

West Devon Development Management and Licensing Committee



West Devon
Borough
Council

Title:	Agenda								
Date:	Tuesday, 13th November, 2018								
Time:	10.00 am								
Venue:	Chamber - Kilworthy Park								
Full Members:	<p>Chairman Cllr Sanders</p> <p>Vice Chairman Cllr Roberts</p> <p><i>Members:</i></p> <table> <tr> <td>Cllr Baldwin</td><td>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 Yelland</td></tr> </table>	Cllr Baldwin	Cllr Moyse	Cllr Cann OBE	Cllr Parker	Cllr Hockridge	Cllr Pearce	Cllr Mott	Cllr Yelland
Cllr Baldwin	Cllr Moyse								
Cllr Cann OBE	Cllr Parker								
Cllr Hockridge	Cllr Pearce								
Cllr Mott	Cllr Yelland								
Interests – Declaration and Restriction on Participation:	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.								
Committee administrator:	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 16 October 2018 **1 - 12**

Meeting held on 16 October 2018

Licensing Sub Committee Meeting held 27 June 2018

Licensing Sub Committee Meeting held 18 July 2018

Licensing Sub Committee Meeting held 18 July 2018 (Premises Licence)

5. Gambling Consultation Report **13 - 82**

6. Planning Performance Indicators **83 - 86**

7. Planning Scheme of Delegation **87 - 96**

Agenda Item 4

At a Meeting of the **DEVELOPMENT MANAGEMENT & LICENSING COMMITTEE** held at the Council Chamber, Council Offices, Kilworthy Park, Drake Road, **TAVISTOCK** on **TUESDAY** the **16th** day of **OCTOBER 2018** at **10.00am**

Present: Cllr P R Sanders – Chairman
Cllr A Roberts – Vice Chairman

Cllr R E Baldwin	Cllr W G Cann OBE
Cllr L J G Hockridge	Cllr B Lamb
Cllr J McInnes	Cllr C Mott
Cllr T G Pearce	Cllr J Yelland

COP Lead Development Management (PW)
Planning Specialists (CS, MJ, JH)
DCC Highways Officer (PT)
Solicitor (BF)
Specialist Democratic Services (KT)

***DM&L 17 APOLOGIES FOR ABSENCE**

Apologies for absence were received from Cllr D E Moyse for whom Cllr J McInnes substituted and Cllr G Parker for whom Cllr B Lamb substituted.

***DM&L 18 DECLARATION OF INTEREST**

Members were invited to declare any interests in the items of business to be considered and the following were made:

Cllr J Yelland declared a Personal Interest in application **1635/18/OPA**: Outline application (with all matters reserved) for erection of 2no. dwellings – Biddicombe, Park Road, Hatherleigh, by virtue of having received correspondence from one of the objectors and she remained in the meeting and took part in the debate and vote thereon;

Cllr T G Pearce declared a personal interest in all applications by virtue of being a Member of the Devon Building Control Partnership. He remained in the meeting and took part in the debate and vote on the item.

***DM&L 19 URGENT BUSINESS**

The Chairman advised that application **2701/18/FUL**: Development of new farm shop and ancillary café with supporting secondary areas consisting of storage, WCs, offices and kitchen space (resubmission of 1255/18/FUL) – Land North of A30 Junction, Whiddon Down Drewsteignton, was deferred from the agenda and would be presented to a later Committee meeting.

***DM&L 20 CONFIRMATION OF MINUTES**

The Minutes of the Development Management and Licensing Committee Meeting held on 18 September 2018 were confirmed and signed by the Chairman as a correct record.

***DM&L 21 PLANNING, LISTED BUILDING, TREE PRESERVATION ORDER AND ENFORCEMENT REPORTS**

The Committee considered the applications prepared by the Development Management Specialists 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:**

(a) Application No: 4168/17/FUL Ward: Drewsteignton

Site Address: Skywood, Spreyton, Crediton EX17 5AF

Retention of existing building, retrospective application for hedge removal and replacement to north of barn to be retained

Case Officer Update: None

Speakers included: Objector - Dr Sarah Barker: local Ward Member – Cllr Ridgers

RECOMMENDATION: Conditional Approval

During discussion on this application, Members raised a number of questions regarding the need for an agricultural building of this size on this site. The Council had appointed an agricultural consultant to assess the application, who was in attendance at the meeting. He confirmed that a desktop exercise had been undertaken and that an agricultural building of this size was commensurate with the size of the holding. However, following the site inspection undertaken by Members, a number felt that the size of the building was not appropriate, did not feel that the proposals set out within the application could be undertaken on this site in view of the different landscape areas within the site, and noted the absence of any agricultural and forestry use on site. Members also raised concerns over the proximity of the barn to the neighbour's amenity area and were of the view that the forestry use within the barn would cause excessive noise nuisance and be detrimental to the neighbour's amenity.

COMMITTEE DECISION: Refusal

Reasons:

Agricultural and forestry need not demonstrated, detrimental impact on neighbour's amenity

At the conclusion of discussion on this proposal, the COP Lead DM advised that as the application was retrospective and had now been refused, it would be referred to the Enforcement Team for action.

(b) Application No: 1635/18/FUL Ward: Hatherleigh

Site Address: Biddicombe, Park Road, Hatherleigh

Outline application (with all matters reserved) for erection of 2no. dwellings

Case Officer Update: The Town Council had requested a condition that an archaeologist 'watching brief' be in place throughout the moving of the ancient hedgerow however officers did not feel this was necessary; one late letter had been received and the points raised would be covered as part of the presentation

Speakers included: Objector - Dr Sam Walters: Supporter Mr Ian Little: local Ward Member – Cllr McInnes

RECOMMENDATION: Delegate to CoP Lead Development Management, in conjunction with Chairman, to conditionally grant planning permission, subject to a Section 106 legal obligation

During discussion, and notwithstanding the presentation by the Planning Officer, the participating Ward Member suggested a site inspection take place so that Members could assess the proposal. A site inspection was **PROPOSED, SECONDED** and on being put to the vote declared **LOST**.

COMMITTEE DECISION: Delegate to CoP Lead Development Management, in conjunction with Chairman, to conditionally grant planning permission, subject to a Section 106 legal obligation

Conditions:

1. Time (reserved matters)
2. Submission of reserved matters
3. Accords with plans
4. Materials samples prior to installation
5. No dwelling to be occupied until highway, footway and associated infrastructure has been laid out
6. Pre-commencement – detailed design of surface and foul water management system to be agreed
7. Removal of PD rights
8. Unsuspected contamination
9. Landscape and Ecology Management Plan to be agreed
10. Accord with recommendations of ecological report
11. Construction Environment Management Plan prior to commencement

(c) Application No: 1326/17/FUL Ward: Okehampton North

Site Address: Lower Eastwood Farm, Okehampton

Single eco-dwelling to replace 2No. residential dwelling houses given prior approval under LPA Ref: 00954/2015

Case Officer Update: None

Speakers included: Supporter – Mr Martin Lee: Parish Council representative – Cllr David Sykes: local Ward Member – Cllr Leech

RECOMMENDATION: Conditional Approval

During discussion, and notwithstanding the presentation by the Planning Officer, one Member suggested a site inspection take place so that Members could assess the proposal. A site inspection was **PROPOSED, SECONDED** and on being put to the vote declared **LOST**.

COMMITTEE DECISION: Conditional Approval

Conditions:

1. Time
2. Accord with Plans
3. Accord with materials schedule
4. Accord with landscaping plan
5. Removal of existing buildings prior to occupation
6. Drainage details prior to commencement
7. Removal of Permitted Development Rights
8. No external lighting unless otherwise agreed
9. Unsuspected contamination

(d) Application No: 1923/18/FUL Ward: Buckland Monachorum

Site Address: Land south of Whistley Down, Crapstone, Yelverton

Provision of an American Barn for equestrian use

Case Officer Update: None

Speakers included: Supporter – Mrs Amanda Burden: local Ward Member – Cllr Sanders

RECOMMENDATION: Conditional Approval

During discussion, Members queried the wording of Condition 3 and whether 'DIY Livery' would be permitted. Following some debate, Members agreed that the wording should be amended for clarity, to ensure use was restricted only to the landowner or a tenant. Following a request, it was also agreed that a condition be added that the building be removed if not in equestrian use for a continuous period of 12 months.

COMMITTEE DECISION: Conditional Approval

Conditions:

1. Time
2. Accord with Plans
3. Use for private equestrian
4. Landscape plan prior to first

5. No external lighting unless otherwise agreed
6. Removal of building if not in equestrian use for a continuous period of 12 months

(e) Application No: 2336/18/FUL Ward: Buckland Monachorum

Site Address: Land adjacent to Tyller Tythy, Crapstone, Yelverton

Erection of two storey dwelling

Case Officer Update: None

Speakers included: Objector – Dr Rachel Perry: Supporter – Mr Ken Farnham: local Ward Member – Cllr Sanders

RECOMMENDATION: Conditional Approval

COMMITTEE DECISION: Conditional Approval

Conditions:

1. Time limit
2. Accord with Plans
3. Samples of materials
4. Remove PD rights
5. Landscaping condition to retain existing landscaping and reinforce, but have consideration of the neighbours garden
6. Unsuspected contamination

***DM&L 22 PLANNING APPEALS UPDATE**

The Committee received and noted the updated list of Planning Appeals including Enforcement Appeals.

(The Meeting terminated at 1.30 pm)

Chairman

This page is intentionally left blank

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD
AT THE COUNCIL CHAMBER, COUNCIL OFFICES, KILWORTHY PARK, DRAKE
ROAD, TAVISTOCK ON WEDNESDAY 27 JUNE 2018 at 10.00 am**

Present: Cllr B Lamb
Cllr D Moyse
Cllr T Pearce
Cllr A Roberts
Cllr P R Sanders
Becky Fowlds, Deputy Monitoring Officer
Naomi Stacey, Specialist, Licensing
James Kershaw, Senior Specialist, Environmental Health
Kathy Hoare, Senior Case Manager, Democratic Services

Also in attendance and participating:

Applicants

*** LSC 1 APPOINTMENT OF CHAIRMAN**

RESOLVED

That Cllr Sanders be appointed Chairman for the duration of the meeting.

*** LSC 2 DECLARATIONS OF INTEREST**

The Chairman invited Members to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

*** LSC 3 EXCLUSION OF PUBLIC AND PRESS**

RESOLVED

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting on the grounds that exempt information is likely to be disclosed as defined in Paragraph 1 of Schedule 12(A) to the Act."

*** LSC 4 TO DETERMINE WHETHER TO GRANT TWO AND RENEW TWO HACKNEY CARRIAGE VEHICLE LICENCES, WHERE THE VEHICLES ARE CONTRARY TO THE COUNCIL'S ADOPTED POLICY**

The Sub Committee considered an exempt report that sought to determine an application to grant two and renew two hackney carriage licences, where the vehicles were contrary to the council's adopted policy.

Officers proceeded to present the application and the contents of the agenda report.

In their conclusion, officers reminded the Sub-Committee that the application had to be judged against the Council's adopted policy and that public safety was paramount.

Address by the Applicants

Following their address Members proceeded to ask questions of the applicants and further clarity was sought on the application forms and some of the explanations given by them.

When questioned, the Deputy Monitoring Officer confirmed that, should the Sub-Committee be minded to approve the application, it could do so as long as proof was provided as to why this decision had been reached. In addition, Members were informed that there was no set national standard and the contents of the policy varied across different local authorities.

(At 11.45 am (once all parties were satisfied that they had no further issues or questions to raise), the Sub-Committee adjourned in the presence of the Deputy Monitoring Officer to consider the application. The Sub-Committee was reconvened at 13.05 pm and the Chairman announced the decision.)

It was then:

RESOLVED

That the Sub-Committee has considered very carefully the application and has decided to refuse the application.

Chairman

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD
AT THE COUNCIL CHAMBER, COUNCIL OFFICES, KILWORTHY PARK,
DRAKE ROAD, TAVISTOCK ON WEDNESDAY 18 JULY 2018**

Present: Cllr R E Baldwin
Cllr C Edmonds
Cllr D E Moyse
Cllr T G Pearce
Cllr P R Sanders
Sue Nightingale, Deputy Monitoring Officer
James Kershaw, Senior Specialist – Environmental Health
Naomi Stacey, Specialist – Licensing
Kathy Hoare, Senior Case Manager – Democratic Services

Also in attendance and participating:

Applicant and Supporter

*** LSC 5 APPOINTMENT OF CHAIRMAN**

RESOLVED

That Cllr Sanders be appointed Chairman for the duration of the meeting.

*** LSC 6 DECLARATIONS OF INTEREST**

The Chairman invited Members to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

*** LSC 7 EXCLUSION OF PUBLIC AND PRESS**

RESOLVED

That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting on the grounds that exempt information is likely to be disclosed as defined in Paragraph 1 of Schedule 12(A) to the Act."

* LSC 8

TO DETERMINE WHETHER TO GRANT A HACKNEY CARRIAGE DRIVER LICENCE, IN EFFECT TO DETERMINE WHETHER THE APPLICANT CAN BE DEEMED A 'FIT AND PROPER PERSON' IN LIGHT OF PREVIOUS CRIMINAL CONVICTIONS AND OTHER RELEVANT MOTORING OFFENCES

The Sub Committee considered an exempt report that sought to determine an application to determine whether to grant a Hackney Carriage Driver Licence, in effect to determine whether the applicant could be deemed a 'fit and proper person'

The Chairman read out the order of the process to determine the application.

The Licensing Officer proceeded to present the application and the content of the report.

At 10.50am (once all parties were content that they had no further issues and/or questions to raise), the Sub-Committee adjourned in the presence of the Deputy Monitoring Officer to consider the application. The Sub-Committee then reconvened at 11.30 am and the Chairman announced the decision.)

It was then:

RESOLVED

That the Sub-Committee has considered very carefully the application for a Hackney Carriage and Private Hire Driver Licence and has decided to refuse the application

Chairman

**MINUTES OF A MEETING OF THE LICENSING SUB-COMMITTEE HELD
AT THE COUNCIL CHAMBER, COUNCIL OFFICES, KILWORTHY PARK,
DRAKE ROAD, TAVISTOCK ON WEDNESDAY 18 JULY 2018**

Present: Cllr D E Moyse
Cllr T G Pearce
Cllr P R Sanders
Sue Nightingale, Deputy Monitoring Officer
Naomi Stacey, Specialist – Licensing
James Kershaw, Senior Specialist – Environmental Health
Kathy Hoare, Senior Case Manager, Democratic Services

Also in attendance and participating:

Miss Melinda Brown (Applicant)

*** LSC 9 APPOINTMENT OF CHAIRMAN**

RESOLVED

That Cllr Sanders be appointed Chairman for the duration of the meeting.

*** LSC 10 DECLARATIONS OF INTEREST**

The Chairman invited Members to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

*** LSC 11 TO DETERMINE AN APPLICATION FOR A NEW PREMISES LICENCE AT
30 BROOK STREET, TAVISTOCK PL19 0HE TO BE KNOWN AS ‘TAP
T’INN’**

The Sub Committee considered a report that sought to determine an application for a new premises licence at 30 Brook Street, Tavistock PL19 0HE to be known as ‘Tap T’Inn’.

In his introduction, the Chairman read out the order of the process to be followed at this meeting. The Licensing Officer proceeded to present the application and the content of the report. She explained that this was an application for a premises license and, if granted, the applicant would still need to obtain planning permission.

When questioned, it was confirmed that no objections had been received to the application from the Police.

Address by the Applicant:

Miss Brown presented her application to the Sub Committee, stating that the Fire Service had raised no concerns.

Whilst the maximum number that the establishment would hold would be 60, Miss Brown felt that 30 would in fact be a more realistic number.

Miss Brown informed of the intention for quality locally made beer at £3 per bottle to be sold at the establishment. As a result, she envisaged her clientele drinking a lower volume over the course of an evening.

The business did not intend to serve food and Miss Brown stated that there would not be a jukebox sited on the premises. Finally, Miss Brown gave assurances that there would be an established on-site designated smoking area.

Members proceeded to ask questions of clarity of Miss Brown.

At 12 noon (once all parties were content that they had no further issues and/or questions to raise), the Sub-Committee adjourned in the presence of the Deputy Monitoring Officer to consider the application. The Sub-Committee then reconvened at 12.20 pm and the Chairman announced the decision.)

The Decision

The Chairman read out the following statement:

“We have considered the application for a new premises licence.

We have considered the Statement of Licensing Policy, the government guidance and our obligations that relate to the promotion of the licensing objectives.

We have read carefully the written representations from all parties and additional information given to us today.

It is our decision to grant this application as we are satisfied that the proposals are in line with the four licensing objectives.

Thank you all.”

Chairman

Agenda Item 5

Report to: **Development Management and Licensing Committee**

Date: **13 November 2018**

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

Portfolio Area: **Customer First**

Wards Affected: **All**

Relevant Scrutiny Committee:

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

Date next steps can be taken: **Full Council on 4 December 2018 – see below recommendation**

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

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

Recommendations:

1. That the Development Management and Licensing Committee considers the draft Statement of Principles (**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 Statement of Principles, as amended, is adopted at the meeting on 4 December 2018 for the period 31 January 2019 to 30 January 2022.

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 November 2006. This fifth review of the Policy must be adopted in advance of January 2019.
- 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 10 August to 5 October.
- 1.4 A summary of the changes from the current version (2016-2019), is provided at **Appendix C**.
- 1.5 The current Statement of Principles for 2016-2019 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 2019-2022 Statement, attached at **Appendix A**.

2. Background

- 2.1 Not all gambling is dealt with by Borough 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.

Borough 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 5th Edition, issued 2015.
- 2.5 At this Committee meeting, Members will have a final opportunity to make any further amendments before a recommendation seeking approval is considered by the Council at its meeting on 4 December 2018.

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 Development Management and Licensing Committee.
- 3.3 The following timetable is proposed in respect of the consultation and adoption of the Statement of Principles:

Action	Date
Draft Statement of Principles published and distributed for consultation.	10 August 2018
Consultation concludes	5 October 2018
Development Management and Licensing Committee approval of revised Statement of Principles and agrees to recommend to Council for adoption	13 November 2018
Revised Statement of Principles approved by Council	4 December 2018
Statement of Principles published (at the latest)	3 January 2019
Statement of Principles comes into effect	31 January 2019

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 of the draft policy was undertaken between 10 August and 5 October 2018. See **Appendix B** for full list of those consulted. Following meeting of the Development Management and Licensing Committee on 13 November 2018, on track for adoption of Statement of Principles at Council meeting on 4 December 2018.

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 4 December 2018 for the period 31 January 2019 to 30 January 2022.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
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">• In England and Wales, the chief officer of police for the authority's area;• 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 Act.

		<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"> • A local newspaper circulating in the area covered by the statement; • A local newsletter, circular, or similar document circulating in the area covered by the statement; • A public notice board in or near the principal office of the authority; • A public notice board on the premises of public libraries in the area covered by the statement. <p>Legislation requires the Statement to take effect from 31 January 2019, 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 (5th edition)
- Gambling Commission Licence Conditions and Codes of Practice (LCCP)
- West Devon Borough Council's Gambling Statement of Principles, which expires January 2019
- Consultation responses
- Tackling Gambling Related Harm – A Whole Council Approach, Local Government Association (LGA) in conjunction with Public Health England, July 2018.
- Gambling-related Harm as a Public Health Issue – Briefing paper for Local Authorities and local Public Health providers February 2018.
- Devon JSNA Community Profile 2017, Public Health Devon.

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



**West Devon
Borough
Council**

Statement of Principles

Under the Gambling Act 2005

**FOR THE PERIOD OF 31st JANUARY 2019 TO
30th JANUARY 2022**

If you or someone you know would like this publication in a different format, such as larger print or a language other than English, please email:

licensing@swdevon.gov.uk

Table of Contents

	Item	Page
	Part A	
1	Licensing Objectives	3
2	Introduction	3
3	Description of the Licensing Authority Area	4
4	Review of Statement of Principles	6
5	Declaration	7
6	The Overriding Principle	7
7	Relationship with other Legislation	7
8	Responsible Authorities	8
9	Interested Parties	8
10	Exchange of Information	9
11	Enforcement	9
12	Licensing Authority Functions	10
13	The Licensing Process	11
14	General Principles where Gaming Machines are provided	11
15	Children and Vulnerable Persons	12
	Part B – Premises Licences	
1	General Principles	14
2	Adult Gaming Centres	22
3	(Licensed) Family Entertainment Centres	23
4	Casinos	24
5	Bingo Premises	24
6	Betting Premises	25
7	Tracks	26
8	Travelling Fairs	28
9	Provisional Statements	28
10	Reviews	29
	Part C – Permits/Temporary & Occasional Use Notices	
1	Unlicensed Family Entertainment Centre Gaming Machine Permits	31
2	(Alcohol) Licensed Premises Gaming Machine Permits	35
3	Prize Gaming Permits	36
4	Club Gaming & Club Machine Permits	40
5	Temporary Use Notices	42
6	Occasional Use Notices	42
7	Licensed Vessels	43
8	Lotteries	43
	Appendix A - Responsible Authorities	45
	Appendix B – Licensing Authority Delegations	48
	Appendix C - Safeguarding Children and Vulnerable Adults	49

STATEMENT OF PRINCIPLES

Text in the shaded boxes within this Statement of Principles are advisory only and 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 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 notes the Gambling Commission's Guidance 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.

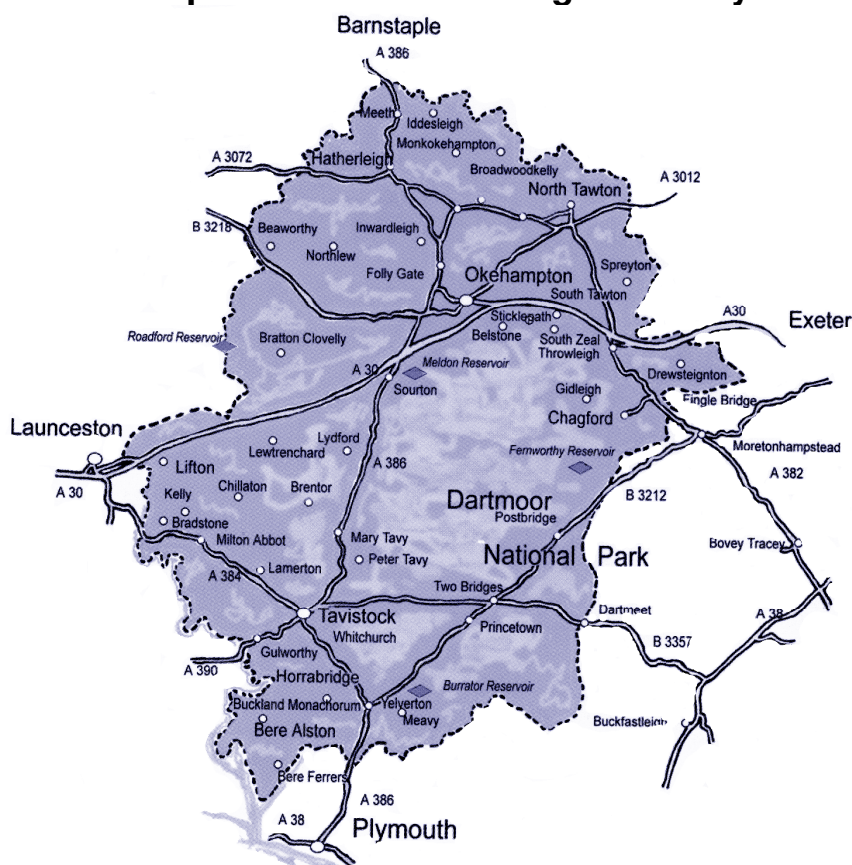
- 2.1 This Statement of Licensing Principles is written pursuant to the provisions of the Act and the Guidance issued under s.25 of the Act by the Gambling Commission.
- 2.2 All references to 'the Guidance' refer to the Gambling Commission Guidance to licensing authorities 5th Edition published in September 2015 and last updated in September 2016.
- 2.3 The Statement takes effect on 31 January 2019.

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

Should you have any comments to make regarding this Statement, please write to us at the above address or email licensing@westdevon.gov.uk

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, however, the median gross income in 2017 for those working in the Borough is £16,458 which is significantly lower than the national median of £23,474
- 3.4 Despite its vast area, being largely rural in nature, in 2016 West Devon had a population of just 54,700, according to the Office of National Statistics. The largest towns are Tavistock and Okehampton, although nearly two thirds of the population of West Devon live outside of these two settlements.
- 3.5 The Borough has a higher proportion of older people (43% aged 65 years or older) than the national average (37%), with a small but steady outward migration of younger people.
- 3.6 At the time of preparing this Policy (June 2018), the Authority is responsible for 3 betting shops, located in the towns of Tavistock and Okehampton. West Devon currently has close to 300 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 “Council, Homes, Enterprise, Communities, Environment and Wellbeing.”

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 that is needed 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), which is part of the Department for Business, , Energy and Industrial Strategy (BEIS). The purpose is to build a local partnership between businesses and regulators across Devon and Somerset to promote economic prosperity, while maintaining public protection. This document will

make sure 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, while 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 consistently 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 then be 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 Children and Families Partnership
 - Devon County Council Social Services Department
 - Devon Health and Wellbeing Board
 - Gamble Aware
 - Gamblers Anonymous
 - Gambling Commission
 - GamCare
 - Local residents/businesses and their representatives via the Council website and associated press release
 - Mencap
 - MIND
 - NSPCC
 - Okehampton and District 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.
- 4.5 Should you have any comments regarding this Statement of Principles, please email licensing@swdevon.gov.uk

Our consultation took place between 10 August 2018 and 5 October 2018 and we followed the government's Consultation Principles 2018.

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;
 - have regard to the relevant guidance issued by the Gambling Commission;
 - be reasonably consistent with the licensing objectives; and
 - have regard to this Statement of Principles.
- 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..

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 Children and Families Partnership 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 will consult 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 Department: West Devon Borough Council, Kilworthy Park, Drake Road, Tavistock, PL19 0BZ. Tel: 01822 813600 or email licensing@swdevon.gov.uk

10 Exchange of Information

- 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, including the provision that the Data Protection Act 2018 and the General Data Protection Regulation (GDPR) will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

11 Enforcement

- 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; its own departmental Enforcement Policy and any Primary Authority partnership that may be in place.

- 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
 - The principles set out in this statement of licensing policy
 - Intelligence or complaints received
- 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.
- 11.6 Council officers will use the LLEP Local Authority Assessment Templates as a basis when conducting inspections at gambling premises. More information is available on the LLEP website: <http://www.llepbizgateway.co.uk/gambling-act-2005/> .

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, Energy and Industrial Strategy) 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

This Licensing Authority will not be involved in licensing remote gambling. That is 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 B.
- 13.6 Applicants for premises licences are required to copy their applications in full to the responsible authorities as listed in Appendix A.

14 General Principles where Gaming Machines are provided

- 14.1 Gaming machines may only be provided where an appropriate licence or permit has been granted. There are different categories of machine which determine the stakes and prizes, further details on the categories and entitlements can be found on the Gambling Commission's website here: <http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx>.

- 14.2 Where gaming machines are provided, we would expect the following principles to be applied:-
- The number and category of machines must adhere to the restrictions under the relevant licence or permit at that location. This will vary depending upon the authorisation that has been granted.
 - The classification (e.g. category C) must be clearly displayed on each machine.
 - Gaming machines must be located in areas with good visibility, such that members of staff are able to monitor their use effectively. The need for appropriate supervision of gambling facilities is included in the Licence Conditions and Code of Practice (LCCP)
 - The location of gaming machines must be marked on a scale plan accompanying application. You must be able to show how you have considered the risk to the licensing objectives and provide information on the controls that will be put in place, before introducing or re-locating gaming machines.
 - It may be necessary to apply for a premises licence variation if the layout of the premises and/or location of gaming machines changes. For the majority of gaming machine re-location requests a full premises licence variation application would not be required, but it would be expected that the licence holder would discuss their plans with the Licensing Authority prior to the changes being made. However, where the Licensing Authority has concerns about the re-location of gaming machines, a variation application would be deemed appropriate to allow consultation with all the responsible authorities.
 - A premises licence variation application will be required if intending to include privacy screens or pods around a gaming machine in licensed premises.

15 Children and Vulnerable Persons

- 15.1 To achieve the licensing objective of “protecting children and other vulnerable persons from being harmed or exploited by gambling”, the Licensing Authority expects all gambling licensed premises and premises with gambling permits to have policies in place to help safeguard children and vulnerable adults.
- 15.2 The Licensing Authority is working together with other agencies to help tackle issues surrounding safeguarding, particularly child sexual exploitation and trafficking. Further information for operators and their employees on the types of issues to be aware of and good practice in relation to safeguarding is at Appendix C.
- 15.3 Sometimes it is not easy to identify who the most vulnerable persons being harmed or exploited by gambling are. The Gambling Commission are raising awareness of the need for agencies to work together to help those that are most affected by problem gambling to hopefully reduce the negative impact.
- 15.4 Work carried out by Public Health authorities nationally has shown significant links between problem gambling and other issues, such as alcohol addiction, cigarette addiction, homelessness and other mental health illnesses. In addition, research shows that there are certain groups who are likely to be more vulnerable to gambling harm. Amongst the groups where the evidence base for vulnerability is strongest are the following:
- Ethnic groups
 - Youth
 - Low IQ
 - Substance abuse/misuse
 - Poor mental health

- 15.5 This Licensing Authority recognises the importance of the input of Public Health when developing their Statement of Licensing Principles and would welcome feedback from these agencies. The Licensing Authority will be seeking advice and evidence from the Public Health authority when developing its local area profile.
- 15.6 Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without exhibiting any signs of problematic behaviour. Currently 0.7% of the population are problem gamblers. While this may seem like a low figure, gambling related harm can have a severe negative impact on the individual involved, the impact of problem gambling also extends beyond individual gamblers themselves. A recent investigation published by Citizens Advice reported research suggesting that for every problem gambler there are on average between six to ten additional people who are directly affected by it. The potential impact can extend from those closed to the problem gambler (such as families and colleagues), whose physical, mental and emotional health and wellbeing may be severely affected, and in some cases impact across local communities (for example, where problem gambling is associated with crime or homelessness) and society as a whole (in terms of the costs that may be created by problem gambling).
- 15.7 Due to the wide-ranging and potentially damaging impact of problem gambling, it is vital that gambling operators have robust policies in place for identifying and protecting children and vulnerable persons from gambling related harm and exploitation. See Part B section 13.1 for further information on the Licensing Authority's expectations of local risk assessments. This Licensing Authority encourages operators to have information and links to appropriate accredited agencies for help and support available to customers, such as the National Problem Gambling Helpline and GamCare.

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 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 be able to 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 be possible to access the premises without going through another licensed premises or premises with a permit.
- In respect of separation of premises, as a minimum, this authority would expect tangible and evident means of separation, such as one or more of the following measures:
 - Wall(s)
 - Door(s)
 - Screen(s)
 - PIR alarms
- In addition, this authority would expect signage to be clearly displayed to show the separation of the premises. A rope or moveable line is not an acceptable means of separation.
- The form of separation used must be made clear on the relevant plan. It is preferable that there is an area separating the premises concerned, which the public may go to for purposes other than gambling, such as a café or street.
- Customers should be able to participate in the activity named on the premises licence, for example, bingo must be available at a licensed bingo premises.

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:

Type of premises	Access provisions
Casinos	<ul style="list-style-type: none"> • the principal access entrance to the premises must be from a ‘street’. • no entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons • no customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.
Adult Gaming Centre	<ul style="list-style-type: none"> • no customer must be able to access the premises directly from any other licensed gambling premises or one that is subject to a permit (eg uFEC).
Betting Shops	<ul style="list-style-type: none"> • access must be from a street or from another premises with a betting premises licence

	<ul style="list-style-type: none"> • 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.
Tracks	<ul style="list-style-type: none"> • no customer should be able to access the premises directly from: <ul style="list-style-type: none"> - a casino - an adult gaming centre
Bingo Premises	<ul style="list-style-type: none"> • no customer must be able to access the premises directly from: <ul style="list-style-type: none"> - a casino - an adult gaming centre - a betting premises, other than a track
Family Entertainment Centre	<ul style="list-style-type: none"> • No customer must be able to access the premises directly from: <ul style="list-style-type: none"> - a casino - an adult gaming centre - betting premises, other than a track

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. It is expected that issues relating to the location of a gambling premises will be addressed in the relevant local risk assessment. See section 1.13 for more information on our expectations for local risk assessments.

- 1.6.2 Where gambling premises are located in sensitive areas, e.g. near schools, this Licensing Authority will consider imposing restrictions on advertising gambling facilities on such premises where it is felt relevant and reasonably consistent with the Licensing Objectives.

1.7 **Planning:**

- 1.7.1 The Guidance states:

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

- 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:

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. 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. However, this does not preclude this being considered during periodic inspections at the premises. There is more of a role with regard 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 Regarding 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 In most cases the mandatory and default conditions are sufficient to ensure operation that is reasonably consistent with the licensing objectives. Additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives.
- 1.9.2 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.
- 1.9.3 Decisions about individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider using 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.
- 1.9.4 This Licensing Authority will also consider specific measures which may be needed 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.

1.9.5 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, for example, entertainment halls on holiday parks.

1.9.6 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.

1.9.7 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 commencing May 2015 and Codes of Practice (LCCP), 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 Social Responsibility 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 on the plans submitted 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) 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

- 1.13.2 Since April 2016, the Gambling Commission's Social Responsibility Code 10.1.1 has required 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 (not currently available).

1.13.3 Operators are required to carry out a local risk assessment when applying for a new licence. They must then review (and update as necessary) their local risk assessments:

- Annually
- 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. This includes changes to the interior layout of the premises, including re-location of gaming machines or introduction of privacy screens. In these circumstances a premises licence variation may also be necessary.

1.13.4 The 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. The risk assessment must be updated annually (or more frequently if appropriate). It must be kept on the premises to which it relates and be available for inspection by an authorised officer of the Licensing Authority or Gambling Commission.

Where premises consist of both an Adult Gaming Centre (AGC) and an unlicensed Family Entertainment Centre (uFEC), the Licensing Authority will expect the local risk assessment to be completed for the whole premises, not just the area under the AGC licence.

1.13.5 While 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
- 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. Particular consideration should be given to the proximity of gaming machines to the entrance to the premises.
- Specific types of gambling premises in the local area (e.g. seaside resorts typically have more arcades or FECs) and their density.

- Whether there are any facilities for sharing information between premises, in particular relating to safeguarding of children and vulnerable adults and preventing anti-social behaviour.
- 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, with particular regard to staffing levels at peak times, such as the summer season when the local population significantly increases.
- Staff training, including their role in the protection of children and vulnerable persons and the prevention and detection of crime.
- Staff roles and their engagement with other activities, including supervision of the premises.
- Issues of lone working and staff working closely with children.
- How the gambling facilities are presented and the risk of its appeal to children, including any advertising outside the premises.
- There is an expectation for premises to have specific policies in place in respect of safeguarding children and vulnerable adults (see Part A section 15) and in respect of the prevention of money laundering.

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 of 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, such as parks, bus stops, cafes and shops.
- 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.
- The proximity of residential care homes, hospitals, medical facilities, addiction clinics and any other place where vulnerable persons may congregate.
- The proximity of any area where large groups of people congregate.
- The proximity of banks, cash points, post offices and other gambling outlets.

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

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. See section 1.4.3 for more specific requirements.
- 2.3 There must be no direct entry from one adult gaming centre into another or any direct access to or from another licensed gambling premises or permitted area (e.g. uFEC). This Authority will have regard to any relevant guidance issued by the Gambling Commission in respect to such applications. Where an AGC is in the same premises as an uFEC, the Licensing Authority will expect a Local Risk Assessment of the entire premises, see Part B section 1.13 for more information.
- 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. All applications for an AGC licence must be accompanied by a scale plan which includes the location of gaming machines.
- 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 (see Part B section 1.4.3);
 - 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.
- 3.4 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.

- 3.5 As there are likely to be children present at an FEC, the Licensing Authority would expect robust policies in place in relation to safeguarding (see part A section 15 and Appendix C for more information).
- 3.6 All applications for an FEC licence must be accompanied by a scale plan which includes the location of gaming machines.

4 Casinos

Casino – Local Policy

- 4.1 The Council is not currently enabled by the Secretary of State (in accordance with regulations made under Section 175 of the Act) to grant a premises licence for a casino.

5 Bingo premises

- 5.1 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.
- 5.2 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.

5.3 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 (see Part B section 1.4.3);
- 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.

5.4 All applications for a Bingo Premises licence must be accompanied by a scale plan which includes the location of gaming machines.

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 prevent 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, 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. All applications for a Betting Premises licence must be accompanied by a scale plan which includes the location of gaming machines. A premises licence variation application will be required if intending to include privacy screens or pods around a gaming machine in licensed premises. See part A section 14 for more specific guidance on gaming machines.

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.
- 7.4.3 Some tracks will also hold an alcohol licence and as such they will be automatically entitled under Section 282 of the Act to two gaming machines of category C or D. This permission is activated by notifying the Licensing Authority and paying the required fee. If a track premises licence holder has both an alcohol licence and a pool betting operating licence, then they will be entitled to a total of six gaming machines (two via the alcohol licence and four via the operating licence).

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 prevent 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. The location of any gaming machines must also be clearly marked on the plan.
- 7.6.7 When considering applications for tracks, the Licensing Authority will take into consideration the Gambling Commission's Guidance <http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Part-20-Tracks.aspx> 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

- 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 is a requirement that the area covered by the permit must be wholly or mainly used for making gaming machines available for use (Section 238 Gambling Act 2005). Therefore, it will not be possible to grant a permit for an entire shopping centre or service station, for example. Where gambling facilities are provided as a supplementary activity to the main purpose of the premises, customers must be fully aware that they are making a choice to enter the area covered by the permit and adequate supervision must be provided at all times. No changes should be made to the layout or location of machines without submitting an updated plan to the Licensing Authority, see section 1.9.1 below for more information on plan requirements.
- 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 the Disclosure and Barring Service (DBS). Further information is available on their website: www.gov.uk/government/publications/basic-checks.
 - ☐ Where an applicant provides evidence that they have an Operating Licence and as a result have undergone rigorous checks by the Gambling Commission, then a criminal record disclosure check will not be required.
 - ☐ Where an applicant is a company or organisation and does not hold an Operating Licence, then the proposed Manager responsible for the day to day running of the premises will be required to produce a criminal record disclosure check dated within one calendar month of the date of the application being submitted to the Licensing Authority.
 - ☐ When a permit holder appoints a new manager responsible for the day to day running of the premises, that person will be required to produce a criminal record disclosure check dated within one calendar month of the appointment date.
 - ☐ 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
- ☐ Where an uFEC is in the same premises as an AGC, the Licensing Authority will expect a Local Risk Assessment of the entire premises, see Part B section 1.13 for more information.

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
- 1.10.2 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, including safeguarding and child sexual exploitation. Further information on these types of issues and the Licensing Authority's expectations is at Appendix C.
- 1.10.3 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' (or equivalent) 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.
- ☐ Designate at least one member of staff/management to take a lead on issues relating to safeguarding children and vulnerable people as a 'safeguarding co-ordinator'.

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

1.10.4 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** Although not a legal requirement, this Licensing Authority request that a plan showing the intended location and type of gaming machines is provided with the notification. This plan may take the form of an amendment to the plan attached to the Premises Licence issued under Licensing Act 2003. The applicant must ensure there are adequate measures in place to prevent children from accessing the Category C machines and good supervision in the area in which they are located.

2.3 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."

- 2.4** 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. These applications will ordinarily be dealt with by officers, however, in certain cases (such as applications for

large numbers of machines or where there are other concerns), applications may be referred to the Licensing Sub-Committee for determination.

- 2.5 Applicants should 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.
- 2.6 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.
- 2.7 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.
- 2.8 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
- 2.9 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. See the Gambling Commission website for more information:
<http://www.gamblingcommission.gov.uk/for-licensing-authorities/Licensing-authority-toolkit/Codes-of-practice.aspx> .

Applicants should be aware that only those premises which have a 'bar' (server) 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 will not automatically qualify for two machines.

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 protect 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 the Disclosure and Barring Service (DBS). Further information is available on their website: www.gov.uk/government/publications/basic-checks.
- ☐ 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, including safeguarding and child sexual exploitation. Further information on these types of issues and the Licensing Authority's expectations is at Appendix C. 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' (or equivalent) 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.
- ☐ Designated at least one member of staff/management to take a lead on issues relating to safeguarding children and vulnerable people as a 'safeguarding co-ordinator'.

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?

4.8 Aside from bridge and whist clubs, clubs may not be established, wholly or mainly for the purposes of gaming. The Licensing Authority will not consider such factors as:

- How many nights a week is gaming provided?
- How is the gaming advertised?
- What stakes and prizes are on offer?
- Is there evidence of leagues with weekly, monthly or annual winners?
- Is there evidence of members who do not participate in gaming?
- Are there teaching sessions to promote gaming such as poker?
- Is there a tie-in with other clubs offering gaming through tournaments and leagues?
- Is there sponsorship from gaming organisations?

- Are participation fees within the prescribed limits?

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. Other restrictions are:
- It can only be used to offer gambling of a form authorised by the operator's operating licence.
 - Gambling under a TUN may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises.
 - A TUN can only be used to permit the provision of facilities for equal chance gaming and where the gaming in each tournament is intended to produce a single overall winner.
 - Gaming machines may not be made available under a TUN.
- 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.

- 6.3 Further information can be found on the Gambling Commission's website:
<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Part-15-Occasional-use-notice.aspx> .

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.
- 7.2 Licences may only be granted to vessels normally berthed in West Devon.

Where a premises licence is sought in connection with a vessel which will be navigated while 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 both the Gambling Commission website and the West Devon Borough Council website.

8.3.2 Small society lotteries can only be operated by non-commercial societies, as defined in Section 19 of the Act. This states that a society is non-commercial if it is established and conducted:

- For charitable purposes, as defined in s.2 of the Charities Act 2006.
- For the purpose of enabling participation in, or supporting, sport, athletics or cultural activity.
- For any other non-commercial purpose other than that of private gain.

8.3.3 The society must have been established for one of the above permitted purposes and the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries. The society must have been established for one of the above permitted purposes and the proceeds of any lottery must be devoted to those purposes. It is not permissible to establish a society whose sole purpose is to facilitate lotteries.

8.3.4 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.

8.4 Further information can be found on the Gambling Commission website:

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Part-34-Small-society-lotteries.aspx>

Disclaimer: This Licensing Authority wishes to make clear that the Gambling Commission's Guidance to Local Authorities (5th Edition – September 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@swdevon.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@swdevon.gov.uk

2) The Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 233 1058

Email: info@gamblingcommission.gov.uk

3) Devon & Cornwall Constabulary

Licensing Department
Launceston Police Station
Moorland Road
Launceston
Cornwall
PL15 7HY

Tel: 01566 771309

Email: licensing.team@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

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

5) Child Protection

Devon Children and Families Partnership
Devon County Council County Hall
Topsham Road
Exeter
EX2 4QD

Tel: 01392 386067

Email: cpchecks@devon.gcsx.gov.uk

6) Environmental Health Department

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

Tel: 01822 813 600

E-mail: environmental.health@swdevon.gov.uk

7) a) Planning

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

Tel: 01822 813 600
Email: dm@swdevon.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

8) Her Majesty's Commissioners of Customs & Excise

HM Revenue and Customs
Excise Processing Teams
BX9 1GL
United Kingdom

Tel: 0300 322 7072 Option 7
Email: nrubetting&gaming@hmrc.gsi.gov.uk

9) Maritime & Coastguard Agency (Boats only)

Maritime & Coastguard Agency
Plymouth Marine and Fishing Survey Office
Unit 35, 235 Union Street
Stonehouse
Plymouth
Devon
PL4 0LH

Tel: 01752 266211
Email: plymouthmo@mcga.gov.uk

Appendix B - 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 C - Safeguarding Children and Vulnerable Persons

West Devon Borough Council is committed to protecting children from harm through the sharing of intelligence and by working together with other key agencies. Safeguarding of children and vulnerable persons is everyone's business and responsibility and it is therefore vital that all areas of society share relevant information with the Police and the local Safeguarding Boards.

Child Sexual Exploitation

Gambling is an activity mainly carried out by adults, but that does not stop young people frequenting certain premises and partaking in particular activities i.e. amusement arcades etc. Children are allowed to attend certain gambling premises without any adult supervision so the risk to those children may be escalated by the adults who attend those premises and find a vulnerability which they choose to prey on. Nationally, evidence has been found of the sexual exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.

Gambling establishment licence and permit holders and their employees are in a good position to help identify victims of sexual exploitation because, through the operation of certain gambling activities, licence and permit holders and their employees regularly come into contact with children, young and vulnerable people.

Child sexual exploitation (CSE) is a crime that can affect any child, anytime, anywhere – regardless of their social or ethnic background. CSE involves exploitative situations, contexts and relationships where young people (or a third person or persons) receive something, e.g. food, accommodation, drugs, alcohol, cigarettes, affection, gifts, money, etc. as a result of them performing, and/or another or others performing on them, sexual activities. Violence, coercion and intimidation are commonly involved in such exploitative relationships.

CSE involves perpetrators grooming youngsters and using their powers to sexually abuse them. Sexual exploitation of children and young people can take many forms, whether it occurs through a seemingly 'consensual' relationship with an older boyfriend, or a young person having sex in return for attention, gifts, alcohol or cigarettes.

Set out below is a list of considerations for gambling premises licence and permit holders and their employees to remember when they see young and vulnerable people in their gambling premises:

- Do any of your customers appear to be under 18 years old?
- Are they with a much older person and appear to be in a relationship?
- Do you think that they are under the influence of alcohol or drugs?
- Are children/young people being brought regularly to your premises by older people? If so, ask yourself why?

Safeguarding Vulnerable Adults

If an adult with care and support needs is experiencing or is at risk of abuse or neglect and as a result of those care and support needs is unable to protect themselves from either the risk of, or the experience of abuse or neglect, you may need to take urgent action to protect the adult. Your first priority is with the adult, to make them safe (including reporting to the police if immediate action is required). Ideally, support the adult to take action to stop the abuse. If they need to raise a concern with the Local Authority to help them stop the abuse

support that person to contact the Devon Adult Safeguarding Board:
<http://new.devon.gov.uk/devonsafeguardingadultsboard/#>

Safeguarding Co-ordinator

At premises that are licensed for gambling, it is good practice to assign at least one member of staff or management to take a lead on issues relating to safeguarding children and vulnerable people (a 'Safeguarding Co-ordinator'). This role must be delegated to a suitable member of staff when the lead person is on holiday, or otherwise absent from the premises. This safeguarding measure should be included in the operating policy, to evidence a commitment to the core objectives of the legislation, (it is not necessary however to include the name of the Safeguarding Co-ordinator in the operating policy).

The designation of a safeguarding co-ordinator shows due diligence and can be an advantage at premises where there is a high turnover of staff, to ensure consistent standards operate and provide an induction to new staff. The assignment of a Safeguarding Co-ordinator may benefit the business during busy times, ensuring that the premises management is able to prioritise its safeguarding responsibilities and therefore meet the Core Objective to protect children and vulnerable people from harm, under the Gambling Act 2005.

The Safeguarding Co-ordinator must be fit and proper to work in proximity to children and vulnerable people. Staff assigned to the role of Safeguarding Co-ordinator must be adequately checked (for example via the Disclosure and Barring Service) if they are to have 1:1 contact with children or a responsibility to supervise children and safe recruitment procedures should be followed.

The following points give an example of the type of duties that the Safeguarding Co-ordinator should undertake at gambling premises (this list is not exhaustive).

- Ensure that policy is enforced in relation to children and vulnerable people.
- Monitor the effectiveness of existing safeguarding measures and review policy when necessary.
- Have a basic awareness of safeguarding issues relating to children and vulnerable adults, including the types of harm and potential risks at the premises.
- To train other staff to be aware of potential risks to children and vulnerable people and be able to advise staff what to do if safeguarding issues arise.

Reporting concerns

If you are concerned about a child or young person in Devon and want to speak to someone contact the Devon Multi-Agency Safeguarding Hub (MASH) on **0345 155 1071** or email mashsecure@devon.qcsx.gov.uk and give as much information as you can.

If a child is at immediate risk from harm contact Devon and Cornwall Police on 999.

If you see, hear or suspect that an adult may be at risk of abuse or neglect, you must tell someone about it. If they are in immediate danger contact the police on **999**. Otherwise contact Care Direct on **0345 155 1007** or email customerservicecentrecaredirectteam-mailbox@devon.gov.uk.

Further information and links to relevant agencies can be found on our website:
<https://westdevon.gov.uk/article/3396/Safeguarding-children-and-vulnerable-adults>

Appendix B

List of Organisations/Persons consulted

Responsible Authorities:

- The Gambling Commission
- HM Revenue and Customs
- Devon Children and Families Partnership
- 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 Children and Families Partnership
- Devon County Council Social Services Department
- Devon Health and Wellbeing Board
- Gamble Aware
- Gamblers Anonymous
- Gambling Commission
- GamCare
- Local residents/businesses and their representatives via the Council website and through Council social media.
- Mencap
- MIND
- NSPCC
- Okehampton and District 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

This page is intentionally left blank

Appendix C

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

Part A	Brief Description
11.4	Additional bullet point that intelligence or complaints received will be taken into consideration and used as part of a risk-based inspection programme.
11.6	New paragraph making reference to the LLEP Local Authority Assessment Templates which will be used when conducting inspections. This gives greater consistency with other authorities.
14	New section 'General Principles where Gaming Machines are provided.' This section is there to give information on our expectations in relation to gaming machines, particularly in relation to their location within a premises to allow good supervision of customers.
14.2 (following consultation)	Addition to bullet points at 14.2 to clarify when a variation application would be required for re-location of gaming machines following response from William Hill.
15	New section 'Children and Vulnerable Persons' to highlight the need for gambling operators to have robust policies in place to help identify and protect children and vulnerable persons from gambling related harm and exploitation.
15.6 (following consultation)	Additional clarification to make paragraph more balanced following response from Association of British Bookmakers (ABB).
Part B	
1.4.3	Three new bullet points to clarify our expectations in respect of separation of premises.
1.6.1	Expansion on our expectations that any issues relating to the location of a gambling premises will be included in the local risk assessment.
1.6.2	New paragraph to inform operators that those premises located in sensitive areas may have restrictions imposed on the advertising of their gambling facilities if necessary.
1.13	Expansion of information on our expectations of local risk assessments, including keeping them updated. Also reference to expectation that where a premises consists of an Adult Gaming Centre (AGC) and an unlicensed Family Entertainment Centre (uFEC) we would expect a risk assessment for the whole premises. Update to the list of factors for operators to consider when completing their risk assessments.

1.9.1 (following consultation)	New paragraph to clarify when it would be appropriate to include supplementary conditions on a premises licence following response from the ABB.
2.3 and 2.4	Clarification that there should not be direct access from an AGC to any other licensed gambling premises or permitted area and that we would expect a scale plan with AGC applications.
3.5 and 3.6	Our expectation that we would expect robust safeguarding policies at Family Entertainment Centre (FEC) premises and that all applications must have a scale plan.
4	Confirmation that our authority is not enabled to grant any casino licences.
6.2	Clarification that all applications for betting premises licences must have a scale plan and that a licence variation would be required if there was the intention to include privacy screens or pods around the gaming machines.
7.4.3	Additional information on entitlements in relation to gaming machines afforded to tracks that also hold alcohol licences.
Part C	
1.3	Further emphasis that uFEC permitted premises must be used wholly or mainly for making gaming machines available for use, with examples given.
1.9.1	Additional supporting documents requested to be submitted with uFEC permit applications, particularly in relation to Disclosure and Barring Service (DBS) checks.
1.10.2 and 1.10.3	Specific reference to requirement that policies and procedures at uFEC premises also include considerations around safeguarding and child sexual exploitation (CSE), including the designation of a 'safeguarding co-ordinator' where possible.
2.2 and 2.4	Additional paragraph requesting that plans are included with applications to notify the licensing authority that gaming machines are to be provided in alcohol licensed premises. Requests for permits for three or more machines may be referred to the Licensing Sub-Committee if felt appropriate.
3.4.1 and 3.5.1	Updated information on DBS applications and our expectations of premises with prize gaming permits to have policies relating to safeguarding and CSE, including the designation of a 'safeguarding co-ordinator'.
4.8	New paragraph to give examples of the information we would consider when determining whether a club was 'bona fide' and could therefore be granted a club machine or gaming permit.
5.2	Update to the restrictions relating to temporary use notices (TUNs).

8.3.2 and 8.3.3	Additional information on requirements for small society lotteries.
Appendix A	Update to responsible authorities' contact details.
Appendix C	New appendix relating to safeguarding children and vulnerable persons and our expectations.

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.

This page is intentionally left blank

Appendix D

West Devon Borough Council

STATEMENT OF PRINCIPLES (Gambling Act 2005) CONSULTATION RESPONSE

NAME OR ORGANISATION	COMMENTS	APPRAISAL	SUGGESTED AMENDMENTS
<p>Catherine Sweet Head of Marketing and Communications on behalf of GamCare</p> <p>GamCare is the leading provider of information, advice, support and free counselling for the prevention and treatment of problem gambling.</p> <p>Whilst providing general information, the e-mail from GamCare provides six specific comments on the Council's proposal which are detailed in the next column.</p>	<p>A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/</p>	<p>West Devon Borough Council has decided at this time it is not in a position to produce a local area profile. Its creation is dependent on information and knowledge of the local area gathered by partner agencies and other relevant organisations who have the expertise and knowledge of the impact of gambling in the locality. In the three previous years no information or data was submitted, despite being openly requested in the previous policy. The Council is considering putting such a profile together in the future, depending on the resources available.</p>	No amendment required.
	<p>Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.</p>	<p>As per the Gambling Commission's guidance to Licensing Authorities, this Authority shall pay particular attention to the protection of children and vulnerable persons being exploited by Gambling.</p>	No amendment required.
	<p>A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the</p>	<p>The Licensing Authority does expect that under the Gambling Commission's Social Responsibility Code issues in respect of a premises location are addressed in local risk assessments.</p>	No amendment required – Part B section 1.13 of the policy lists the Licensing Authority's expectations of local risk assessments.

	<p>challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.</p> <p>Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?</p> <p>Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.</p> <p>Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.</p> <p>Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.</p> <p>We would suggest that the Local Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social</p>	<p>The Licensing Authority believes it is vital that gambling operators have robust policies in place for identifying and protecting children and vulnerable persons from gambling related harm and exploitation</p> <p>The Licensing Authority recommends that Operators when considering their risk assessments assess staffing levels to cover peak periods.</p> <p>The Licensing Authority would expect this issue to be addressed in the local risk assessment and pays particular attention to the protection of children and vulnerable persons being exploited by gambling.</p> <p>The Licensing Authority agrees that promotional and advertising material could attract children and vulnerable people to gambling premises.</p> <p>The Licensing Authority appreciates the response the information provided regarding GamCare Certified operators. The licensing process and the Gambling Act require the Licensing Authority to permit gambling if it is reasonably consistent with the licensing</p>	<p>No amendment required – Part A Section 15 and Appendix C provide advice to operators and information on the Licensing Authority's expectations in relation to the protection of children and vulnerable people.</p> <p>No amendment required – Part B Section 1.13 lists the expectations of local risk assessments.</p> <p>No amendment required – Part B Section 1.13 includes the requirement that the layout of a premises is included in a local risk assessment.</p> <p>No amendment required – Part B 1.6.2 states that where gambling premises are located in sensitive areas the Licensing Authority will consider imposing restrictions on advertising gambling facilities.</p> <p>No amendment required.</p>
--	---	--	--

	responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice.	objectives, the Gambling Commissions Guidance for Licensing Authorities and the Statement of Licensing Policy. An application that does not attract a representation is granted automatically. Although an applicant can use their GamCare certification as a way of demonstrating the quality of player protection measures and social responsibility standards this would only be considered if these matters are relevant to any received representations.	
Janet Marron Excise Processing Team HM Revenue & Customs (HMRC)	The HMRC are a responsible authority under Gambling Act 2005. They have provided an updated postal address and telephone number for us to include in Appendix A. They confirmed that their email address remains the same.	Operators must consult the responsible authorities when making applications, so it is important this information is kept up to date and is as accurate as possible.	Appendix A updated as requested.
Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB) Whilst providing general information, the letter from Gosschalks Solicitors on behalf of the ABB provides four specific comments on the Council's proposal which are detailed in the next column.	Paragraph 14 of part A is headed "General Principles where Gaming Machines are provided." This section indicates that an application for variation of the premises licence will be required if it is intended to include privacy screens or pods around a gaming machines in licensed premises. The purpose of a privacy screen/privacy pod is to enhance the customer experience as many customers prefer to play gaming machines without the possibility of people looking over their shoulder. The ABB has engaged with the Gambling Commission over these privacy screens/pods and the general view is that there is no difficulty with them as long as the screens/pods do not impede supervision. Previous guidance from the DCMS and the Gambling Commission has been that an	By their very nature, privacy screens/privacy pods are very likely to impede the supervision of customers while playing on gaming machines. Much depends on their design and location within the premises, some consisting of solid, ceiling height walls. The Licensing Authority gives high importance to safeguarding issues associated with gambling related harm and the wider impact on society. B2 gaming machines provide the majority of business within these premises and therefore their siting and screening has a direct impact on the risks presented by the premises. Therefore the requirement to make a full premises licence variation application when	It is not our opinion that the comments relating to privacy screens/boothings are justified and as such the no amendment required.

	<p>application for variation will only be required where there are material changes to the layout of the premises. It is accepted that what constitutes a material change could be a matter for local determination but on the basis that a privacy screen does not impede supervision, it is difficult to see how the installation of such a screen could be considered a material change. The Gambling Commission guidance is clear that when considering an application for variation, the licensing authority will have regard to the principles in section 153. These are not adversely affected by the installation of a screen which does not affect supervision and it is submitted, therefore, that an application for variation of the premises licence should not be required where these screens are installed. Accordingly, this section should be redrafted.</p> <p>Paragraph 15.4 refers to groups “where the evidence base for vulnerability is strongest”. This section then indicates that evidence suggests that ethnic groups, persons of youth, persons of low IQ, individuals who engage in substance abuse/misuse and those with poor mental health are vulnerable. This is an over simplification. It cannot be the case that every person who is young or a member of an ethnic minority group is automatically vulnerable. It is not helpful to prescribe who is vulnerable as any individual has the potential to be vulnerable. Betting office staff are trained to observe behavioural indicators of problem gambling and will use this training rather than simply the assessment of somebody’s age or ethnicity to make judgements. We submit that the list of bullet points should therefore be removed.</p>	<p>intending to apply screening and/or booting to machines within licensed premises and to consult with all the responsible authorities is justified because of the increased risk to safeguarding arising from the potential for a reduction in supervision capability.</p> <p>The Licensing Authority acknowledges that the Gambling Commission in its own documentation has chosen not to include any direct reference to screening and/or booting. However this is a relatively new trend and is an issue specific to premises which is the responsibility of this Authority.</p> <p>Part A 15.4 does not suggest that all persons in the specified groups are vulnerable, nor that it is an exhaustive list of all vulnerable persons. It states that, according to research, ‘the evidence base for vulnerability is strongest’ within these groups. There is no implication that betting office staff should presume all persons in these groups are vulnerable, but that an awareness of the groups that are most at risk may be helpful when assessing vulnerability.</p> <p>The information in Part A 15.6 was obtained from the Local Government Association (LGA) publication ‘Tackling Gambling Related Harm – a whole council approach’,</p>	<p>The information was obtained from the Gambling Commission’s briefing paper for Local Authorities and local Public Health providers in February 2018 called ‘Gambling-related harm as a public health issue’. This data was obtained from https://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/ - which is the resource recommended by GamCare – see above. As such, the Licensing Authority is satisfied that the information is accurate and relevant and no amendments are necessary.</p> <p>Proposed amendment at Part A para 15.6: ‘Gambling is a legitimate leisure activity enjoyed by many and the majority of those who gamble appear to do so with enjoyment, and without</p>
--	--	--	---

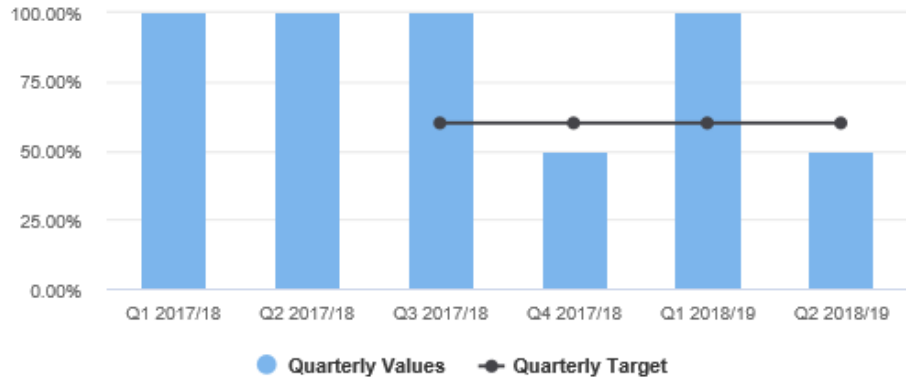
	<p>Subsequently, paragraph 15.6 refers to gambling related harm. It is important that this is put into context and the Statement of Principles should be clear that problem gambling rates are running at below 1%.</p> <p>Paragraph 1.9 of Part B explains the licensing authority's approach to the imposition of conditions on premises licences. This section would be assisted by a clear statement that the Gambling Commission's view is that the mandatory and default conditions are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The Statement of Principles should be clear that additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives in the circumstances of a particular case that requires that the mandatory and default conditions be supplemented.</p> <p>Paragraph 1.13 describes the requirement for licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities and to have policies, procedures and control measures to mitigate those risks. At the end of this section, there is a list of bullet points which details matters that the licensing authority expects operators to consider when undertaking the risk assessment. This list of bullet points should be redrafted to remove the reference to areas where large groups of people congregate, the proximity of banks, cash points, post offices and other gambling outlets and parks, bus stops,</p>	<p>July 2018. Elsewhere in the document it states that '0.7% people are problem gamblers'. To make this paragraph more balanced it is proposed to include two additional sentences at the start – see next column.</p> <p>The Licensing Authority has no intention of imposing conditions on a premises licence where there is no evidence for the need to do so. Conditions are not placed on premises licences arbitrarily, as Part B para 1.9.2 states 'Decisions about individual conditions will be made on a case by case basis...'. For further clarification, it may be helpful for operators to make clear that additional conditions would only be placed on premises licences in those circumstances where there is evidence of a need to do so.</p> <p>Section 1.13 and more specifically paragraph 1.13.7 gives a list of factors for operators to take into consideration when creating their local risk assessments. It is helpful for operators to be aware of areas that large numbers of vulnerable persons may congregate. There is no suggestion that premises should not be located in these areas, but that the risks should be considered. In addition to attracting groups of potentially vulnerable people, the proximity of banks, cash points and other gambling outlets is additionally a relevant consideration</p>	<p>exhibiting any signs of problematic behaviour. Currently 0.7% of the population are problem gamblers. While this may seem like a low figure, gambling related harm can have a severe negative impact on the individual involved, the impact of problem gambling also extends beyond individual gamblers themselves.'</p> <p>Proposed additional paragraph at Part B para 1.9.1: 'In most cases the mandatory and default conditions are sufficient to ensure operation that is reasonably consistent with the licensing objectives. Additional conditions will only be considered where there is clear evidence of a risk to the licensing objectives.'</p> <p>No amendments required.</p>
--	--	--	---

	cafes and shops. Betting premises in particular have always been situated in areas of high population and footfall and are largely operated in such areas without any difficulty whatsoever. The proximity of a bank, cash point or bus stop can have no relevance to any assessment of any risks to the licensing objectives and accordingly, this list of bullet points should be amended.	due to the easier access to funds and the potential for money laundering.	
Brian Minihane National Licensing & Development Manager for William Hill	<p>Further to the publication of your Draft Statement of Gambling Principles (2019-2022), we wish to respond on just one main point, as follows:</p> <p>Part A 14.2 The location of gaming machines must be marked on a scale plan accompanying application. You must be able to show how you have considered the risk to the licensing objectives and provide information on the controls that will be put in place, before introducing or re-locating gaming machines. It may be necessary to apply for a premises licence variation if the layout of the premises and/or location of gaming machines changes. A premises licence variation application will be required if intending to include privacy screens or pods around a gaming machine in licensed premises.</p> <p>We would not agree that a full premises licence variation is required for either the movement of gaming machines, or the installation of privacy screens around gaming machines. When we re-locate machines within one of our shops, or install a pod around a machine, we would, as a responsible operator, take into consideration the suitable positioning of the machine within the</p>	<p>By their very nature, privacy screens/privacy pods are very likely to impede the supervision of customers while playing on gaming machines. Much depends on their design and location within the premises, some consisting of solid, ceiling height walls.</p> <p>The Licensing Authority gives high importance to safeguarding issues associated with gambling related harm and the wider impact on society. B2 gaming machines provide the majority of business within these premises and therefore their siting and screening has a direct impact on the risks presented by the premises. Therefore the requirement to make a full premises licence variation application when intending to apply screening and/or bothing to machines within licensed premises and to consult with all the responsible authorities is justified because of the increased risk to safeguarding arising from the potential for a reduction in supervision capability.</p> <p>The Licensing Authority acknowledges that the Gambling Commission in its own documentation has chosen not to include any direct reference to screening and/or</p>	It is not our opinion that the comments relating to privacy screens/bothing are justified and as such no amendment required.

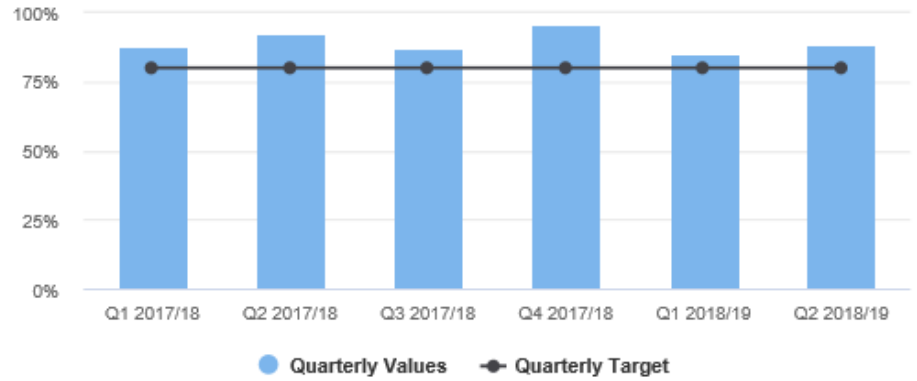
	<p>premises, and the ability of staff to be able to monitor the machines fully, and we would also document this in the Local Area Risk Assessment. We would also be more than happy to discuss any concerns you may have with our approach in any individual shop, given that all shops are of various sizes and layouts, and would of course be willing to consider further appropriate measures to alleviate these concerns if the situation arose. This approach corresponds with your desired approach shown in the first part of the quoted paragraph above (considered the risk to the licensing objectives and provided information on the controls that are in place), and we therefore feel that rather than a requirement for a full licence variation if machines are moved, or pods installed, a discussion with operators regarding the positioning of machines should be adequate in the first instance, if that was felt necessary. The Gambling Commission's own current documentation states that 'Plans must include : the boundary of the premises, external and internal walls, points of exit and entry (plus a description of where exit leads to and entry leads from)'. So, even the position of the gaming machines is not actually a requirement. We do show the positions of our machines on licence plans, and also any privacy screens around them, as we feel this is beneficial to Local Authorities, but we do not agree there should be a need to make a full variation, for the movement of a fixture which need not be shown. If there is any concern, it can be discussed without such application having to be made, and without the unnecessary costs of such an application.</p>	<p>booting. However this is a relatively new trend and is an issue specific to premises</p> <p>As stated at Part A 14.2 'It may be necessary to apply for a premises licence variation if the layout of the premises and/or location of gaming machines changes.' The use of the word 'may' gives flexibility to this requirement. For the majority of machine re-location requests a full premises licence variation application would not be required, but it would be expected that the licence holder would discuss their plans with the Licensing Authority prior to changes being made. Where the Licensing Authority has concerns about the re-location of gaming machines in relation to the licensing objectives, a variation application would be deemed appropriate to allow consultation with all the responsible authorities</p>	<p>Proposal to include further clarification about the requirement for a variation application for the re-location of gaming machines: Part A para 14.2 to add to relevant bullet point: 'For the majority of gaming machine re-location requests a full premises licence variation application would not be required, but it would be expected that the licence holder would discuss their plans with the Licensing Authority prior to the changes being made. However, where the Licensing Authority has concerns about the re-location of gaming machines, a variation application would be deemed appropriate to allow consultation with all the responsible authorities.'</p>
--	---	---	--

	If you do agree to revise this point, then paragraph 6.2 in Part B should also be amended.		No amendment required to Part B 6.2.
--	--	--	--------------------------------------

WD-P1 Major Apps on target



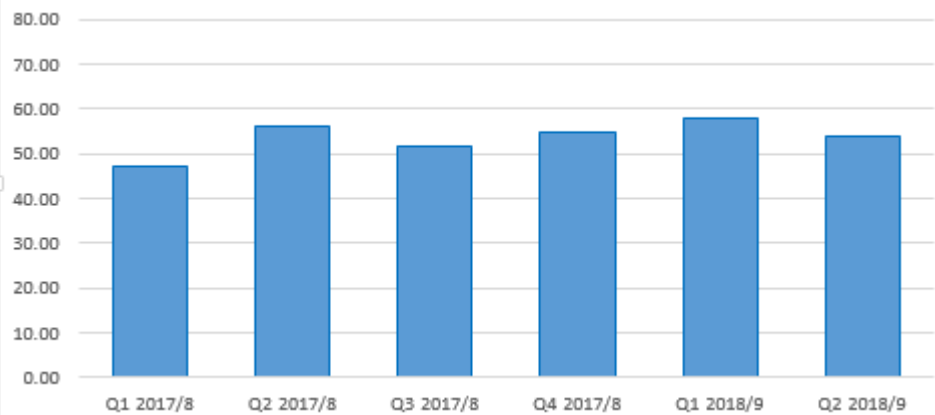
WD-P2 Non-Major apps on target



WD-P4 Major applications on target without eot



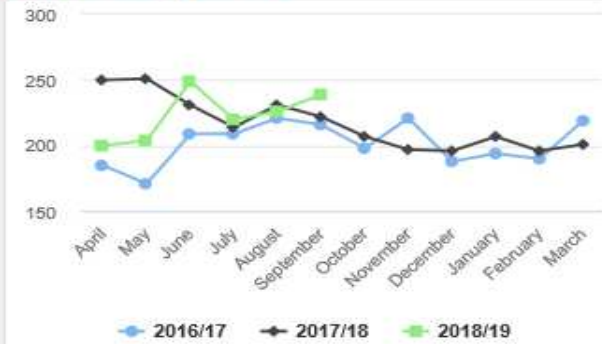
WD-P5 Non-Major apps on target without eot



WD-P7 No of planning applications registered



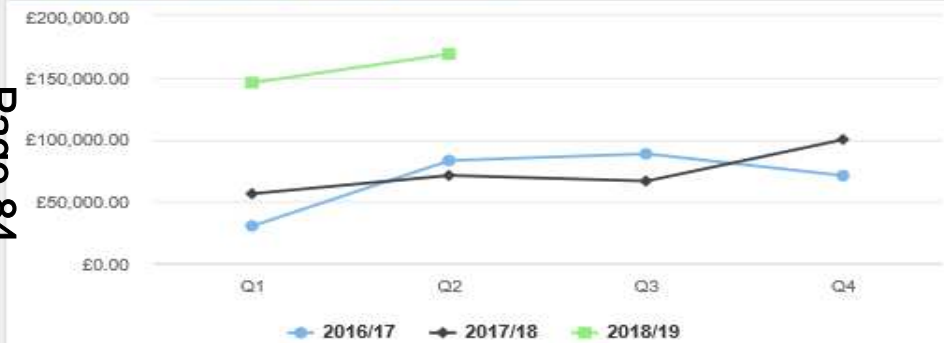
WD-P8 Planning Workload



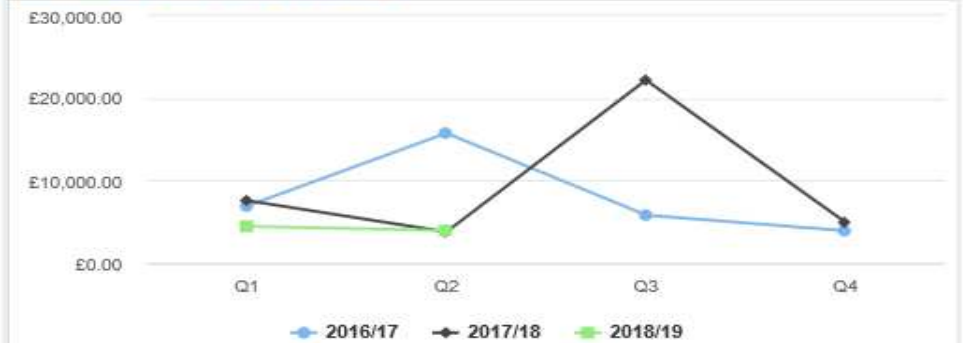
WD-P9 Applications determined



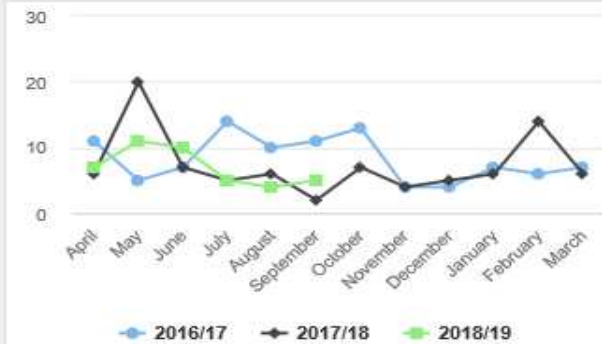
WD-P10 Fee Income from Planning Applications



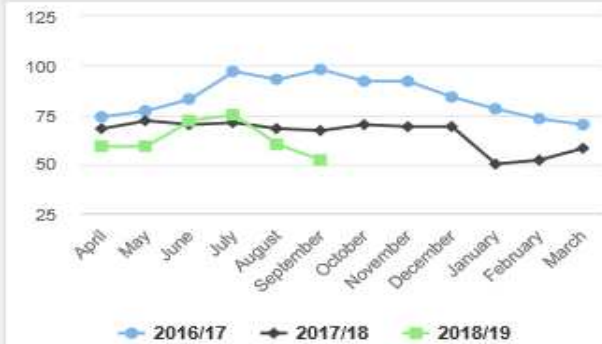
WD-P11 Fee Income from Pre-Apps



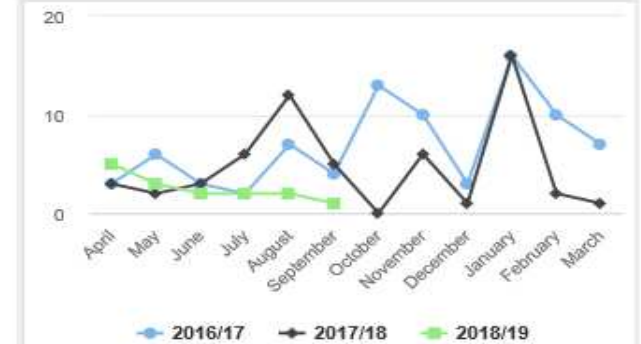
WD-P12 Pre-Apps Received

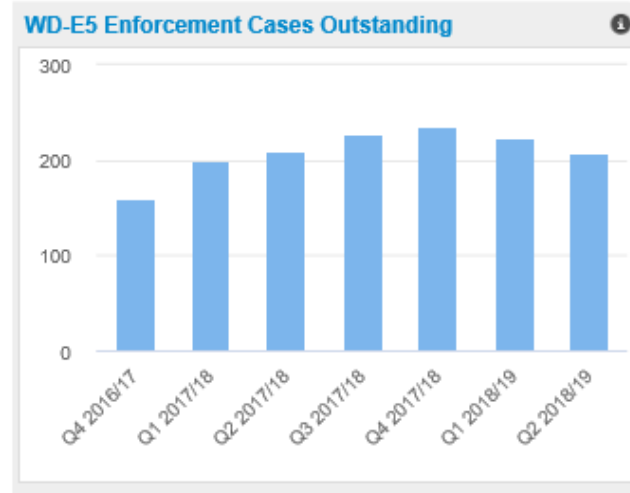
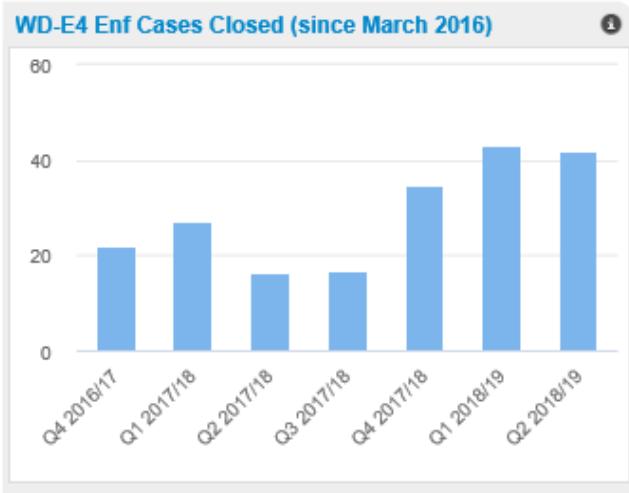
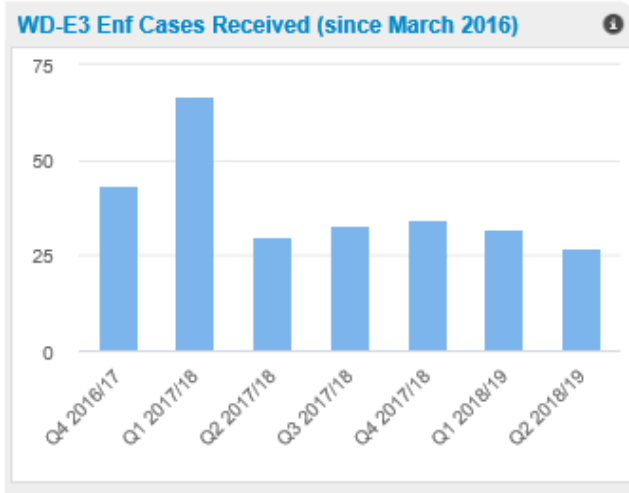


WD-P13 Pre-Application workload



WD-P14 Pre-Apps closed





This page is intentionally left blank

Report to: **Development Management and Licensing Committee**

Date: **13 November 2018**

Title: **Planning Scheme of Delegation**

Portfolio Area: **Customer First – Cllr A Roberts**

Wards Affected: **All**

Relevant Scrutiny Committee: **Overview and Scrutiny Committee**

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

Date next steps can be taken: **After Council 4 December 2018**

Author: **Kathryn Trant** Role: **Specialist Democratic Services**

Contact: **Kathryn.trant@swdevon.gov.uk**

RECOMMENDATIONS:

That the Committee RECOMMEND that Council approve the amended Planning Scheme of Delegation as set out in Appendix A.

1. Executive summary

- 1.1 The Council has adopted a Planning Scheme of Delegation which governs the way that decisions are made in respect of planning matters, and how and when applications can be referred to the Development Management and Licensing (DM&L) Committee.
- 1.2 The COP Lead Development Management has authority to make any minor amendments to the Scheme in consultation with the Chairman and Vice Chairman of the Committee (Minute CM 61 refers), however, he has requested that a report be presented to the DM&L Committee in this instance for reasons of clarity.

2. Background

- 2.1 The Planning Scheme of Delegation was last considered (and approved) by the Council at its meeting on 5 April 2016 (Minute CM 61 refers).
- 2.2 The Scheme is also reviewed as part of the Annual Review of the Constitution to ensure it remains fit for purpose. The most recent review included the process for determining Permission in Principle applications (Minute CM 8 refers).
- 2.3 The minute reflecting the discussion on Permission in Principle applications reads as follows:

(a) 'Permission in Principle' (PiP) applications. The need to update the Planning Scheme of Delegation to reflect the fact that the 'PiP Regulations came into effect on 1 June 2018 was noted. In light of these Regulations only allowing five weeks to determine a PiP application, officers were recommending that, whilst Members could refer the Technical Details Consent aspect to the Development Management and Licensing Committee, they would not be able to refer a PiP application.

A number of Members were not willing to support this proposal and considered it important that, initially on a temporary basis, they retained the ability to call PiP applications to Committee. Whilst fully aware of the challenging timeframe within which PiP applications must be determined, these Members were hopeful that government guidance would be forthcoming to underpin the Regulations.

*As a consequence of the strength of views expressed, a revised draft Planning Scheme of Delegation was tabled to the meeting that proposed that PiP applications could be called to Committee. On the basis that the impact of this tabled version would be reviewed within the next six months, approval of this document was moved and seconded and when put to the vote was declared **CARRIED.***

3. Outcomes/outputs

- 3.1 It has recently come to light that there may be some confusion in respect of applications to discharge planning conditions. These applications are not planning applications as defined by the Town And Country Planning Act and therefore do not fall within the remit of local Ward Members within the Scheme of Delegation.
- 3.2 Given the number of applications received to discharge conditions on a grant of planning permission, it would not be an effective use of the Committee's time for these applications to be determined by the DM&L Committee. As a result, the COP Lead DM has asked that a report be presented to Members to clarify that applications for discharge of conditions cannot be called to DM&L Committee by Ward Members.
- 3.3 Members are advised that, given a recent court ruling, officers are now preparing records of decisions on discharge of conditions applications that will be publicly available. It is important to note that, in cases where the discharge of conditions application is of borough wide significance, or is related to an application by a Ward Member or member of staff, the application for discharge of conditions should be presented to the DM&L Committee, in line with para 1.1 in the Planning Scheme of Delegation.
- 3.4 For the avoidance of doubt, when Ward Members are advised of applications for discharge of conditions being received, the local Town and Parish Council Clerk will also be notified.
- 3.5 In respect of 'Permission in Principle' applications, the COP Lead's view is that the number of applications received has not been significant enough to warrant a change to the way these applications are treated, as set out in the Planning Scheme of Delegation. Therefore, it is recommended that the Scheme of Delegation be revised, only to remove reference to 'on a temporary basis'.
- 3.6 Should the position change in respect of volume of applications received, the Scheme of Delegation can be revisited.
- 3.7 The recommended updated Planning Scheme of Delegation is outlined at Appendix A, with the suggested amendments highlighted by track changes.

4. Options available and consideration of risk

- 4.1 The Council must have a Planning Scheme of Delegation and providing clarity by making reference to applications for discharge of conditions will remove the risk of misunderstanding.

5. Proposed Way Forward

- 5.1 The Planning Scheme of Delegation sets out the parameters for decision making in respect of planning matters. Currently, the lack of reference to applications for discharge of conditions could cause confusion.
- 5.2 The amended scheme, as shown at Appendix A, gives clarity and therefore should be recommended to the Council for adoption.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The Council is required to have a Delegation Scheme setting out the roles and responsibilities of Council, its Committees and its officers. These are set out in Part 3 of the Council's Constitution.</p> <p>In addition to the Delegation Scheme set out in the Constitution, the Council has previously agreed further detail in relation to how the Council decides its Development Management and Planning Enforcement functions, and it is this delegation which Members are being requested to review.</p> <p>The full Council must make the final decision on the scheme to be adopted.</p>
Financial	Y	There are no direct financial implications arising from this report
Risk	Y	This is addressed in the body of the report
Comprehensive Impact Assessment Implications		
Equality and Diversity	N	There are no equality and diversity implications directly related to this report.

Safeguarding	N	There are no safeguarding implications directly related to this report.
Community Safety, Crime and Disorder	N	There are no community safety or crime and disorder implications directly related to this report.
Health, Safety and Wellbeing	N	There are no health, safety and wellbeing implications directly related to this report.
Other implications	N	N/A

Supporting Information

Appendices:

Appendix 1: Planning Scheme of Delegation

Background Papers:

None.

This page is intentionally left blank

West Devon Borough Council - Planning Delegation Scheme

Definitions:

- CoP Lead: Community of Practice Lead Specialist Development Management;
- In writing: shall include email;
- DM&L Committee: Development Management & Licensing Committee at West Devon Borough Council;
- Working days: days which are not weekends or bank holidays;
- Planning Application: full, outline, reserved matters application, and Technical Details consent and, initially on a temporary basis, Permission in Principle applications; [but not an application to discharge conditions on a planning permission]
- Representation: means representations from any source excluding internal consultees;
- Immediate family: parent, spouse, child, sibling (including 'step' and 'adopted'); and
- TPO: Tree Preservation Orders.

Formatted: Font: Bold, Font color: Auto

1. General Planning Delegation to Officers

1.1 Subject to paragraph 1.2 below, the CoP Lead has delegated authority for all functions assigned to the DM&L Committee under the Town and Country Planning Acts, Orders, and Regulations (as set out in Part 3 of the Council's Constitution and as amended from time to time) except those:

- a. Planning Applications
- b. Listed Building Consents
- c. Advertisement Consents
- d. TPO final confirmations (excluding emergency TPOs), and
- e. Works to TPO trees
- f. Permission in Principle Applications
- g. Applications to discharge conditions

Which relate to:

- i. the Council's own land
- ii. when the applicant or agent is a Councillor (or an immediate family member),
- iii. when the applicant is an Officer (or an immediate family member)
- iv. land that is in the ownership of a Councillor or Officer (or an immediate family member)

Or which in the opinion of the CoP Lead:

1. are of sub-regional or district-wide significance
2. ought to be determined by the DM&L Committee

Approved at Annual Council 22 May 2018

1.2 In the case of planning, listed building, advertisement applications and TPO applications and confirmations, where any written representations are received, including those from a Parish or Town Council, which are contrary to the CoP Lead's recommendations and where the representations are considered material and relevant planning issues, the CoP Lead shall have delegated authority to determine these only where:

- a. agreement to issuing a delegated decision has been sought in writing from the Ward Member(s) and,
- b. no written request (supported by material planning reasons) to call the application to Committee has been received from the Ward Member(s) within the notification period. The notification period is defined as three working days, unless a Ward Member requests an extension of time (of up to 48 hours) and giving good reason for doing so. The notification period commences when the Ward Member has been notified of the request that a delegated decision be made.

2 Ward Members

2.1 Members can call to Committee, with material planning reasons,

- a. any Planning Applications
- b. Listed Building Consents
- c. Advertisement Consents
- d. TPO final confirmations (excluding emergency TPOs), and
- e. Works to TPO trees

by notifying the CoP Lead prior to the expiry of the public consultation period. Non Ward Members will only call in an application after consultation with Ward Member(s), during the consultation period.

2.2 For the avoidance of doubt all Members in a multi-Member ward shall be notified /consulted by the CoP Lead

2.3 Unless a Ward Member requests an extension of time of up to 48 hours for a response, s/he must advise the CoP Lead of his/her views within three working days of being notified.

2.4 In the absence of a Ward Member consultation response within the permitted time frames, the CoP Lead shall determine the matter in accordance with the officer recommendation, without the Member's views.

2.5 Where a Ward Member is unavailable for consultation (for whatever reason e.g. holiday, DPI or other interest) then s/he should nominate an alternative member to carry out this role and notify Member Services accordingly in writing

Approved at Annual Council 22 May 2018

3 Action on decisions of the DM&L Committee

- 3.1 Where the Committee **approves** an application, the CoP Lead will issue the Approval Notice including such conditions as are reasonably required to give effect to the Committee's decision
- 3.2 Where the Committee **refuses** an application which the CoP Lead recommended should be approved, it shall give the reasons for the decision but the CoP Lead shall determine the precise wording of the reasons for refusal

4 Delegation in respect of Enforcement Action

- 4.1 The CoP Lead has delegated authority to:
- a. decide that no breach has been found
 - b. decide that it is not expedient to take enforcement action (in accordance with the Council's Enforcement Policy), unless notified by the Ward Member otherwise
 - c. invite regularising Planning Applications where appropriate
 - d. carry out all enforcement action (including but not limited to) issuing and serving Planning Contravention Notices, Untidy Site Notices, Stop Notices, Breach of Condition Notices and Building Preservation Notices, providing the relevant Ward Members are notified prior to such notices being issued or served
 - e. issue Enforcement Notices in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the P&L Committee for decision and no such request has been received
 - f. take Prosecutions and Injunctions in respect of which Ward Member(s) have been notified in writing allowing 3 working days (with an extension of up to 48 hours to be granted if requested with good reason) for Members to request, in writing supported by material planning reasons, that the proposed action is brought to the DM&L Committee for decision and no such request has been received

SAVE that the Monitoring Officer has delegated authority to take a Prosecution or Injunction where the Council's position would be compromised if action is not taken urgently

- 4.2 The CoP Lead may refer complex matters to the Committee at his/her discretion, or where there are relevant budgetary implications.

5 Section 106 Agreements

The CoP Lead may:

- a. authorise the execution of a section 106 agreement where required in advance of the grant of planning permission
- b. in consultation with the Ward Member(s), vary the terms of a section 106 agreement (or take such other action as necessary) to secure the objectives of the Committee which agreed the 106 agreement

Approved at Annual Council 22 May 2018

Approved at Annual Council 22 May 2018