the Licensing Authority cannot attach conditions to this type of permit, the Licensing Authority can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.
- 1.6 When determining the suitability of an applicant for a permit and when considering applications, the Licensing Authority will have regard to the Gambling Commission’s Guidance and although not required to, will have regard to the licensing objectives.
- 1.7 Gambling Commission Guidance 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...” This Licensing Authority will require the applicant to demonstrate:
  - a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
  - that staff are trained to have a full understanding of the maximum stakes and prizes.
- 1.8 **Statement of Principles**
- 1.8.1 This Licensing Authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the

measures that the council will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow the Licensing Authority to better determine the suitability of the applicant and the premises for a permit.

1.8.2 Within this process the Licensing Authority will aim to grant the permit where the applicant is able to demonstrate that:

- they are a fit and proper person to hold the permit
- they have considered and are proposing suitable measures to promote
- the licensing objectives, and
- they have a legal right to occupy the premises to which the permit is sought.

1.8.3 The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

## 1.9 Supporting documents

1.9.1 The Licensing Authority will require the following supporting documents to be served with all uFEC gaming machine permit applications:

- proof of age (a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website <http://www.disclosurescotland.co.uk/>
- In the case of applications for an uFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling machine supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission
- A plan of the premises for which the permit is sought showing the following items:
  - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - (ii) where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. slot machines, penny-falls, cranes)
  - (iii) the positioning and types of any other amusement machines on the premises
  - (iv) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - (v) the location of any ATM/cash machines or change machines
  - (vi) the location of any fixed or temporary structures such as columns or pillars
  - (vii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - (viii) the location of any public toilets in the building

Unless otherwise agreed with the Licensing Authority, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

## 1.10 Child protection issues

- 1.10.1 As these premises particularly appeal to children and young persons, the Licensing Authority will give weight to child protection issues. It will expect applicants to demonstrate that they and their staff have a full understanding of the maximum stakes and prizes

The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The Licensing Authority will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult.
- Maintain policies to deal with any young children who enter the premises unaccompanied
- The provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.
- Training relating to child safeguarding issues.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

- 1.10.2 Staff should be clearly identifiable so that customers, including children, can easily identify them for assistance, guidance or gambling advice.

## 1.11 Protection of Vulnerable Persons Issues

- 1.11.1 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The Licensing Authority will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## 1.12 Other miscellaneous issues

1.12.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

1.12.2 The Licensing Authority encourages applicants for UFEC Permits to consider adopting BACTA's voluntary Code of Practice for Amusement with Prizes Machines in Family Entertainment Centres. This Code of Practice promotes awareness of social responsibility, and acknowledges that proactive specific and appropriate commitment will be given to educating children and young persons, thereby minimising the potential for harm.

Permits cannot be issued to vessels or vehicles.

The position of premises holding an alcohol licence is dealt with below.

Applicants for Permits for Adult or Family Entertainment Centres (licensed or unlicensed) (formerly known as 'Amusement Arcades') are advised to speak to the Planning Department of this Council and/or the Dartmoor National Park Authority before making a formal application to the Licensing Authority.

## 2 (Alcohol) Licensed premises gaming machine permits – (Schedule 13 Para 4(1))

### 2.1 Automatic Entitlement for up to two machines

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

## 2.2 Permit for three or more machines

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 Gambling Act 2005, and “other such matters as the Authority 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.

- 2.3 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.
- 2.4 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.
- 2.5 A plan must accompany applications, indicating where and what type, of gambling machines are to be provided. This plan may take the form of an amendment
- 2.6 The Licensing Authority expects permit holders to be mindful of their obligations in relation to supervision arrangements for gaming machines to protect the young and the vulnerable and to comply with the Gambling Commission’s Gaming Machines in Alcohol Licensed Premises Code of Practice. These form a condition of every permit and cover aspects such as the location and operation of machines; access to gambling by children and young persons; and self exclusion.

Applicants should be aware that only those premises which have a ‘bar’ (servery) at which alcohol is sold for consumption on the premises will be eligible for a machine in the bar area of the premises. This means that premises such as restaurants which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food (the old Part IV restaurant licences under the former Licensing Act 1964) will fall outside the scope to which this section (s.279 – 284) of the Gambling Act 2005 applies. For details of Category C & D machines please refer to information provided at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

### **3 Prize Gaming Permits – (Statement of Principles on Permits - Schedule 14 Para 8 (3))**

3.1 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the Licensing Authority propose to consider in determining the suitability of the applicant for a permit”.

#### **3.2 Statement of Principles – Prize Gaming Permit**

3.2.1 This Licensing Authority has adopted a Statement of Principles in accordance with paragraph 8 of Schedule 14 of the Act and they are for the purposes of clarifying the measures that the Licensing Authority will expect applicants to demonstrate when applying for a prize gaming permit. This will allow the council to better determine the suitability of the applicant and the premises for a permit.

3.2.2 Within this process the Licensing Authority will aim to grant the permit where the applicant is able to demonstrate that:

- they are a fit and proper person to hold the permit
- they have considered and are proposing suitable measures to promote the licensing objectives; and
- they have a legal right to occupy the premises to which the permit is sought.

3.2.3 This Licensing Authority will expect the applicant to 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;
- and that the gaming offered is within the law.
- clear policies that outline steps to be taken to protection children from harm.

3.2.4 In making its decision on an application for a prize gaming permit the Licensing Authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

3.2.4 The measures suggested in this document should be read as guidance only and the Licensing Authority will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate.

#### **3.3 Prize gaming permits**

3.3.1 Section 288 defines gaming as prize gaming if the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming. The operator will determine the prizes before play commences. Prize gaming can often be seen at seaside resorts in amusement arcades where a form of bingo is offered and the prizes are displayed.

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

3.3.3 Applicants should be aware of the conditions in the Gambling Act 2005 with which prize gaming permit holders must comply. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and

completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;

- ❑ the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- ❑ participation in the gaming must not entitle the player to take part in any other gambling.

3.3.4 In line with the Act, while the Licensing Authority cannot attach conditions to this type of permit, the Licensing Authority can refuse applications if they are not satisfied that the issues raised in this “Statement of Principles” have been addressed through the application.

### 3.4 Supporting documents

3.4.1 The Licensing Authority will require the following supporting documents to be served with all prize gaming permit applications:

- ❑ proof of age (a certified copy or sight of an original birth certificate, photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- ❑ proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property’s deeds or a similar document
- ❑ the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website <http://www.disclosurescotland.co.uk/>.
- ❑ A plan of the premises for which the permit is sought showing the following items:
  - (i) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - (iii) The location where any prize gaming will take place (including any seating and tables) and the area where any prizes will be displayed
  - (iv) the positioning and types of any other amusement machines on the premises
  - (v) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - (vi) the location of any ATM/cash machines or change machines
  - (vii) the location of any fixed or temporary structures such as columns or pillars
  - (viii) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - (ix) the location of any public toilets in the building

Unless otherwise agreed with the Licensing Authority, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

### 3.5 Child protection issues

3.5.1 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The Licensing Authority will assess these policies and procedures on their merits, and they

should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult.
- maintain policies to deal with any young children who enter the premises unaccompanied
- the provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.
- Training relating to child safeguarding issues.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

3.5.2 Staff should be clearly identifiable so that customers, including children, can easily identify them for assistance, guidance or gambling advice.

### 3.6 Protection of Vulnerable Persons Issues

3.6.1 The Licensing Authority will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act 2005' to familiarise themselves with who the council considers vulnerable. The Licensing Authority will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines. (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.



### 3.7 Other miscellaneous issues

3.7.1 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## 4 Club Gaming and Club Machines Permits

4.1 Members' Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (three machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (three machines of categories B, C or D).

4.2 Gambling Commission Guidance states: "A members' club is a club that is not established as a commercial enterprise, and is conducted for the benefit of its members. Examples include working men's clubs, miners' welfare institutes, branches of the Royal British Legion and clubs with political affiliations...The Act states that members' clubs must have at least twenty-five members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is restricted to bridge and whist. Members' clubs must be permanent in nature, but there is no need for a club to have an alcohol licence."

4.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- (b) the applicant's premises are used wholly or mainly by children and/or young persons;
- (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- (d) a permit held by the applicant has been cancelled in the previous ten years; or
- (e) an objection has been lodged by the Commission or the police.

4.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." The grounds on which an application under the process may be refused are:

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

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

4.6 Where a club does not hold a Club Premises Certificate issued under Licensing Act 2003 and is therefore not eligible for the 'fast-track' procedure, the Licensing Authority will need to satisfy itself that the club meets the requirements of the Gambling Act 2005 to hold a club gaming permit or a club machine permit. In order to do this, the Licensing Authority may ask for additional information from the operator, for example:

- Is there a list of committee members and evidence of their election by club members?
- Are there minutes of previous meetings (where appropriate)?
- Is the primary activity of the club something other than gaming?
- Are the club's profits retained solely for the benefit of the club's members?
- Are there 25 or more members?
- Are the addresses of members of the club genuine domestic addresses and do most members live reasonably locally to the club?
- Do members participate in the activities of the club via the internet?
- Do guest arrangements link each guest to a member?
- Is the 48 hour rule being applied for membership and being granted admission being adhered to?
- Are there annual club accounts available for more than one year?
- How is the club advertised and listed in directories and on the internet?
- Are children permitted in the club?
- Does the club have a constitution and can it provide evidence that the constitution was approved by members of the club?
- Is there a list of Committee members and evidence of their election by the club members?

4.7 When examining the club's constitution (where available), the Licensing Authority would expect to see evidence of the following:

- Who makes commercial decisions on behalf of the club?
- Are the aims of the club set out in the constitution?
- Are there shareholders or members? Shareholders indicate a business venture rather than a non-profit making club.
- Is the club permanently established? (Clubs cannot be temporary).
- Are there suitable rules as to the election and admission to the club of new members?
- What is the usual duration of membership?
- Can people join with a temporary membership? What is the usual duration of membership?
- Are there long term club membership benefits?
- Is there a provision for annual general meetings?
- Is there a provision for the election of officers?

## **5 Temporary Use Notices**

- 5.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 This 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.
- 5.3 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 Act (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Guidance. 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".
- 5.5 In considering whether a place falls within the definition of "a set of premises", this Licensing Authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.6 This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Guidance.

## **6 Occasional Use Notices**

- 6.1 Occasional Use Notices enable betting on a track for up to eight days a year without a premises licence.
- 6.2 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Licensing Authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **7 Licensed Vessels**

- 7.1 The Licensing Authority when considering applications for premises licences in respect of vessels will give particular weight to the views of the Maritime and Coastguard Agency in respect of promoting the licensing objectives. Where in the opinion of the Licensing Authority any of the three objectives are undermined, and this cannot be resolved through the imposition of conditions, the application will be refused.

Where a premises licence is sought in connection with a vessel which will be navigated whilst licensable activities take place, the Licensing Authority will be concerned following the receipt of relevant representations, with the promotion of the licensing objectives on-board the vessel. The Licensing Authority will not focus on matters relating to safe navigation or operation of the vessel, the general safety of passengers or emergency provisions, all of which are subject to regulations which must be met before the vessel is issued with a Passenger Certificate and Safety Management Certificate. It is expected that if the relevant maritime agencies are satisfied that the vessel complies with Merchant Shipping standards for a passenger ship, the premises will normally be accepted as meeting the public safety objectives.

## 8 Lotteries

8.1 Under the Gambling Act 2005, a lottery is unlawful unless it runs under an operating licence or is an exempt lottery. Promoting or facilitating a lottery will fall into two categories.

- Licensing lotteries (requiring an operating licence from the Gambling Commission).
- Exempt lotteries (including small society lotteries registered with West Devon Borough Council)

8.2 Exempt lotteries are lotteries permitted to run without a licence from the Gambling Commission and are defined as:

- Small society lotteries
- Incidental non-commercial lotteries
- Private society lotteries
- Work lotteries
- Residents' lotteries
- Customers' lotteries

### 8.3 Small Society Lotteries

8.3.1 West Devon Borough Council will register and administer small society lotteries as defined under the Act. Advice regarding small society lotteries and the definitions of the above exempt lotteries is available from the Gambling Commission website and in the West Devon Borough Council lottery guidance notes available on the Council website.

8.3.2 This Licensing Authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. The Authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- Submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held);
- Submission of incomplete or incorrect returns;
- Breaches of the limits for small society lotteries.

**Disclaimer: This Licensing Authority wishes to make clear that the Gambling Commission's Guidance to Local Authorities (5<sup>th</sup> Edition – XXXXX 2015) was the most recent information available at the time of writing and can be the subject of change**

**within the period that this statement of principles is in force. I would also draw your attention to the following:**

- **Legislation may change over time and the advice given is based on the information available at the time the guidance was produced – it is not exhaustive and is subject to revision in the light of the further information**
- **Only the courts can interpret statutory legislation with any authority; and**
- **This advice is not intended to be definitive guidance nor a substitute for the relevant law and independent legal advice should be sought where appropriate**

## Appendix A - Responsible Authorities

### Responsible Authority Contacts -

The list of Responsible Authorities and their contact details may change where additional responsible authorities are designated by regulations from the Secretary of State or existing authorities change their address.

An up-to-date list of Responsible Authorities relating to West Devon with their contact details can be obtained by accessing the West Devon Borough Council licensing web pages, or on request to the Licensing Section at [licensing@westdevon.gov.uk](mailto:licensing@westdevon.gov.uk) / 01822 813 600.

#### 1) The Licensing Authority

The Licensing Department  
West Devon Borough Council  
Kilworthy Park  
Tavistock  
Devon  
PL19 0BZ

Tel: 01822 813 600

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

#### 2) The Gambling Commission

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel: 0121 233 1058

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

#### 3) Devon & Cornwall Constabulary

Licensing Department (East)  
Devon & Cornwall Police HQ  
Middlemoor  
Exeter  
EX2 7HQ

Tel: 01392 452 225

Email: [licensingeast@devonandcornwall.pnn.police.uk](mailto:licensingeast@devonandcornwall.pnn.police.uk)

#### 4) a) Devon & Somerset Fire & Rescue Service (West Division - for Tavistock, Yelverton & Lifton and areas West of);

The Fire Safety Officer  
Devon & Somerset Fire & Rescue  
West Division Headquarters  
Glenn Road  
Plympton  
Plymouth

PL7 3XT

Tel: 01752 333 600

Email: [westfiresafety@devfire.gov.uk](mailto:westfiresafety@devfire.gov.uk)

**4) b) (East Division - for Okehampton, Beaworthy, North Tawton, Winkleigh, Exeter, Newton Abbot & Crediton and areas East of)**

The Fire Officer  
Devon & Somerset Fire & Rescue Service  
East Division Headquarters  
Agriculture House (Ground Floor)  
Pynes Hill  
Rydon Lane  
Exeter  
EX2 5AZ

Tel: 01392 872 200

Email: [eastfslicensing@devfire.gov.uk](mailto:eastfslicensing@devfire.gov.uk)

**5) Child Protection**

Devon and Torbay Safeguarding Children Boards  
C P Checks  
MASH  
PO Box 723  
Exeter  
EX1 9QS

Tel: 01392 383000

Email: [cpchecks@devon.gcsx.gov.uk](mailto:cpchecks@devon.gcsx.gov.uk)

**6) Environmental Health Department**

West Devon Borough Council  
Environmental Health Department  
Kilworthy Park  
Tavistock  
Devon  
PL19 0BZ

Tel: 01822 813 600

E-mail: [eh@westdevon.gov.uk](mailto:eh@westdevon.gov.uk)

**7) a) Planning**

Development Management  
West Devon Borough Council  
Kilworthy Park  
Tavistock  
Devon  
PL19 0BZ

Tel: 01822 813 600

Email: [dm@westdevon.gov.uk](mailto:dm@westdevon.gov.uk)

**7) b) Dartmoor National Park Authority**

Dartmoor National Park Authority  
Parke  
Bovey Tracey  
Newton Abbot  
Devon  
TQ13 9JQ

Tel: 01626 832093

Email: [planning@dartmoor.gov.uk](mailto:planning@dartmoor.gov.uk)

**8) Her Majesty's Commissioners of Customs & Excise**

National Registration Unit  
Portcullis House  
21 India Street  
Glasgow  
G2 4PZ

Tel: 0141 5553633

Email: [nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)

**9) Maritime & Coastguard Agency (Boats only)**

The Safety Policy Coordinator for Inland Waterways  
Maritime & Coastguard Agency  
Plymouth Marine Office  
Fish Quay  
Plymouth  
Devon PL4 0LH

Tel: 01752 266211

Email: [plymouthmo@mcga.gov.uk](mailto:plymouthmo@mcga.gov.uk)



## Appendix B - Glossary

**DCMS** - Department of Culture, Media, and Sport

**An Interested Party – is a person, in the opinion of the Licensing Authority who:**

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

**Responsible Authority –**

- (i) The Licensing Authority
- (ii) The Gambling Commissioner
- (iii) The Chief Officer of Devon & Cornwall Constabulary
- (iv) The Devon and Somerset Fire & Rescue Service
- (v) The local planning authority within the meaning given by the Town and Country Planning act 1990 (c.8) for any area in which the premises are wholly or partly situated
- (vi) The local authority by which statutory functions are exercisable in any area in which the premises are wholly or partly situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health
- (vii) A body which is designated in writing for the purpose of this paragraph, by the Licensing Authority for an area in which the premises are wholly or partly situated, as competent to advise the authority about the protection of children from harm:
- (viii) And any other person prescribed by regulations by the Secretary of State.

DCMS - Department for Culture Media and Sport

[http://www.culture.gov.uk/what\\_we\\_do/gambling\\_and\\_racing/3305.aspx](http://www.culture.gov.uk/what_we_do/gambling_and_racing/3305.aspx)  
Licensing Documents  
Gambling Act 2005  
Guidance under Section 25 of the Act

## Appendix C - Summary of licensing authority delegations permitted under the Gambling Act

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Final approval of the Licensing Authority Policy statement	X		
Policy not to permit casinos	X		
Fee setting (when appropriate)	X (after recommendation from Licensing Committee and Executive)		
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/or have not been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/or have not been withdrawn
Application for a transfer of a licence		Where representations have been received from the Gambling Commission	Where no representations received from the Gambling Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/or have not been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permit		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits		Where permit holder requests a hearing	Where permit holder does not choose to have representations considered
Consideration of temporary use notice		Where representations are received	Where no representations are received
Decision to give a counter notice to a temporary use notice		X	

## Appendix D - Gaming machine (fruit machine, slot machine) categories

Gaming machines (fruit machines, slot machines) fall into categories depending on the maximum stake and prize available:

Machine category	Maximum stake (from January 2014)	Maximum prize (from January 2014)	Allowed premises
<b>A</b>	Unlimited	Unlimited	Regional Casino
<b><u>B1</u></b>	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre-2005 Act casino and Regional Casinos
<b><u>B2</u></b>	£100	£500	Betting premises and tracks occupied by pool betting and all of the above
<b><u>B3</u></b>	£2	£500	Bingo premises, Adult gaming centre and all of the above
<b>B3A</b>	£2	£500	Members' club or Miners' welfare institute only
<b><u>B4</u></b>	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
<b><u>C</u></b>	£1	£100	Family entertainment centre (with Commission operating licence), Qualifying alcohol licensed premises (without additional gaming machine permit), Qualifying alcohol licensed premises (with additional LA gaming machine permit) and all of the above.

<b>Machine category</b>	<b>Maximum stake (from January 2014)</b>	<b>Maximum prize (from January 2014)</b>	<b>Allowed premises</b>
<b><u>D money prize</u></b>	10p	£5	Travelling fairs, unlicensed (permit) Family entertainment centre and all of the above
<b><u>D non-money prize (other than crane grab machine)</u></b>	30p	£8	All of the above.
<b><u>D non-money prize (crane grab machine)</u></b>	£1	£50	All of the above.
<b><u>D combined money and non-money prize (other than coin pusher or penny falls machines)</u></b>	10p	£8 (of which no more than £5 may be a money prize)	All of the above.
<b><u>D combined money and non-money prize (coin pusher or penny falls machine)</u></b>	20p	£20 (of which no more than £10 may be a money prize)	All of the above.

## **List of Organisations/Persons consulted**

### **Responsible Authorities:**

- The Gambling Commission
- HM Revenue and Customs
- Devon and Torbay Safeguarding Children Boards
- Chief Officer of Police, Devon and Cornwall Constabulary
- Devon and Somerset Fire and Rescue Service
- West Devon Borough Council's Environmental Health Department
- West Devon Borough Council's Planning Department
- Dartmoor National Park Planning Authority
- Maritime and Coastguard Agency

### **Licence Holders/Representatives of Licence Holders, Interested Parties/Representatives of Interested Parties:**

- British Amusement Catering Trade Association (BACTA)
- Borough Councillors
- Citizens Advice Bureau
- Dartmoor National Park Authority
- Devon Primary Care Trust
- Devon Safeguarding Children Board
- Devon County Council Social Services Department
- Gamble Aware
- Gamblers Anonymous
- Gambling Commission
- GamCare
- Mencap
- MIND
- NSPCC
- Okehampton Chamber of Trade
- Police and Crime Commissioner
- Representatives of existing licence-holders
- South Devon & Dartmoor Community Safety Partnership
- Tavistock and District Chamber of Commerce
- Town and Parish Councils within the Borough

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## Summary of main changes from Gambling Statement of Principles 2013-2016, including proposed changes following public consultation

Part A	Brief Description
3.8	Inclusion of section relating to Local Area Profile in line with updated Gambling Commission guidance
3.9 (following consultation)	Inclusion of section relating to the Council's commitment to the BBfA Regulatory Services Partnership (see Appendix D summary of responses).
8.4	Addition of Devon County Council Social Services Department and Mencap as those consulted as representatives of vulnerable persons.
9.3	Expansion upon factors to be taken into consideration when determining whether an individual is an 'interested person' under Gambling Act 2005. Information taken from Gambling Commission guidance.
11.5	New paragraph making reference to the Gambling Commissions' guidance on 'Approach to Test Purchasing' which would be consulted should test purchasing be considered.
Part B	
1.11, 1.12 and 1.13	<p>New sections relating to updated Gambling Commission guidance and new Licensing Conditions and Codes of Practice:</p> <p>1.11 – appropriate licensing environments for gambling activities</p> <p>1.12 – protection of children and young people from accessing gambling premises, particularly location of gaming machines</p> <p>1.13 – new requirement for gambling premises licence holders to assess local risks and our expectations of the content of these risk assessments.</p>
2.1	Inclusion of 'Betwatch schemes' under potential licence conditions for Adult Gaming Centres.
2.4 and 2.5	Additional paragraphs advising on expectations in relation to access restrictions to Adult Gaming Centre, particularly in relation to the siting of gaming machines.
3.2 and 3.3	Greater emphasis placed upon child protection issues and our requirements of Family Entertainment Centres which hold gambling premises licences to ensure children are unable to access inappropriate areas of the premises.
5.4	Additional information relating to protection of children and our requirements in relation to restriction of access to gaming machines in Bingo premises

6.4	New paragraph stating that the Licensing Authority will expect applicants for Betting Premises to consider location of gaming machines in their application and risk assessments and may request alteration if unsuitable.
8.4	Additional paragraph relating to gaming machines permitted at Travelling Fairs.
<b>Part C</b>	
1.10.1 and 1.10.2	Addition of recommendation that staff at Family Entertainment Centres are trained in child safeguarding issues and that staff should be clearly identifiable.
3.5.1 and 3.5.2	Addition of recommendation that staff at premises holding Prize Gaming Permits are trained in child safeguarding issues and that staff should be clearly identifiable.
4.6 and 4.7	Information to aid applicants, licensing officers and Members when assessing the legitimacy of an applicant for a Club Gaming Permit or a Club Machine Permit.
8	New section on Lotteries, missed from previous versions.
<b>Appendix C</b>	Table showing delegation of authority in relation to functions carried out under Gambling Act 2005.
<b>Appendix D</b>	Table showing categories of gaming machines.

*Please note: minor alterations (i.e. dates/grammar etc.) and replication of insignificant Gambling Commission Guidance changes made to the draft document Policy are not included in this list.*



**West Devon Borough Council**

**STATEMENT OF PRINCIPLES (Gambling Act 2005) CONSULTATION RESPONSE**

NAME OR ORGANISATION	COMMENTS	APPRAISAL	SUGGESTED AMENDMENTS
<p><b>Cllr John Sheldon</b></p>	<p>“A couple of queries – where does ‘Gamble Aware’ stand within your consultations (Responsible Gambling Trust).</p> <p>Plus The Office of the Police and Crime Commissioner is not mentioned – being public facing and identifying vulnerabilities across the Policing area and recording at a minimum public concerns (say too many betting shops etc in a particular area).”</p>	<p>This response was received on the first day of the consultation period, so both Gamble Aware and the Office of the Police and Crime Commissioner were contacted and notified about the consultation.</p> <p>To note, The Chief Officer of Police, the Police Licensing Teams, Gamblers Anonymous and GamCare were already included within the consultees as representing the Police and persons representing the interests of those likely to be affected.</p>	<p>Both organisations added to the list of persons/organisations consulted under Part A, 4.3.</p>
<p><b>Devon and Cornwall Police</b></p>	<p>Confirmation that no amendments required.</p>	<p>None required</p>	<p>No amendment to policy required.</p>
<p><b>Fleur Barr, South Hams District Council and West Devon Borough Council BBfA lead Specialist</b></p>	<p>The Devon and Somerset Better Business for All (BBfA) Partnership are encouraging all members to incorporate the BBfA principles within internal regulatory Policy and Procedures. I have asked some members of the group for some examples, however I have put together something in the interim.</p> <p>I note many new Policies and Procedures are being produced now across the authority with</p>	<p>The Gambling Statement of Principles is relevant to many businesses across the District.</p> <p>It would therefore be appropriate to include reference to the Council’s commitment to the BBfA Partnership’s principles when dealing with businesses.</p>	<p>Insert at 3.8 wording recommended by the Devon and Somerset BBfA:</p> <p>1.1 West Devon Borough Council are fully committed to the Devon and Somerset Better Business for All (BBfA) Regulatory Services Partnership, which is endorsed by the Better Regulatory Delivery Office (BRDO), part of the Department for Business, Innovation and Skills (BIS). The purpose is to build a local</p>

	<p>different Regulators. Our Partnership is committed to embedding the BBfA principles now into all internal regulators Policy and Procedures. I hope if you are reviewing any you will consider the attached document please, or discuss the item further for consideration.</p> <p>Better Business for All (BBfA) is not a short term project but a better way of working, which is mutually beneficial in times of austerity and beyond. The partnership is passionate about making a cultural change between businesses and regulators, which encourages the building of trust to establish good working relationships.</p>		<p>partnership between businesses and regulators across Devon and Somerset to promote economic prosperity, whilst maintaining public protection. This document will ensure that the Regulator will work in accordance with the BBfA principles. In doing so the Authority will create an environment and culture which will support our local businesses by making the activity that is being regulated easy to access, simple and clear to understand, whilst ensuring public protection.</p> <p>1.2 The Council will listen to business needs and act in an open and transparent way to help shape the way support is provided, this will be done following business consultations and throughout service use.</p> <p>1.3 Better Business for All is business-focused, using business-led improvements to create better regulation, support business growth and create a level playing field for businesses. In order to achieve this the Policy will be implemented in a consistent manner with competent enforcement staff who are working with the right attitudes and behaviours for the benefit of our Communities.</p>
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## Report Template

Report to: **Planning and Licensing Committee**

Date: **10 November 2015**

Title: **Approval of the Park Homes Fees and Charges Policy**

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken:  
(e.g. referral on of recommendation or implementation of substantive decision)

Author: **James Kershaw** Role: **Senior Specialist Environmental Health**

Contact: **01803 861287 / james.kershaw@swdevon.gov.uk**

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### **Recommendations:**

1. That the Planning and Licensing Committee recommends to Council the adoption of the Park Homes Fees Policy and fees (attached at Appendix A)

### **1. Executive summary**

- 1) Under the Mobile Homes Act 2013 a Local Authority may reclaim the costs of licensing sites by setting a charge for licensing sites. In order to set charges the Local Authority must have published a fees policy.
- 2) The fee policy at Appendix A has been devised in accordance with the Department for Communities and Local Government guidance "Guide for Local Authorities on setting site licensing fees"

## Report Template

- 3) The report seeks that the Planning and Licensing Committee approve the adoption of the Fees Policy, and recommend that Fees and Charges be set in accordance with those laid out in the report. The funding raised will offset the cost of licensing the sites, ensuring that the service is sustainable into the future and safeguarding the quality of properties in line with the Council's Housing Priorities.
- 4) Fees must be set at such a level as to be cost neutral, i.e. there must be no profit made from these fees. The fees set out in the report have been estimated on the basis of time spent in the previous 12 months on licensing sites, and on the likely increased resource required due to the changes to the licensing regime. The fee is not allowed to include the cost of enforcing poorly performing sites, however a suggested recharge rate for enforcement has been included in the report.

## 2. Background

South Hams District Council and West Devon Borough Council ('the council/s) have powers under the Caravan Sites and Control of Development Act 1960 (the Act) as amended by the Mobile Homes Act 2013 (The 2013 Act) to issue licences in respect of 'relevant protected sites'. The 2013 Act was introduced in order to provide greater protection to the occupiers of residential caravans and mobile homes, it received royal assent on 26<sup>th</sup> March 2013.

These changes also include the ability for local authorities to charge site owners a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees.

All of the residential mobile home parks currently licensed by the Councils come under the new licensing regulations; these sites are referred to as 'relevant protected sites'. The following sites are exempted:

- Sites granted for holiday use only (these fall under separate licensing regime)
- Sites which have restrictions at certain times of the year (such as planning conditions)
- Sites owned by Local Authorities in the area they operate

The legislation allows the site owner to pass on each year to residents, through their annual 'pitch fees', the annual licence fee imposed by the Councils in the first year. Therefore in line with this policy the maximum that a site owner should be passing onto the site residents is £? /pitch.

Before the Councils can charge a fee they must prepare and publish a fees policy. When fixing a fee the Councils:

- Must act in accordance with their fees policy
- May fix different fees in different cases
- May determine that no fees are required in some circumstances.

Any fees charged must fairly cover the costs (or part of the costs) incurred by the Councils under its functions in Part 1 of the Act, other than the costs of enforcement action. They must be reasonable and transparent and whilst different fees can apply to different types of cases, there must be consistency in the fee structure and its application.

## Report Template

### 3. Outcomes/outputs

3.1 The Mobile Homes Act 2013 section 1 allows a Local Authority to set a fee for an application for a site licence for a relevant protected site, and also to charge an annual fee to cover the costs of the licensing regime.

3.2 The legislation also allows the council to exempt certain sites from being charged for a licence. The policy seeks to exempt single unit sites, and also Gypsy and Traveller sites due to the level of involvement we have had with these sites and the strategic housing importance they meet.

### 4. Options available and consideration of risk

- 1) As we have to licence sites we only have two options:-
  - a) Provide licences free of charge, whilst we would not need to adopt a fees policy the cost burden of licensing would fall on the taxpayers of the Council.
  - b) Introduce a charge for licensing of sites which aims to recover the costs of licensing the site without making a profit/loss.
- 2) At the end of the 2016 financial year a surplus/deficit report will be produced to demonstrate the cost of running the service and whether this has been met or not by licensing fees recovered.
- 3) There is a small risk that by introducing charges we will have an increased workload as a Council to recover the costs of non-payment of fees.
- 4) Also by introducing a charge there will be an expectation from licensees that they will get a better service.

### 5. Proposed Way Forward

- 1) That the Planning and Licensing Committee recommend to Full Council that the proposed fees should be brought into force in time for the 2016 financial year.

### 6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Section 1 of the Mobile Homes Act 2013, states that a Local Authority may introduce a charging scheme for the licensing of sites and for charging an annual fee. Before charging a local authority must produce a fees and charging policy in accordance with Section 10A of the Act.

## Report Template

Financial	Y	Any fees charged must fairly cover the costs (or part of the costs) incurred by the Councils, therefore there will be no profit made from these fees.
Risk	Y	Failure to have a Park Homes Fees Policy in accordance with section 10A will mean that the Council cannot recover the costs of licensing the sites.
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	When writing the policy the Council has considered the impact on any particular communities. Due to the potential impact on the Gypsy and Traveller community the policy seeks to exempt them from charging.
Safeguarding		None known.
Community Safety, Crime and Disorder		None known
Health, Safety and Wellbeing		None known
Other implications		None known

### **Supporting Information**

#### **Appendices:**

Appendix A: Park Homes Fees Policy

#### **Background Papers:**

#### **Mobile Homes Act 2013**

**The Mobile Homes Act 2013: A Guide for Local Authorities on setting site licensing fees**

#### **Approval and clearance of report**

<b>Process checklist</b>	<b>Completed</b>
Portfolio Holder briefed	<b>Yes/No</b>
SLT Rep briefed	<b>Yes</b>
Relevant Exec Director sign off (draft)	<b>Yes/No</b>
Data protection issues considered	<b>Yes</b>
If exempt information, public (part 1) report also drafted. (Committee/Scrutiny)	<b>Yes/No</b>



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# Park Homes Fees Policy

1<sup>st</sup> April 2016

# **Mobile Homes Act 2013**

## JOINT FEES POLICY – APRIL 2016

### INTRODUCTION

South Hams District Council and West Devon Borough Council ('the council/s) have powers under the Caravan Sites and Control of Development Act 1960 (the Act) as amended by the Mobile Homes Act 2013 (The 2013 Act) to issue licences in respect of 'relevant protected sites'. The 2013 Act was introduced in order to provide greater protection to the occupiers of residential caravans and mobile homes, it received royal assent on 26<sup>th</sup> March 2013.

These changes also include the ability of for local authorities to charge site owners a fee for applying for a site licence, for amendments or transfers of existing licences, and for annual fees.

All of the residential mobile home parks currently licensed by the Councils come under the new licensing regulations; these sites are referred to as 'relevant protected sites'. The following sites are exempted:

- Sites granted for holiday use only (these fall under separate licensing regime)
- Sites which have restrictions at certain times of the year (such as planning conditions)
- Sites owned by Local Authorities in the area they operate

The legislation allows the site owner to pass on each year to residents, through their annual 'pitch fees', the annual licence fee imposed by the Councils in the first year. Therefore as the Councils did not charge a fee in the first year of the legislation there will be no ability for the site owners to pass this charge onto the residents.

Before the Councils can charge a fee they must prepare and publish a fees policy. When fixing a fee the Councils:

- Must act in accordance with their fees policy
- May fix different fees in different cases
- May determine that no fees are required in some circumstances.

Any fees charged must fairly cover the costs (or part of the costs) incurred by the Councils under its functions in Part 1 of the Act, other than the costs of enforcement action. They must be reasonable and transparent and whilst different fees can apply to different types of cases, there must be consistency in the fee structure and its application.

## PROPOSED FEES

When setting the fee the Councils has adhered to the DCLG “Guide for Local Authorities on setting site licensing fees” published in March 2014 in determining the fees structure to calculate the fees. The document can be viewed by following the link below: -

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/285926/140227\\_A\\_guide\\_for\\_Local\\_Authorities\\_on\\_setting\\_site\\_licensing\\_fees.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/285926/140227_A_guide_for_Local_Authorities_on_setting_site_licensing_fees.pdf)

In setting the level of application fee in this fees policy the Council has taken into account the following matters on which costs are incurred (by whichever department, including costs incurred by contracting out):

- Sending out and processing the application (including dealing with the initial inquiry)
- Site inspections
- Third party consultation
- Consultation with the site owner
- Preparing draft licences (with altered conditions);
- Review by manager or lawyers;
- Review any consultation responses from third parties;
- Notification of decision (including where appropriate the update final licence) and
- Where appropriate up-date of register

When setting the fees there are certain aspects that cannot be included in the charge, and a Council cannot make a profit from the licensing function.

The fees associated with applying initially for a new site licence, for transfers/standard amendments of existing licences, site expansion amendments, for annual fees and for providing replacement licences are to be set initially as follows:

- Annual Fee = £13 per pitch with a minimum of 5 pitches i.e. £65
- Transfer of Licence Fee = £100
- Standard Amendment Fee = £200
- Site Expansion Amendment Fee = Standard Amendment Fee + £10 per pitch.
- Initial Licence Fee = £200 for a 5 pitch site + £10 per pitch thereafter
- Replacement of lost copy of a licence = £10.50

The 2013 Act introduced the ability of the Councils to charge for the service of enforcement notices and to carry out works in default to remedy breaches of site licence conditions from 1<sup>st</sup> April 2014. The fee for Housing Act 2004 enforcement notices is based on the hourly rate plus on-costs of the relevant enforcing office, due to the similarity of the two pieces of legislation the two fees will be comparable, as such the fee is £38.50/hour.

The Councils have already set a fee for depositing site rules with the local authorities, this was set in 2014 and will remain the same at £75.

## EXEMPTION FROM CHARGES

It was important to recognise that certain licensable sites play an important part in aiding to meet our Locally Assessed Housing Need, especially in relation to our provision for Gypsy and Traveller sites, as such discretion has been granted to the Community of Practice Lead for Environmental Health to waiver fees where they feel there is sufficient evidence that the site is being run as a Gypsy Roma and Traveller Site.

Also it was felt that single pitch site should be exempt from annual fees (but not other licensing fees) as these lower risk sites are less onerous to inspect and collecting annual fees from them would not be cost effective.

## FEE PAYMENT

The Councils are not required to consider an application for the grant of licence, a transfer of a licence or an application to alter conditions unless that application is accompanied by the correct fee.

If the Council decide not to approve the application the applicant is not entitled to a refund of the fee paid.

When demanding the annual fee the Council will:

- Give reasonable time in which the fee is to be paid (which will be 21 days);
- State the date by which the fee will be due (which will be 1<sup>st</sup> June each year) and;

The Council will not increase the fee payable to take account of any arrear in payment and instead will follow the procedure set out below to recover arrears;

- (i) Where a fee is overdue the Council may apply to a tribunal for an order requiring its payment. The order must specify when the fee must be paid by.
- (ii) If the fee is not paid by that date the Council may enforce the order in the County Court in the same way as judgment of that court can be enforced.
- (iii) If after a period of three months following the date specified in the order the arrears have still not been paid the Council may apply to a tribunal for an order revoking the site licence.

## REVIEW OF FEES

When determining future fees the Council will be minded of any surpluses or deficits from licensing the sites in the previous year. If it is found that the licence fee is unfairly benefitting or harming types of sites then the policy will be reviewed and consideration will be given to developing a risk based approach to fee setting and an accreditation scheme to decrease fees chargeable in line with current government guidance.

The policy will also be amended if additional costs are required by the Councils in delivering the service when determining the fitness and appropriateness of the site owner (national policy yet to be devised.)

**Summary of New / Variation of premises licences and club premises certificates issued between 1<sup>st</sup> October 2014 to 30<sup>th</sup> September 2015**

**Licensing Act 2003 / Gambling Act 2005**

<b>Date received</b>	<b>Name of premises</b>	<b>Type of application</b>	<b>Outcome</b>
02.10.2014	Sticklepath Fireshow, Sticklepath	Minor variation	Granted by officer
20.10.2014	Northlew Victory Hall, Northlew	Minor variation	Granted by officer
22.01.2015	Lydford Gorge, Lydford	New	Granted by officer
12.02.2015	Lidl, Okehampton	Minor variation	Granted by officer
26.02.2015	The Queen's Head, Tavistock	New	Full hearing – granted with amendments by sub-committee
26.02.2015	The White Hart, Okehampton	New	Granted by officer
07.04.2015	Bere Fest, Bere Alston	New	Full hearing – granted with amendments by sub-committee
13.05.2015	Drake's Cafe, Grenofen	Minor variation	Granted by officer
19.06.2015	Co-op, Yelverton	Minor variation	Granted by officer
22.06.2015	Whitchurch Village Stores, Tavistock	Minor variation	Granted by officer
25.06.2015	The Queen's Head, Tavistock	Minor variation	Mediated – approved by officer
16.06.2015	Alder Farm, Lewdown	New	Granted by officer
25.06.2015	Tesco, Tavistock	New	Granted by officer

**Issue of licences/Amendments under Licensing Act 2003, Gambling Act 2005 and The Local Government (miscellaneous provisions) Act 1982 in the period 1<sup>st</sup> October 2014 to 30<sup>th</sup> September 2015**

<b>Transfer of premises licence and change of designated premises supervisor</b>	35	Issued by officer
<b>Personal Licences</b>		
New	78	Issued by officer
<b>Temporary Event Notices</b>	185	Acknowledged by officer

**Gambling Act 2005**

<b>Category C &amp; D Machines</b>		
New	3	Issued by officer
<b>Small Society Lotteries (New)</b>	7	Issued by officer
<b>Occasional Use Notice</b>	2	Issued by officer
<b>Licensed Premises Gaming Machine Permit</b>	1	Issued by officer

## **The Local Government Miscellaneous Provisions Act 1982**

<b>Joint Hackney and Private Hire Drivers</b>	94	Issued by officer
<b>Hackney Carriage – currently licensed</b>		
Vehicles	62	Issued by officer
<b>Private Hire – currently licensed</b>		
Vehicles	14	Issued by officer
Operators	3	Issued by officer

## **Miscellaneous Licensing**

Animal Boarding Licence (New and Renewal)	20	Issued by officer
Pet Shop Licences (New and Renewal)	3	Issued by officer
Riding Establishments (New and Renewal)	3	Issued by officer
Skin Piercing (New)	2	Issued by officer
Scrap Metal Dealer Site (New)	0	Issued by officer
Scrap Metal Dealer Mobile Collector (New)	0	Issued by officer

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