

A meeting of the **LICENSING COMMITTEE** will be held in **CIVIC SUITE 0.1A, PATHFINDER HOUSE, ST MARY'S STREET, HUNTINGDON PE29 3TN** on **TUESDAY, 20 OCTOBER 2015 ON THE RISING OF THE LICENSING AND PROTECTION PANEL** and you are requested to attend for the transaction of the following business:-

**Contact  
(01480)**

### **APOLOGIES**

**1. MINUTES** (Pages 5 - 8)

To approve as a correct record the Minutes of the meeting of the Committee held on 23rd June 2015.

**Mrs C Bulman  
388234**

**2. MEMBERS INTERESTS**

To receive from Members declarations, as to disclosable pecuniary and other interests in relation to any Agenda Item.

**3. GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES 2015**  
(Pages 9 - 70)

To consider a report by the Head of Community on the outcome of the consultation on the Statement of Principles.

**C Allison  
387075**

**4. LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY**  
(Pages 71 - 98)

To consider a report by the Head of Community on the outcome of the consultation on the draft Statement of Licensing Policy.

**C Allison  
388010**

**5. CLASSIFICATION OF FILM** (Pages 99 - 110)

To consider a policy and procedure for the determination of applications for film classification.

**C Allison  
387075**

**6. LICENSING SUB COMMITTEES** (Pages 111 - 112)

To receive a summary of the meetings of the Licensing Sub Committee that have taken place since the last meeting of the Committee.

**C Bulman  
388234**

Dated this 8th day of October 2015



Head of Paid Service

## **Notes**

### **1. Disclosable Pecuniary Interests**

(1) *Members are required to declare any disclosable pecuniary interests and unless you have obtained dispensation, cannot discuss or vote on the matter at the meeting and must also leave the room whilst the matter is being debated or voted on.*

(2) *A Member has a disclosable pecuniary interest if it -*

*(a) relates to you, or*

*(b) is an interest of -*

*(i) your spouse or civil partner; or*

*(ii) a person with whom you are living as husband and wife; or*

*(iii) a person with whom you are living as if you were civil partners*

*and you are aware that the other person has the interest.*

(3) *Disclosable pecuniary interests includes -*

*(a) any employment or profession carried out for profit or gain;*

*(b) any financial benefit received by the Member in respect of expenses incurred carrying out his or her duties as a Member (except from the Council);*

*(c) any current contracts with the Council;*

*(d) any beneficial interest in land/property within the Council's area;*

*(e) any licence for a month or longer to occupy land in the Council's area;*

*(f) any tenancy where the Council is landlord and the Member (or person in (2)(b) above) has a beneficial interest; or*

*(g) a beneficial interest (above the specified level) in the shares of any body which has a place of business or land in the Council's area.*

### **Non-Statutory Disclosable Interests**

(4) *If a Member has a non-statutory disclosable interest then you are required to declare that interest, but may remain to discuss and vote providing you do not breach the overall Nolan principles.*

(5) *A Member has a non-statutory disclosable interest where -*

*(a) a decision in relation to the business being considered might reasonably be regarded as affecting the well-being or financial standing of you or a member of your family or a person with whom you have a close association to a greater extent than it would affect the majority of the council tax payers, rate payers or inhabitants of the ward or electoral area for which you have been elected or otherwise of the authority's administrative area, or*

*(b) it relates to or is likely to affect a disclosable pecuniary interest, but in respect of a member of your family (other than specified in (2)(b) above) or a person with whom you have a close association, or*

*(c) it relates to or is likely to affect any body –*

*(i) exercising functions of a public nature; or*

*(ii) directed to charitable purposes; or*

*(iii) one of whose principal purposes includes the influence of public opinion or policy (including any political party or trade union) of which you are a Member or in a position of control or management.*

*and that interest is not a disclosable pecuniary interest.*

### **2. Filming, Photography and Recording at Council Meetings**

*The District Council supports the principles of openness and transparency in its decision making and permits filming, recording and the taking of photographs at its meetings that are open to the public. It also welcomes the use of social networking and micro-blogging websites (such as Twitter and Facebook) to communicate with people about what is happening at meetings. Arrangements for these activities should operate in accordance with guidelines agreed by the Council and available via the following link [filming, photography and recording at council meetings.pdf](#) or on request from the Democratic Services Team. The Council understands that some members of the public attending its meetings may not wish to be filmed. The Chairman of the meeting will facilitate this preference by ensuring that any such request not to be recorded is respected.*

**Please contact Mrs Claire Bulman, Democratic Services Officer, Tel: 01480 388234 / email [Claire.Bulman@huntingdonshire.gov.uk](mailto:Claire.Bulman@huntingdonshire.gov.uk) if you have a general query on any Agenda Item, wish to tender your apologies for absence from the meeting, or would like information on any decision taken by the Committee/Panel.**

**Specific enquiries with regard to items on the Agenda should be directed towards the Contact Officer.**

**Members of the public are welcome to attend this meeting as observers except during consideration of confidential or exempt items of business.**

Agenda and enclosures can be viewed on the District Council's website – [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk) (*under Councils and Democracy*).

If you would like a translation of Agenda/Minutes/Reports or would like a large text version or an audio version please contact the Elections & Democratic Services Manager and we will try to accommodate your needs.

#### ***Emergency Procedure***

*In the event of the fire alarm being sounded and on the instruction of the Meeting Administrator, all attendees are requested to vacate the building via the closest emergency exit.*

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## HUNTINGDONSHIRE DISTRICT COUNCIL

MINUTES of the meeting of the LICENSING COMMITTEE held in Civic Suite, Pathfinder House, St Mary's Street, Huntingdon PE29 3TN on Tuesday, 23 June 2015.

PRESENT: Councillor R Fuller – Chairman.  
Councillors K M Baker, Mrs S Conboy,  
J W Davies, Ms L Kadic, D J Mead and  
R J West.

APOLOGIES: Apologies for absence from the meeting were submitted on behalf of Councillors D Brown, R S Farrer, R Harrison, S M Van De Kerkhove and P D Reeve.

### 4. MINUTES

The Minutes of the meetings held on 29th October 2013, 4th June 2014 and 20th May 2015 were approved as a correct record and signed by the Chairman.

### 5. MEMBERS INTERESTS

No declarations of interest were received.

### 6. LICENSING ACT 2003 - STATEMENT OF LICENSING POLICY

Consideration was given to a report by the Head of Community (a copy of which is appended in the Minute Book) a draft Statement of Licensing Policy for the Authority. The Statement sets out how the Council will exercise its statutory duties relating to its licensing function.

Members were advised that the Council's existing policy expires in January 2016 and the Council is required to determine its policy for the next five years to 2021. The proposed new policy has been re-drafted to incorporate changes in legislation, government guidance and the Local Government Association Best Practice Framework for the review of licensing policy statements.

Having noted that before determining or revising its policy the Council must undertake a public consultation with a number of specified bodies, the Panel were informed that a ten week consultation would be undertaken from 26th June to 4th September 2015 for this purpose. There was likely to be a need for further amendments to the draft, arising as a result of feedback from this process or additional legislative change.

In considering the report, Members commented upon the timetable for the approval of the Statement and expressed concern that the Council would be unable to fulfil its licensing duties under the Licensing Act 2003 if it did not have a new policy in place by 7th January 2016. Whilst this did represent a risk to the Authority, the

Panel were advised that it was to be hoped that if Members had any significant concerns these would be raised during the consultation period. In addition, once adopted the statement of licensing policy can be amended by the licensing authority at any time during the next five years.

Having been urged by the Head of Community to take the opportunity to review and provide detailed feedback on the draft Statement during the consultation period, the Panel

#### RESOLVED

- (a) that the draft 'Statement of Licensing Policy' as set out in the appendix attached to the report be approved for public consultation;
- (b) that the Head of Community be authorised to make any amendments to the statement that are considered necessary as a result of any comments received from the public consultation exercise, or revised guidance issued by the Home Office; and
- (c) that the revised final draft be submitted to the Licensing Committee on 20 October 2015 for endorsement to the Cabinet and Council.

## **7. GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES**

Consideration was given to a report by the Head of Community (a copy of which is appended in the Minute Book) to which was attached a draft Statement of Principles under the provisions of the Gambling Act 2005. The Statement outlines the principles which the Council proposes to apply when exercising its functions under the Act.

Members were informed that the current Statement was scheduled to expire on 30th January 2016 and that the Council was required to adopt and publish a new Statement in advance of that date. Should the Council fail to have a new policy in place then it will be unable to fulfil its licensing duties under the Act.

In terms of the contents of the draft Statement for 2016 onwards, the Panel were advised that it had been drafted to take into account the relevant provisions of the draft fifth edition of the Gambling Commissions Guidance to Local Authorities. Although it may prove necessary to make further changes once the final version of the guidance is produced.

Having noted that the Council were required to undertake a public consultation on the draft Statement, Members were informed that it was proposed to consult over a ten week period from 26th June to 4th September in accordance with legislative requirements. Whereupon, it was

#### RESOLVED

- (a) that the draft Statement of Principles as set out in the

appendix to the report be approved for public consultation;

- (b) that the Head of Community be authorised to make any amendments to the draft Statement that are considered necessary as a result of comments received from the public consultation exercise or arising from any new guidance issued to licensing authorities by the Gambling Commission; and
- (c) that the revised final draft be submitted to the Licensing Committee on 20 October 2015 for endorsement to Cabinet and Council.

Chairman

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**Public**  
**Key Decision Yes**

## HUNTINGDONSHIRE DISTRICT COUNCIL

**Title/Subject Matter:** Gambling Act 2005 – Statement of Principles 2015

**Meeting/Date:** Licensing Committee - 20 October 2015  
Council – 16<sup>th</sup> December 2015

**Executive Portfolio:** Councillor Roger Harrison, Executive Councillor for  
Strategic Economic Development and Legal

**Report by:** Chris Stopford, Head of Community

**Ward(s) affected:** All

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### **Executive Summary:**

The Council is required to produce a Gambling Act 2005 Statement of Principles on which it will base its decisions. The production of the document required the Council to undertake a period of public consultation which ended on 4 September 2015. This report provides the Licensing Committee with a draft of the final revised document and seeks the recommendation for approval of the Committee on the document, and the approval and adoption by Full Council.

The costs of reviewing the statement will be set against the income from the application and annual licence fees received under the Gambling Act 2005 regime.

### **Recommendation:**

1. That Members of the Licensing Committee note, and provide any further comments on the Gambling Act 2005 – Statement of Principles 2016 that has been produced following the required consultation; and further recommend that the Statement of Principles be referred to Council for approval.
2. That Full Council approve and adopt the Gambling Act 2005 – Statement of Principles 2016

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## **1. WHAT IS THIS REPORT ABOUT/PURPOSE?**

- 1.1 The Gambling Act 2005 (the Act) requires the Council to prepare and publish a 'Statement of Principles' stating how it will exercise its statutory duties, having firstly undertaken public consultation and considered any feedback. Our current statement expires on 30 January 2016, so we must draw up, adopt and publish a further statement of principles before the 3 January 2016, four weeks before its coming into effect on 31 January 2016. If the Council fails to do this, then it will be unable to fulfil its statutory duties, with possible additional financial and legal consequences arising as a result. It is vital therefore that we progress the approval and endorsement of the revised draft document to enable us to meet the statutory timeframe.
- 1.2 The purpose of this report is to invite Members to recommend approval of the revised draft, having undertaken public consultation and considered all comments received.

## **2. WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 The Council is the Licensing Authority for the purposes of the Act, taking over licensing responsibilities when it came into effect in September 2007. Section 349 of the Act requires the Licensing Authority to prepare and publish a 'Statement of Principles' that it proposes to apply in exercising its functions under the Act. The statement of principles must be kept under review and reviewed at least every three years.
- 2.2 The current statement was approved by the Licensing Committee on 23 October 2012 and full Council on 19 December 2012. It came into effect on 31 January 2013 and therefore expires on 30 January 2016.
- 2.3 The Council is now required to undertake a review of its statement. The statement must be drafted and consulted upon prior to it being adopted. All comments received must be considered.
- 2.4 The current statement of principles was drawn up from templates issued by the Local Authority Co-ordinators of Regulatory Services (LACORS) and took into account changes arising from the fourth edition of the Gambling Commission Guidance to Licensing Authorities, published in September 2012.
- 2.5 The Gambling Commission has developed its thinking in a number of areas and although this has been communicated in other forms, the Commission considers it appropriate and timely to further update their Guidance. As a consequence, the Gambling Commission consulted upon a draft 5th edition of Guidance to Licensing Authorities between 30 March and 22 June 2015, with the final version expected to be published in the autumn of 2015.
- 2.6 Attached as an appendix is a revised draft 'Statement of Principles', which has been re-drafted to take into account the relevant provisions as they apply to Huntingdonshire District Council and all comments received as a result of public consultation.

## **3. CONSULTATION**

- 3.1 Section 349 of the Act requires that the Council consults with the police, persons representing the interests of people carrying on gambling businesses in the area and persons likely to be affected by the exercise of the authority's functions under the Act.

- 3.2 Ten weeks' consultation took place between 26 June and 4 September 2015, in accordance with Cabinet Office guidelines. Wide consultation was undertaken in accordance with the legislation by a variety of means, including our website, in libraries and council offices.
- 3.3 Approval of the 'Statement of Principles' is reserved to Full Council. Approval by the Council at their meeting on 16 December 2015 will be in time to publish the statement four weeks before it comes into effect on 31 January 2016.
- 3.5 It is important that the views of the consultees are taken into account. One response was received. The response has been attached and is summarised in Appendix 2 with the consideration given in the drafting of the final version. It is a requirement that the statement complies with the Gambling Act 2005, codes of practice and guidance issued by the Gambling Commission and is reasonably consistent with the licensing objectives. For this reason it is not always possible to adopt suggestions put forward. Appendix 2 indicates the consideration given to each comment received and provides reasons for the decisions taken.
- 3.5 The statement was prepared using the most current 4<sup>th</sup> Edition of the Gambling Commission's Guidance to Licensing Authorities and taking into account their draft 5<sup>th</sup> Edition. Although the final version of the 5<sup>th</sup> edition was scheduled to be released in the autumn, at the close of our consultation period, we had received no indication from the Gambling Commission of a likely publication date. We have anticipated the changes likely to arise and have included them in the drawing up of our statement. Publication must not delay the timeframe for approval of the attached statement because, should it prove necessary, a further revision can be undertaken in due course.

#### **4 OPTIONS**

- 4.1 The Council has a statutory duty to approve and publish a Statement of Principles before 3 January 2016, four weeks before it comes into effect on 31 January 2016 in order to fulfil its legal obligations under the Act.

#### **5. LEGAL IMPLICATIONS**

- 5.1 Should the Council fail to have a policy in place by 31 January 2016, then it will be unable to fulfil its licensing duties under the Act. The Gambling Act sets out key principles of:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way;
  - protecting children and other vulnerable persons from being harmed or exploited by gambling, with possible additional financial and legal consequences arising as a result.

Clearly, these principles have cognizance with our own Corporate Priorities and therefore the provision of a Gambling Act 2005 licensing regime must remain a priority

- 5.2 The Gambling Act 2005, Section 349 places a statutory obligation on the Council to prepare its Statement of Principles.

## **6. RESOURCE IMPLICATIONS**

- 6.1 The cost of implementing the Statement is covered from the fees income generated under the Gambling Act 2005.

## **7. OTHER IMPLICATIONS**

- 7.1 No other implications are envisaged.

## **8 REASONS FOR THE RECOMMENDED DECISIONS**

- 8.1 The present statement must be reviewed and replaced for a further period of three years. It is therefore:

### **RECOMMENDED**

1. That Members of the Licensing Committee note, and provide any further comments on the Gambling Act 2005 – Statement of Principles 2016 that has been produced following the required consultation; and further recommend that the Statement of Principles be referred to Council for approval.
2. That Full Council approve and adopt the Gambling Act 2005 – Statement of Principles 2016

## **9. LIST OF APPENDICES INCLUDED**

Appendix 1 – Draft Gambling Act 2005 - Statement of Principles 2016

Appendix 2 – Consultation response and summary

## **BACKGROUND PAPERS**

LACORS Statement of Principles template – Version 3 - May 2009

Gambling Commission Guidance to Licensing Authorities – 4th Edition – September 2012

Gambling Commission Guidance to Licensing Authorities – 5<sup>th</sup> Edition Consultation Document – March 2015

Gambling Commission – GLA special bulletin – April 2015

Gambling Commission Licensing Authority Bulletins – May and July 2015

## **CONTACT OFFICER**

Christine Allison, Licensing Manager

Tel No. 01480 387075

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# **Gambling Act 2005**

## **Statement of Principles**

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

[licensing@huntingdonshire.gov.uk](mailto:licensing@huntingdonshire.gov.uk)

Tel 01480 388388 Fax 01480 388099 Pathfinder House St Mary's Street Huntingdon PE29 3TN

## PREFACE

With effect from 1 September 2007, all gambling and betting in the United Kingdom is unlawful, unless permitted under the Gambling Act 2005 or by way of the national lottery or spread betting. Gambling and betting is regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.

Huntingdonshire District Council, along with other licensing authorities, is responsible under the Act for the licensing of premises where gambling and betting is taking place, the issue of various permits and certain other activities such as the registration of small lotteries. This document explains how the District Council, as the licensing authority for Huntingdonshire, intends to approach its responsibilities under the Act. It comes into effect on 31 January 2016 and replaces the Statement of Principles adopted by the Council in 2013

All references in this document to ‘the licensing authority’ means the Huntingdonshire District Council.



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*This Statement of Principles has had regard to the Gambling Commission's Guidance to Licensing Authorities 4th edition that was published in in September 2012 together with consideration of the draft 5<sup>th</sup> edition published in March 2015. They can be viewed on the Commission's website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk).*

*The Gambling Commission also has issued a number of codes of practice and other explanatory publications in relation to gambling that are referred to in this statement. These also are available on the Commission's website.*

**PART A**  
**GENERAL**

**1. INTRODUCTION**

- 1.1 The licensing authority is required by the Act to publish a statement of the principles which it proposes to apply when exercising its functions. This Statement of Licensing Principles was approved by the licensing authority at a meeting of Huntingdonshire District Council held on 19 December 2012 in accordance with section 349 of the Gambling Act 2005 ('the Act').
- 1.2 This Statement of Principles will not override the right of any person to make an application, make representations about an application or apply for a review of a licence. Each will be considered on its own merits and in accordance with the statutory requirements of the Act.

**2. HUNTINGDONSHIRE**

- 2.1 Huntingdonshire District Council is one of five district councils situated in the County of Cambridgeshire. Huntingdonshire has a population which is currently estimated at 170,000 and covers an area of 906 square kilometres. Huntingdonshire's population has grown rapidly in recent years and is expected to continue to grow more quickly than in most other districts in the next decade. Nevertheless it remains predominately rural with four main market towns, St Neots, Huntingdon, Ramsey and St Ives. A map of the District is attached as Appendix A.
- 2.2 The District is prosperous economically with good communications links. It has higher than average earnings and low unemployment, although relatively small pockets of deprivation exist in some of the market towns.
- 2.3 There are no areas within the District that are considered particularly suitable or unsuitable for the provision of facilities for gambling. Potential operators should refer to the Core Strategy and the emerging Local Development Framework for details about the local planning authority's approach to planning permission for development where such activities may take place by contacting the Planning Division or visiting the authority's website at [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk).
- 2.4 The Social Responsibility Code which comes into effect on 6 April 2016 requires licensees to assess the local risks to the licensing objectives posed by their gambling operations at each of their premises and have policies, procedures and control mechanisms to mitigate those risks. Additionally, applicants will have to undertake a local assessment when applying for a new or variation of a premises licence, to take account of significant changes in the local circumstances or when there are significant changes at the licensee's premises.

2.5 The licensing authority is aware that there is no mandatory requirement to have a local area profile, but recognises that one could offer a number of benefits. Should evidence be obtained to identify local risk areas, then these will be subject to a separate document.

2.6 Enquiries with relevant organisations during the consultation of this document have not revealed any data to suggest that there are any areas within the District that could be identified as a risk.

### **3. GAMBLING COMMISSION**

3.1 The Gambling Commission was established by the Gambling Act 2005 to regulate all commercial gambling. It has an overriding obligation to pursue and have regard to the licensing objectives described in section 5 below and to permit gambling so far as it thinks it reasonably consistent with them. The Commission has published a Statement of Principles on how it will approach its regulatory and other functions. The Commission also provides independent advice to the government about the incidence of gambling, the manner in which gambling is carried out, the effects of gambling and the regulation of gambling generally.

3.2 The Commission is required to provide licensing authorities with guidance under section 25 of the Act about the manner in which they should exercise their licensing functions and the principles which should be applied. The licensing authority is required to take account of such guidance in producing this statement of principles and in undertaking its responsibilities under the Act.

3.3 The Commission also has issued codes of practice under section 24 of the Act about the way in which facilities for gambling are provided.

3.4 The Gambling Commission can be contacted at -

The Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP.

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)  
e-mail: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

### **4. LICENSABLE ACTIVITIES**

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

'Gaming' means playing a game of chance for a prize.

'Betting' means making or accepting a bet on the outcome of a race, competition or any other event or process, the likelihood of anything occurring or not occurring, or whether anything is or is not true.

A 'lottery' is an arrangement where persons are required to pay in order to take part in the arrangement, during the course of which one or more prizes are allocated by a process or processes which relies wholly on chance.

- 4.2 Certain permitted and exempt gambling is defined in the Act without the need for a licence or permit. Private gaming in a private dwelling and on a domestic occasion is exempt from licensing or registration providing that no charge is made for participating, only equal chance gaming takes place and it does not occur in a place to which the public have access. Domestic betting between inhabitants of the same premises or between employees of the same company is also exempt. Non-commercial gaming and betting (where no part of the proceeds is for private gain) may be subject to certain exemptions.
- 4.3 Further advice is available on what is licensable, permissible or exempt from the licensing authority's licensing section at the above address or by telephoning 01480 387075.

## **5. THE LICENSING OBJECTIVES**

- 5.1 In exercising most of its functions under the Gambling Act 2005, the licensing authority must have regard to the three licensing objectives defined in the Act. These 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.
- 5.2 The licensing authority acknowledges that, in accordance with Section 153 of the Act and in exercising its functions in relation to premises licences and occasional and temporary use notices, it shall aim to permit the use of premises for gambling in so far as it thinks it is -
- (a) in accordance with any relevant code of practice issued by the Gambling Commission (i.e. as found in the Commission's *Licence Conditions and Codes of Practice*);
  - (b) in accordance with any relevant guidance issued by the Gambling Commission (referred to in paragraph 3.2 above);
  - (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above) ; and
  - (d) in accordance with the authority's statement of licensing principles (i.e. this document).

## **6. LICENSING AUTHORITY FUNCTIONS**

6.1 Under the Act, the Gambling Commission is responsible for the issue of operating licences and personal licences.

6.2 The licensing authority is responsible for -

- ◆ the licensing of premises where gambling activities are to take place by issuing premises licences;
- ◆ issuing provisional statements;
- ◆ regulating members' clubs that wish to undertake certain gaming activities by issuing club gaming permits and/or club machine permits;
- ◆ issuing club machine permits to commercial clubs;
- ◆ granting permits for the use of certain lower stake gaming machines at unlicensed family entertainment centres;
- ◆ receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines;
- ◆ issuing licensed premises gaming machine permits for premises licensed to sell and supply alcohol for consumption on licensed premises, under the Licensing Act 2003, where there are more than two machines;
- ◆ registering small society lotteries below prescribed thresholds;
- ◆ issuing prize gaming permits;
- ◆ receiving and endorsing temporary use notices;
- ◆ receiving occasional use notices;
- ◆ providing information to the Gambling Commission regarding details of licences issued (see section below on information exchange);
- ◆ maintaining registers of the permits and licences that are issued by the authority; and
- ◆ exercising its powers of compliance and enforcement under the Act in association with the Gambling Commission and other relevant responsible authorities.

6.4 The licensing authority will not be involved in the licensing of remote gambling which is the responsibility of the Gambling Commission through the issue of operating licences.

## **7. STATEMENT OF PRINCIPLES**

7.1 A wide variety of premises in Huntingdonshire will require a licence or a permit to permit gambling to take place, including tracks, betting shops, bingo halls, pubs, clubs and amusement arcades.

7.2 To meet the licensing objectives, the licensing authority will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities. The authority will avoid duplication with other regulatory regimes so far as is possible. These include, for example, other legislative requirements in terms of health and safety at work, fire safety, planning and building control.

In determining its policy, the licensing authority has had regard to the Gambling Commission's guidance and given appropriate weight to the views of those that it has consulted. In determining the weight given to particular representations, the factors taken into account have included –

- ◆ who is making the representations in terms of their expertise or interest;
- ◆ the relevance of the factors to the licensing objectives;
- ◆ how many other people have expressed the same or similar views; and
- ◆ how far the representations relate to matters that the licensing authority should be including in the statement of principles.

7.3 The licensing authority acknowledges that operators may be able to demonstrate that they already have extensive policies developed in accordance with the Gambling Commissions Licence Conditions and Codes of Practice.

7.4 Each application or review and the circumstances prevailing at each premises will be decided on its own individual merits. When applying these principles, the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case. If an applicant can show how licensing objective concerns can be overcome, the licensing authority will take that into account in its decision making.

7.5 Any objections to new premises or requests for a review should be based on the licensing objectives. It should be noted that the Act does not include the prevention of public nuisance and anti-social behaviour as a specific licensing objective.

7.6 The licensing authority acknowledges that it is subject to the Human Rights Act and in particular –

Article 1 Protocol 1 – peaceful enjoyment of possessions, in accordance with which a licence is considered a possession in law which a person should not be deprived of except in the public interest

Article 6 – right to a fair hearing

Article 8 – respect for private and family life and in particular the removal or restriction of a licence affecting a person's private life

Article 10 – right to freedom of expression.

The licensing authority will consider whether, in the light of relevant representations, exceptions to those articles should be made in any particular case.

7.7 The three licensing objectives contained in the Act are referred to more specifically below.

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

- 7.8 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling or being associated with providing such facilities.
- 7.9 Anyone applying to the licensing authority for a premises licence (other than in the case of tracks if the gambling is to be provided by others) will have to hold an operating licence from the Commission before a premises licence can be issued. Therefore the authority will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability do arise, the authority will bring those concerns to the attention of the Commission.
- 7.10 If an application for a licence or a permit is received in relation to premises which are in an area noted for particular problems with disorder, organised criminal activity etc., the licensing authority will consider, in consultation with the police and other relevant authorities, whether special controls need to be applied to prevent those premises from being a source of crime.
- 7.11 There are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The licensing authority does not therefore intend to use the Act to deal with general nuisance issues relating for example to parking problems, which can be dealt with under existing alternative powers.
- 7.12 Issues of disorder will only be dealt with under the Act if the disorder amounts to activity that is more serious and disruptive than mere nuisance and it can be shown that gambling is a source of that disorder. For example, a disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor that could be taken into account is how threatening the behaviour was to those who see or hear it and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 7.13 When making decisions in this regard, the licensing authority will give due weight to any comments by the police.

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

- 7.14 The Gambling Commission does not expect licensing authorities to find themselves dealing with issues of fairness and openness frequently. Fairness and openness is likely to be a matter for either the way specific gambling products are provided, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence. These issues will be addressed by the Commission through the operating and personal licensing regimes respectively. However if the licensing authority suspects that gambling is not being conducted in a fair and open way, this will be brought to the



attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence or of an individual to hold a personal licence.

- 7.15 Because track betting operators do not require an operating licence from the Commission, the licensing authority may require conditions to be attached to the licence, in certain circumstances, relating to the suitability of the environment in which betting takes place.

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

- 7.16 With limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are adult-only environments.
- 7.17 Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.
- 7.18 In practice, steps will generally be taken to prevent children from taking part in, or being in close proximity to, gambling especially with regard to premises situated in areas where there may be a high rate of reported truancy. There may also be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children, excepting category D gaming machines.
- 7.19 Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the licensing authority may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under-age gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where it receives representations to that effect.
- 7.20 In exercising its powers under S153 the licensing authority will consider whether any measures are necessary to protect children, such as whether staff will be able to adequately supervise the gambling premises. Supervision also applies to premises that are themselves not age-restricted, but which make gambling products and facilities available.
- 7.21 Where the structure or layout of the premises is considered to be an inhibition or potential inhibition to satisfying the licensing objective, the licensee should consider what changes are required to ensure the risk is mitigated. Such changes might include the positioning of staff or CCTV, the use of floor-walkers and the relocation of the staff counter to enable direct line of sight.
- 7.22 If the operator fails to satisfy the licensing authority that the risks are sufficiently mitigated, it may be appropriate to conduct a review of the premises licence.

- 7.23 In seeking to protect vulnerable persons, the licensing authority will regard them as 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, perhaps due to mental health needs, a learning disability or substance misuse relating to alcohol or drugs.
- 7.24 Children (defined in the Act as under 16s) and young persons (16 and 17 year olds) may take part in private and non-commercial betting and gaming but the Act contains a number of restrictions on the circumstances in which they may participate in gambling or be on premises where gambling is taking place. An adult is defined as a person aged 18 or over. In summary –
- ◆ betting shops cannot admit children and young persons;
  - ◆ bingo clubs may admit children and young persons but must have policies to ensure that they do not gamble on the premises, except on category D machines;
  - ◆ adult entertainment centres cannot admit children and young persons;
  - ◆ family entertainment centres and premises with a premises licence under the Licensing Act 2003 that includes the sale of alcohol can admit children and young persons but they may not play category C machines which are restricted to adults;
  - ◆ clubs with a club premises certificate under the Licensing Act 2003 can admit children and young persons but they must have policies to ensure that they do not play machines other than category D machines; and
  - ◆ tracks will be required to have policies to ensure that children and young persons do not participate in gambling other than on category D machines.
- 7.25 The licensing authority will treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable persons will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

## **8. RESPONSIBLE AUTHORITIES**

- 8.1 The Act defines a number of public bodies as responsible authorities that must be notified of applications submitted for premises licences and who are entitled to make representations to the licensing authority if they are relevant to the licensing objectives and who can call for a review of an existing licence. These are –
- ◆ a licensing authority in whose area the premises are situated in whole or in part (i.e. Huntingdonshire District Council and any neighbouring authority where a premise straddles the district boundary);
  - ◆ the Gambling Commission;
  - ◆ the chief officer of police (i.e. Cambridgeshire Constabulary);
  - ◆ the fire and rescue authority (i.e. Cambridgeshire Fire and Rescue Service);
  - ◆ the local planning authority (i.e. Huntingdonshire District Council);

- ◆ the local environmental health authority (i.e. Huntingdonshire District Council);
  - ◆ HM Revenues and Customs; and
  - ◆ a body designated by the licensing authority to advise about the protection of children from harm (see below).
- 8.2 The Secretary of State may also prescribe any other person as a responsible authority.
- In relation to a vessel, the following are also responsible authorities -
- ◆ the Environment Agency
  - ◆ the British Waterways Board
- 8.3 The licensing authority is required by regulations to state the principles it will apply in exercising its duty to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. Those 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.
- 8.4 The licensing authority has designated the Office of Children and Young People's Services of Cambridgeshire County Council for this purpose.
- 8.5 The contact details of all the responsible authorities are set out in Appendix B and available on the licensing authority's website at [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk).
- 8.6 Any representations by a responsible body in relation to their own functions cannot be taken into account unless they are relevant to an application itself and the licensing objectives. In this regard, the licensing authority generally will not take into account representations which are not deemed to be relevant, such as -
- ◆ the premises are likely to be a fire risk (because public safety is not a licensing objective);
  - ◆ the location of the premises is likely to lead to traffic congestion (because this does not relate to the licensing objectives);
  - ◆ the premises will cause crowds to congregate in one area causing noise and nuisance (because this can be dealt with under other legislative powers and public nuisance is not a licensing objective).
- 8.7 Each representation will be considered on its own individual merits.

## 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 Act as follows:

9.2 “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 application 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)”.

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

9.4 Each case will be decided upon its individual merits. The authority will have regard to the examples contained in the Gambling Commission’s guidance to licensing authorities (Section 8), i.e.

### (a) **Persons living close to the premises**

‘The factors that licensing authorities should take into account when determining what ‘sufficiently close to the premises’ means (in each case) might include -

- ◆ the size of the premises;
- ◆ the nature of the premises;
- ◆ activities taking place at 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); and
- ◆ the circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.

‘For example, it could 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) a residential hostel for vulnerable adults.’

(b) **Persons with business interests that could be affected**

'It could be argued that any gambling business could be affected by another gambling business expanding into any part of Great Britain. But that is unlikely to be enough to satisfy the test of being 'a person with business interests that might be affected by the premises' under consideration. For example, an operator in a particular sector (be it casino, bingo, betting etc.) should not be able to lodge representations on every application put in by a rival operator anywhere in the country, simply because they are in competition within the same gambling sector. The licensing authority should be satisfied that the relevant business is likely to be affected. In this respect, licensing authorities should bear in mind that the 'demand test' in the 1963 and 1968 Acts has not been preserved in the 2005 Act. Factors that are likely to be relevant include -

- ◆ the size of the premises;
- ◆ the 'catchment' area of the premises (i.e. how far people travel to visit); and
- ◆ whether the person making the representation has business interests in that catchment area that might be affected.

- 9.5 The licensing authority will give the terminology 'has business interests' the widest possible interpretation and include partnerships, charities, faith groups and medical practices in that category.
- 9.6 Interested parties can include trade associations and trade unions, and residents' and tenants' associations. The licensing authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Act, i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
- 9.7 Interested parties can be persons who are democratically elected such as councillors and Members of Parliament. No specific evidence of being asked to represent an interested person will be required as long as the councillor or MP represents the ward or constituency likely to be affected. Likewise town and parish councils likely to be affected will be considered to be interested parties. Other than these, the licensing authority will generally require written evidence that a person or 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 or has business interests that might be affected by the authorised activities. A letter from one of those persons requesting the representation will be sufficient.
- 9.8 If an interested party wishes to approach a councillor to ask him/her to represent their views then care should be taken that the councillor is not part of the Licensing Sub Committee dealing with the licence application. The licensing authority has adopted a Members' Licensing Code of Good Practice

which forms part of its constitution which is available on the authority's website at [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk). If in doubt, an interested party should contact the licensing section for further information.

- 9.9 The licensing authority will not consider representations that are frivolous or vexatious or which relate to demand or need for gambling facilities. A decision on whether representations are frivolous or vexatious will be made objectively and if a representation is rejected, the interested party making the representation will be informed of the reason in writing. A vexatious representation is generally one that is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally one that is lacking in seriousness or is unrelated to the licensing objectives, Gambling Commission guidance or this statement of licensing principles.
- 9.10 In the absence of regulations to the contrary, representations should in general -
- ◆ be made in writing (including by electronic communication);
  - ◆ indicate the name and address of the person or organisation making the representation;
  - ◆ indicate the premises to which the representation relates;
  - ◆ indicate the proximity of the premises to the person making the representation. A sketch map or plan would be helpful; and
  - ◆ clearly set out the reason(s) for making the representation.

## **10. EXCHANGE OF INFORMATION**

- 10.1 The licensing authority is required to include in its statement the principles to be applied by the authority in exercising its functions under sections 29 and 30 of the Act with regard to the exchange of information between it and the Gambling Commission and its functions under section 350 of the Act with regard to the exchange of information between it and the other bodies listed in Schedule 6 to the Act.
- 10.2 The principle that the licensing authority will apply is that it will act in accordance with relevant legislation, guidance from the Commission and will adopt the principles of better regulation. The licensing authority will also have regard to the Commission's Guidance to Licensing Authorities (Part 13) which contains information about the protocols by which the information exchange is managed.

## **11. INSPECTION AND CRIMINAL PROCEEDINGS**

- 11.1 A licensing authority is required by regulation under the Act to state the principles to be applied by the authority in exercising its functions under Part 15 of the Act with regard to the inspection of premises and its powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

In terms of compliance and enforcement activity, the Commission and the licensing authority are required to act in a proportionate manner to reflect the statutory principles of good regulation and the Regulators Code which is a central part of the Government's better regulation agenda. The code is available at

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/300126/14-705-regulators-code.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf).

- 11.2 The licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities, will have regard to the Commission's approach to compliance in the document '*Compliance and Enforcement Policy Statement*' and will endeavour to be -
- ◆ proportionate: the authority will only intervene when necessary, remedies will be appropriate to the risk posed, and costs identified and minimised;
  - ◆ accountable: the authority will justify its decisions and be subject to public scrutiny;
  - ◆ consistent: rules and standards will be joined up and implemented fairly
  - ◆ transparent and open: licence conditions will be simple and user friendly; and
  - ◆ targeted: regulation will be focused on the problem and side effects minimised.
- 11.3 The licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 11.4 The licensing authority will adopt a risk-based approach to inspection programmes and enforcement. In so doing, it will review existing records and risk assessments, including those supplied by the Commission and other responsible authorities. This will guide the pattern of visits to premises and the reaction to complaints. The risk assessment will be reviewed in the light of visits undertaken. Complaints, information and intelligence received by the licensing authority relating to gambling premises will also inform the general risk rating of premises. Such an approach could include targeting high-risk premises which require greater attention, whilst operating a lighter touch in respect of low-risk premises, so that resources are more effectively concentrated on potential problem premises.
- 11.5 The main enforcement and compliance role for the licensing authority in terms of the Act will be to ensure compliance with the premises licences and other permissions which it has authorised. The Gambling Commission will be the enforcement body for operating and personal licences and concerns about manufacture, supply or repair of gaming machines will be referred by the authority to the Commission. The licensing authority will work with the Commission to identify and investigate organised or persistent illegal activity.
- 11.6 Having regard to the principle of transparency, the licensing authority's enforcement and prosecution policies are available upon request from the authority's licensing section.

## **12. CONSULTATION**

- 12.1 The licensing authority has consulted widely upon this statement before its confirmation and adoption by the authority. A list of those persons consulted is provided at Appendix C, including the following statutory consultees required by the Act -
- ◆ 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 Act.
- 12.2 The consultation took place between 26 June and 4 September 2015, following Cabinet Office guidelines. A full list of comments made and their consideration by the authority is available on request to the licensing section on 01480 387075 and via the Council's website at [www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk).
- 12.3 The policy was approved at a meeting of the Council held on 16 December 2015 and will be published via the authority's website. Copies have been placed in public libraries in the District and are available at the authority's offices at Pathfinder House, St Mary's Street, Huntingdon, Cambs, PE29 3TN.
- 12.4 Any comments with regard to this statement of principles should be addressed to the authority's Licensing Manager by writing to the above address or by e-mail to [licensing@huntingdonshire.gov.uk](mailto:licensing@huntingdonshire.gov.uk). This statement of principles will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

## **13. REVIEWING AND UPDATING THE POLICY STATEMENT**

- 13.1 The statement will have effect for a maximum of three years and must be reviewed thereafter, but the licensing authority may review and alter the policy at any time during the three year period . The first statement came into effect in January 2007, the second statement in January 2010, the third statement in January 2013 and this fourth statement will come into effect on 31 January 2016. Where the statement is reviewed and changes proposes, the licensing authority will consult on any revision for those parts that are revised and the statement then will be re-published and advertised in the same way as a new statement.



**14. DECLARATION**

- 14.1 In producing this statement of licensing policy, the licensing authority declares that it has had regard to the licensing objectives contained in the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

## PART B

### PREMISES LICENCES

#### 15. GENERAL PRINCIPLES

- 15.1 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and associated regulations, as well as specific mandatory and default conditions which are defined in regulations issued by the Secretary of State. The licensing authority may exclude default conditions and attach others where this is believed to be appropriate.
- 15.2 The 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 -
- (a) in accordance with any relevant code of practice issued by the Gambling Commission;
  - (b) in accordance with any relevant guidance issued by the Gambling Commission;
  - (c) reasonably consistent with the licensing objectives (subject to (a) and (b) above); and
  - (d) in accordance with the authority's statement of principles (subject to (a) to (c) above).
- 15.3 The authority is aware of the Gambling Commission's guidance which states that "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see the section on Casinos below) and that unmet demand is not a criterion for a licensing authority.

#### 16. DEFINITION OF "PREMISES"

- 16.1 Premises are defined in the Act as "any place". Section 152 therefore prevents more than one premises licence applying to any place. However it is possible for a single building to be subject to more than one premises licence, provided they relate to different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. However the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
- 16.2 The licensing authority takes particular note of the Gambling Commission's guidance to authorities which states that licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular the authority will be aware –

- ◆ of the need to protect children from being harmed by gambling. In practice this means not only preventing them from taking part in gambling but also preventing them from being in close proximity to gambling. Premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating;
- ◆ that entrances and exits to and from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area. In this context, it should not normally be possible to access the premises without going through another licensed premises or premises with a permit; and
- ◆ that customers should be able to participate in the activity named on the premises licence.

In considering whether two or more proposed premises are separate, the licensing authority will have regard to the following circumstances -

- ◆ whether a separate registration for business rates is in place for the premises;
- ◆ whether the premises' neighbouring premises are owned by the same person or someone else;
- ◆ whether each of the premises can be accessed from the street or a public passageway; and
- ◆ whether the premises can only be accessed from any other gambling premises.

### **Provisional Statements**

- 16.3 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that a reference to "the premises" are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. It will be a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. Requiring a building to be complete also ensures that the authority can inspect it fully, if necessary, as can other responsible authorities with inspection rights.
- 16.4 A person therefore may make an application to the authority for a provisional statement in respect of premise that he/she expects to be constructed, expects to be altered or expects to acquire a right to occupy. It should be noted that, following the grant of a provisional statement, no further representations from responsible authorities or interested parties can be taken into account in the grant of a premises licence 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. The authority may refuse the premises licence (or grant it on terms different from those attached to the provisional statement) only by reference to matters -

- ◆ which could not have been raised by objectors at the provisional statement stage; and
- ◆ which, in the opinion of the authority, reflects a change in the applicant's circumstances.

Where an operator can apply for a premises licence in respect of premises that have still to be constructed or altered, the licensing authority will deal with an application in a two stage format. The first stage will establish the principle of whether the authority considers the premises should be used for gambling and the second will determine whether appropriate conditions can be applied if the licence is to be granted that will cater for the situation whereby the premises are not yet in a state in which gambling can take place.

### **Location**

- 16.5 The licensing authority is aware that the question of demand cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. The 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 with regard to areas where gambling premises should not be located, this statement will be updated. It should be noted that this policy does not preclude any application from being made and each application will be decided on its merits, with the onus upon the applicant to show how potential concerns can be overcome.

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

- 16.6 In determining applications, the licensing authority has a duty to consider all relevant matters and not take into account irrelevant matters such as those not related to gambling and the licensing objectives. The authority therefore will seek to avoid any duplication with other statutory or regulatory systems wherever possible, including planning. The authority will not consider whether premises are likely to be granted planning permission or building regulations approval in its consideration of an application. It will however listen to and consider carefully any concerns about conditions which are not able to be met by licence holders due to planning restrictions, should such a situation arise.

### **Licensing objectives**

- 16.7 The grant of a premises licence must be reasonably consistent with the licensing objectives.

### **Conditions**

- 16.8 The Secretary of State has set mandatory and default conditions that must be attached to premises licences.

The following mandatory conditions will apply to all premises licences -

- ◆ the summary of the terms and conditions of the premises licence issued by the licensing authority must be displayed in a prominent place on the premises;
- ◆ the layout of the premises must be maintained in accordance with the plan that forms part of the premises licence; and
- ◆ neither National Lottery products nor tickets in a private or customer lottery may be sold on the premises.

There are also mandatory conditions attaching to each type of premises licence controlling access between premises.

The licensing authority may decide if there are clear regulatory reasons for doing so to exclude default conditions from a premises licence and may substitute it with one that is either more or less restrictive

Any conditions attached to a licence by the licensing authority will be proportionate to the circumstances that they are seeking to address and will be -

- ◆ evidence based;
- ◆ 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.

They will only be attached when operators existing conditions are considered inadequate to specifically address concerns.

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

16.10 The licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances, segregation of gambling

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

16.11 The authority will ensure that where category C or above machines are provided 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 in preventing 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; and
- ◆ the area where these machines are located is arranged so that it can be observed by the staff or the licence holder.
- ◆ 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.

16.12 The licensing authority is aware that tracks may be subject to one or more premises licence, provided each licence relates to a specified area of the track. In accordance with the Gambling Commission's guidance, the 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 that they are not permitted to enter.

16.13 The authority acknowledges that there are conditions that cannot be attached to premises licences which are -

- ◆ any condition 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 which is specifically prevented by the Act; and
- ◆ conditions in relation to stakes, fees, winnings or prizes.

### **Door Supervisors**

16.14 If the licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children or 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.

16.15 Where it is decided that the 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 Gambling Commission Guidance to Licensing Authorities, Part 33).

## **17. ADULT GAMING CENTRES**

- 17.1 Adult gaming centres may provide category B, C and D machines. (a summary of machine provisions by premises and the various categories of machine are defined in Appendices D and E respectively which can be found at the end of this statement.) The licensing authority will have specific regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 17.2 Mandatory conditions set by the Secretary of State will attach to adult gaming centre premises licences.

Currently there are no default conditions specific to adult gaming centre premises licences. The licensing authority therefore will expect applicants to offer their own measures to meet the licensing objectives which may cover issues such as -

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

- 17.3 This list is not mandatory, nor exhaustive, and is merely indicative of possible examples of the measures that may be taken.

## **18. LICENSED FAMILY ENTERTAINMENT CENTRES**

- 18.1 Licensed family entertainment centres may provide category C and D machines. The licensing authority will have specific 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, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 18.2 Mandatory conditions set by the Secretary of State will attach to licensed family entertainment centre premises licences.

Currently there are no default conditions specific to licensed family entertainment centre premises licences. The authority therefore will expect applicants to offer their own measures to meet the licensing objectives which may cover issues such as -

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

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

18.4 The authority will refer to the Gambling Commission's website to view any conditions that apply to operating licences covering the way in which the area containing category C machines should be delineated.

## **19. CASINOS**

19.1 The licensing authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005 but is aware that it has the power to do so. If the authority decides to pass such a resolution in the future, it will update this statement of principles with details of that resolution. Huntingdonshire is not a District that has been chosen for the issue of a casino premises licence.

19.2 However the authority is aware that where a licensing authority area is enabled to grant a premises licence for a new style casino, there are likely to be a number of operators who will want to run the casino. In such circumstances, the authority will comply with the provisions of Schedule 9 of the Gambling Act 2005 and any regulations made thereunder, as well as following the procedure set out in Part 17 of the Gambling Commission's guidance.

## **20. BINGO PREMISES**

20.1 Bingo is a class of equal chance gaming that will be permitted on premises licensed for the supply of alcohol and in clubs, provided that it does not exceed certain thresholds. Rules are laid down in the Act about the playing of bingo in those premises within exempt gaming allowances but where these are exceeded, a bingo operating licence will be required from the Gambling Commission. The holder of a licence can provide any type of bingo game, including both cash and prize bingo.

20.2 Prize bingo is subsumed within the allowances for prize gaming in adult entertainment centres, both licensed and unlicensed family entertainment centres and travelling fairs (or premises with a prize gaming permit).



Commercial bingo halls will require a bingo premises licence from the licensing authority and amusement arcades providing bingo will require a prize gaming permit, also from the authority.

- 20.3 Children and young persons are allowed to enter premises licensed for bingo, 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 persons are allowed.

Mandatory conditions set by the Secretary of State will attach to bingo premises licences. One default condition also has been set by the Secretary of State.

- 20.4 The Gambling Commission has developed a statutory code of practice to help clubs and institutes to comply with the full range of statutory requirements for gaming. The *Code of Practice for gaming machines in clubs and premises with an alcohol licence* is available on the Commission's website.

## **21. BETTING PREMISES**

- 21.1 Any person wishing to operate a betting office will require a betting premises licence from the licensing authority. Children and young persons will not be permitted to enter premises with a betting premises licence.

- 21.2 Premises with a betting premises licence also will be able to provide up to four gaming machines of category B, C or D and some betting machines (i.e. machines designed or adapted for use to bet on future real events). In considering the number of betting machines and the nature and circumstances in which they are to be made available, the authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

- 21.3 Mandatory conditions set by the Secretary of State will attach to betting premises licences. One default condition also has been set by the Secretary of State.

Where certain bookmakers have a number of premises within the area and in order to ensure that any compliance issues are recognised and resolved at the earliest stage, the operators are encouraged to provide the authority with the

name and contact details of a single named point of contact who should be of a senior capacity. The authority will contact that person first should any compliance or other issues arise.

## 22. TRACKS

- 22.1 Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place or is intended to take place. In addition to horse racecourses and dog tracks, this can include a variety of other sporting or competitive venues where betting facilities are provided. The restriction that only one premises licence can be issued for any particular premises at any one time does not apply to a track.
- 22.2 Track operators are not required to hold an operator's licence issued by the Gambling Commission. Therefore a premises licence for a track that is issued by the licensing authority is likely to contain requirements on the premises licence holder about his responsibilities in relation to the proper conduct of betting. A track operator has an important role to play in ensuring that betting areas are properly administered and supervised.
- 22.3 Although primarily there will be a betting premises licence for a track, there may be a number of other licences, provided each licence relates to a specified area of the track. The authority will have particular regard to the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas that they are not permitted to enter.
- 22.4 The authority will expect the applicant for a betting premises licence for a track to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Although children and young persons will be permitted to enter track areas where facilities for betting are provided on days when horse and/or dog racing takes place, they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 22.5 Mandatory conditions set by the Secretary of State will attach to track premises licences. Default conditions also have been set by the Secretary of State. The authority will expect applicants to offer their own measures to meet the licensing objectives which may cover issues such as -
- ◆ CCTV;
  - ◆ supervision of entrances/machine areas;
  - ◆ physical separation of areas;
  - ◆ location of entry;
  - ◆ notices/signage
  - ◆ specific opening hours;
  - ◆ self-exclusion schemes;
  - ◆ provision of information leaflets/helpline numbers for organisations such as GamCare; and
  - ◆ 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 possible example of the measures that may be taken.

- 22.6 Specific guidance on the responsibilities of track premises licence holders in relation to the promotion of socially responsible gambling on their premises can be found in the *Advice to track premises licence holders* document available on the Gambling Commission's website.

### **Gaming machines**

- 22.7 A betting premises licence in respect of a track does not give any automatic entitlement to use gaming machines. However where a licence holder has a pool betting operating licence issued by the Commission and intends to use his entitlement to four gaming machines, these machines should be located in areas from which children are excluded, unless they are category D machines.

### **Betting machines**

- 22.8 Betting operators may install betting machines or bet receipt terminals on tracks. There is no restriction on the number of bet receipt terminals that may be in use but operators must supervise such terminals to prevent them being used by those under 18 years of age or by vulnerable people. The authority will also take into account the size of the premises when considering the number/nature/circumstances of betting machines an operator proposes to offer.

### **Applications and plans**

- 22.9 In order to gain a proper understanding of what it is being asked to license, the licensing authority will require an applicant to submit detailed plans for the track itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring"). Plans for tracks need not be of a particular scale but should be drawn to scale and be sufficiently detailed to include the information required by the regulations. (see the Commission's Guidance to Licensing Authorities paras 20.28-20.35).

## **23. TRAVELLING FAIRS**

- 23.1 Category D machines and equal chance prize gaming may be provided at travelling fairs without a permit, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair. The licensing authority will monitor the activities at travelling fairs to ensure that such gambling does not exceed the level at which a permit is required.
- 23.2 The authority will also monitor whether a fair falls within the statutory definition of a travelling fair by not exceeding the 27 days statutory maximum for land to be used as a fair in each calendar year. This applies to a piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The authority will work with its neighbouring authorities to ensure that land which crosses the District boundaries is monitored so that the statutory limits are not exceeded.

## **24. REVIEWS OF PREMISES LICENCES**

24.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities at any time. However it is a matter for the licensing authority to decide whether a review is to be carried out. In so doing, the authority will have regard to whether the request -

- ◆ is frivolous or vexatious;
- ◆ is substantially the same as previous representations or requests for a review in respect of the premises;
- ◆ will certainly not cause the authority to alter, revoke or suspend the licence;
- ◆ is in accordance with any code of practice issued by the Gambling Commission;
- ◆ is in accordance with any relevant guidance issued by the Gambling Commission;
- ◆ is reasonably consistent with the licensing objectives; and
- ◆ is in accordance with the authority's statement of licensing policy.

24.2 The authority itself can initiate a review of a licence for any reason which it thinks is appropriate.

## PART C

### PERMITS AND TEMPORARY & OCCASIONAL USE NOTICES

#### 25. UNLICENSED FAMILY ENTERTAINMENT CENTRE GAMING MACHINE PERMITS

25.1 If a premises does not hold a premises licence but wishes to provide category D gaming machines, application be made to the licensing authority for a gaming machine permit. However the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

25.2 The Act states that a licensing authority may prepare a statement of principles that it proposes to consider in determining an application for a permit, including the suitability of an applicant for a permit. A statement has not been prepared but in considering applications, the authority need not (but may) have regard to the licensing objectives, and shall have regard to any relevant guidance issued by the Commission.

25.3 An application for a permit may be granted only if the authority is satisfied that the premises will be used as an unlicensed family entertainment centre and the chief officer of police has been consulted on the application. As an unlicensed family entertainment centre will not require an operating licence or be subject to scrutiny by the Commission, the authority will wish to be satisfied as the applicant's suitability before granting a permit. In so doing, the authority will require an applicant to demonstrate -

- ◆ a full understanding of the maximum stakes and prizes of the gambling that is permissible in an unlicensed family entertainment centre;
- ◆ that the applicant has no relevant convictions;
- ◆ that employees are trained to have a full understanding of the maximum permissible stakes and prizes; and
- ◆ that there are policies and procedures in place to protect children and vulnerable persons from harm.

The authority cannot attach conditions to this type of permit.

25.4 Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will be considered on their merits but they may include appropriate measures and training for staff with regard to suspected truant school children on the premises, and how they would deal with unsupervised very young children being on the premises or children causing perceived problems on or around the premises.

25.5 An application for the renewal of a permit may be refused by the authority only on the grounds that an authorised officer of the authority has been refused access to the premises without reasonable excuse or that renewal would not be reasonably consistent with the licensing objectives.

## **26. (ALCOHOL) LICENSED PREMISES GAMING MACHINE PERMITS**

26.1 Provision is made in the Act for premises licensed to sell alcohol for consumption on the premises to be entitled to have 2 gaming machines of categories C and/or D on the premises. The licence holder needs to give notice to the licensing authority of his intention to make gaming machines available for use and pay the prescribed fee. However the 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 the gaming machines have been made available in a way that does not comply with the requirements as to the location and operation of gaming machines);
- ◆ the premises are mainly used for gaming; or
- ◆ an offence under the Gambling Act has been committed on the premises.

26.2 If more than 2 machines are required, application must be made to the licensing authority for a licensed premises gaming machine permit. The authority must consider the application based upon the licensing objectives, the guidance issued by the Commission and such matters as it thinks relevant. The authority will determine such matters on a case by case basis but generally it will have regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling. An applicant will be expected to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Such measures could include the adult only machines being in sight of the bar or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signs may also be of help. With regard to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

26.3 Some licence holders with alcohol licensed premises may wish to 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.

26.4 It should be noted that the 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 to a permit.

26.5 Certain other forms of gambling may take place in alcohol-licensed premises. Two statutory codes of practice *The Code of Practice for equal chance gaming in clubs and premises with an alcohol licence* and *The Code of Practice for gaming machines in clubs and premises with an alcohol licence* have been issued by the Gambling Commission and are available on the Commission's website. A summary of the gaming entitlements for clubs and pubs is also reproduced as Appendix F which can be found at the end of this statement.

## **27. PRIZE GAMING PERMITS**

27.1 Gaming is defined 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. Normally prizes are determined by the operator before play commences.

27.2 Prize gaming may be provided in bingo premises as a consequence of a bingo operating licence. Any type of prize gaming may be provided in adult gaming centres and licensed family entertainment centres. Unlicensed family entertainment centres may offer equal chance prize gaming under a gaming machine permit. Prize gaming without a permit may be provided by travelling fairs, provided that none of the gambling facilities at the fair amount to more than an ancillary amusement. Children and young people may participate in equal chance gaming only.

27.3 The licensing authority may prepare a statement of principles that it proposes to apply in exercising its functions in relation to prize gaming permits which may specify particular matters that the authority proposes to consider in determining the suitability of an applicant for a permit.

The statement will require an applicant to set out in the application the types of gaming that is intended to be offered and that the applicant should be able to demonstrate -

- ◆ that he/she understands the limits to stakes and prizes that are set out in regulations; and
- ◆ that the gaming offered is within the law.

The authority will also consider any child protection issues and have regard to the need to protect children, young persons 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 in place for this purpose.

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

27.5 There are conditions in the Act with which the holder of a permit must comply but the authority cannot attach conditions. The conditions specified 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.

## **28. CLUBS**

28.1 Members clubs (but not commercial clubs) may apply for a club gaming permit or a club gaming machine permit. A club gaming permit will enable the premises to provide no more than 3 gaming machines from categories B3A, B4, C or D (subject to only one B3A machine), equal chance gaming and games of chance as set out in regulations. A club machine permit will enable the premises to provide up to 3 gaming machines of categories B3A, B4, C or D.

28.2 Members clubs must have at least 25 members and be established and conducted wholly or mainly for purposes other than gaming, unless the gaming is restricted to bridge and whist. A members club must be permanent in nature, not established as a commercial enterprise and conducted for the benefit of its members. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations. A commercial club is a club established for commercial gain (whether or not they are making a commercial gain). Examples include snooker clubs established as private companies and clubs established for personal profit. Commercial clubs may only apply for club machine permits.

28.3 The licensing authority may refuse an application only on the grounds that -

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



- 28.4 There is also a fast-track procedure available under the Act for premises that hold a club premises certificate under the Licensing Act 2003. Under this procedure there is no opportunity for objections to be made by the Commission or the police and the grounds upon which an authority can refuse a permit are reduced, as follows -
- ◆ that the club is established primarily for gaming, other than gaming prescribed by regulations under section 266 of the Act;
  - ◆ that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
  - ◆ that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 28.5 There are statutory conditions on both club gaming and club machine permits that no child uses a category B or C machine on the premises. A permit holder is also required to comply with the Code of Practice for *Gaming Machines in clubs and premises* issued by the Commission about the location and operation of gaming machines and which can be viewed on its website.

## **29. TEMPORARY USE NOTICES**

- 29.1 A temporary use notice may be given to the licensing authority by the holder of an operating licence stating his intention to carry on one or more specified activities. There are a number of statutory limits with regard to temporary use notices, including a requirement that the same set of premises may not be the subject of a temporary use notice for more than 21 days in any period of 12 months. The definition of premises includes any place and the meaning of premises and set of premises will be questions of fact in the particular circumstances of each notice that is given. In considering whether a place falls within the definition of a set of premises, the authority will have regard, amongst other things, to the ownership, occupation and control of the premises.
- 29.2 The authority will consider whether to give a notice of objection to the person giving the temporary use notice having regard to the licensing objectives.

## **30. OCCASIONAL USE NOTICES**

- 30.1 Where betting is to be provided on a track on 8 days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. Tracks include, not only a horse racecourse or a dog track, but also any other premises on any part of which a race or other sporting event takes place or is intended to take place.
- 30.2 The licensing authority has little discretion with regard to occasional use notices but will ensure that the statutory limit of 8 days in a calendar year is not exceeded and whether the person giving the notice is permitted to avail him/herself of the notice within the definition of a track.

**PART D**  
**LOTTERIES**

**31. GENERAL**

- 31.1 Huntingdonshire District Council is the local authority responsible for the registration of societies to run small society lotteries. Registration is the responsibility of the Council as the local authority as opposed to the licensing authority. For convenience however and to ensure consistency, the Council is referred to as the licensing authority for the purposes of this section of the statement of principles.
- 31.2 To comply with the definition of a small society lottery in the Gambling Act, a society must be 'non-commercial' and the size of the lottery must be within certain limits.
- 31.3 A non-commercial organisation is a small society for the purposes of the Act if it is established and conducted –  
for charitable purposes;  
for the purpose of enabling participation in, or supporting sport, athletics or a cultural activity; or  
for any other non-commercial purpose other than that of private gain.

The proceeds of any lottery must be devoted to the above purposes as it is not permissible to establish a lottery whose sole purpose is to facilitate lotteries.

- 31.4 With regard to the size of the lottery, the total value of tickets to be put on sale in a single lottery must be £20,000 or less, or the aggregate value of tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000. If an operator plans to exceed either of these values they may need to be licensed with the Gambling Commission to operate large lotteries instead.
- 31.5 The Commission has produced a number of advisory documents and quick guides, including , *Organising small lotteries*, *Lottery proceeds*, a leaflet for fundraisers, *Running a Lottery*, and a frequently asked questions section, all of which are available on the Commission's website [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) . The documents will provide advice to enable potential applicants to establish what type of lottery they plan to operate.
- 31.6 Participation in a lottery is a form of gambling and societies that register should conduct their lotteries in a socially responsible manner and in accordance with the Act. As the minimum age for participation in a lottery is 16, societies will be required to implement effective procedures to minimise the risk of lottery tickets being sold to children, including procedures for checking the age of potentially under-age purchasers of lottery tickets and taking action where there are unlawful attempts to purchase tickets.

31.7 There are a number of offences in relation to lotteries. If a society running small lotteries fails to comply with any of the conditions of running such lotteries, it will be operating in an illegal manner, irrespective of whether it is registered with the licensing authority or not. Although small society lottery operators may be prosecuted by the Commission, the police or the licensing authority, it is likely that alleged offences will be investigated by the authority. The authority will take a risk based approach towards its enforcement responsibilities but the following criteria is likely to affect the risk status of an 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; and
- ◆ breaches of the limits for small society lotteries.

31.8 The licensing authority considers that the following scenarios will give reason or the investigation of the particular circumstances of a society –

- ◆ making a late return of a statement;
- ◆ making no returns at all within a year of registration;
- ◆ failure to pay the annual fee when it becomes due;
- ◆ reports of sales of lottery tickets to persons under the age of sixteen;
- ◆ reports of sales of lottery tickets by persons under the age of sixteen;
- ◆ reports of societies running lotteries without being registered;
- ◆ reports of tickets being sold in a street;
- ◆ indications that a society has breached permissible limits; and
- ◆ reports of a misappropriation of funds.

**DISTRICT OF HUNTINGDONSHIRE**



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## RESPONSIBLE AUTHORITIES

### The Licensing Authority

The Licensing Section  
Huntingdonshire District Council  
Pathfinder House  
St Mary's Street  
Huntingdon  
PE29 3T

 01480 387075  
Fax 01480 388361  
E-mail [Licensing@huntingdonshire.gov.uk](mailto:Licensing@huntingdonshire.gov.uk)


### The Gambling Commission

4<sup>th</sup> Floor,  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

 0121 230 6500  
Fax 0121 237 2236  
[info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)


### The Chief Officer of Police

The Licensing Section  
Cambridgeshire Constabulary  
Huntingdon Police Station  
Ferrars Road  
Huntingdon  
PE29 3DQ

 01354 606504


### Cambridgeshire Fire and Rescue Service

Fire Safety Department  
Huntingdon Fire Station  
Hartford Road  
Huntingdon  
PE29 3RH

 01480 433297

### Local Planning Authority

Head of Planning Services  
Huntingdonshire District Council  
Pathfinder House  
St Mary's Street  
Huntingdon  
PE29 3TN

 01480 388423/  
01480 388424

### **Local Environmental Health Authority**

Head of Community  
Huntingdonshire District Council  
Pathfinder House  
St Mary's Street  
Huntingdon  
PE29 3TN



01480 388302

### **HM Revenues and Customs**

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



0845 302 1448

Text

0845 302 1452

### **Child Protection Services**

Audit Manager  
Child Protection and Review Unit  
Castle Court  
Shire Hall  
Cambridge  
CB3 0AP



01480 372439

## LIST OF CONSULTEES

### Responsible Authorities:

Cambridgeshire Constabulary- Chief Officer of Police  
Cambridgeshire County Council- Child Protection Services  
Cambridgeshire Fire & Rescue Service  
The Local Environmental Health Authority  
The Gambling Commission  
The Local Planning Authority  
HM Revenues & Customs

### Persons representing interests of persons affected in the area:

Association of British Bookmakers Ltd  
BACTA  
The Bingo Association  
British Beer and Pub Association  
Greyhound Board of Great Britain  
British Holiday and Home Parks Association  
Business in Sport and Leisure  
GAMCARE  
Greater Cambridge Partnership  
Huntingdon Racecourse  
Huntingdon Community Safety Partnership  
Huntingdonshire Business Against Crime  
Huntingdonshire Business Network  
Huntingdonshire Chamber of Commerce and Industry  
Huntingdonshire Citizens Advice Bureau  
Huntingdonshire Primary Care Trust  
Neighbouring Councils:

- Cambridge City Council
- South Cambridgeshire district Council

Public Health, Cambridgeshire County Council  
Racecourse Association Ltd  
St Ives Chamber of Commerce and Industry  
Town Parish Councils in Huntingdonshire  
Town Centre Partnerships in Huntingdonshire;

- St Ives Town Initiative
- BID, Huntingdon
- St Neots Town Council Initiative
- Ramsey Initiative

**Persons representing interests of businesses in the area:**

Coral Racing Ltd  
Ladbrokes Betting and Gaming Ltd  
Paddy Power  
Popleston Allen Solicitors  
Power Leisure Bookmakers  
Pubwatch:

- St Ives
- Huntingdon
- St Neots
- Ramsey

Racecourse Investments Ltd  
S+D Bookmakers Ltd  
Talarius Ltd  
William Hill Organisation Ltd

**The public via:**

Huntingdonshire District Council website  
Huntingdonshire District Council Offices  
Libraries:

- Buckden
- Huntingdon
- Ramsey
- Sawtry
- St Ives
- St Neots
- Warboys
- Yaxley



**SUMMARY OF MACHINE PROVISIONS BY PREMISES**

Premises type	Machine Category						
	A	B1	B2	B3	B4	C	D
<b>Large casino</b> (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
<b>Small casino</b> (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
<b>Pre-2005 Act casino</b> (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
<b>Betting premises and tracks occupied by pool better</b>		Maximum of 4 machines categories B2 to D(except B3A machines)					
<b>Bingo premises</b>					Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**	No limit on category C or D machines	
<b>Adult gaming centre</b>					Maximum of 20% of the total number of gaming machines which are available for use on the premise categories B3 or B4**	No limit on category C or D machines	
<b>Family entertainment centre</b> (with premises licence)							No limit on category C or D machines
<b>Family entertainment centre</b> (with permit)							No limit on Category D machines
<b>Clubs and miners' welfare institute</b> (with permits)					Maximum of 3 machines in Categories B3A or B4 to D*		
<b>Qualifying alcohol-licensed premises</b>					1 or 2 machines of category C or D automatic upon notification		
<b>Qualifying alcohol-licensed</b> (with gaming machine permit)				Number of category C-D machines as specified on permit			
<b>Travelling fair</b>				No limit on category D machines			
	<b>A</b>	<b>B1</b>	<b>B2</b>	<b>B3</b>	<b>B4</b>	<b>C</b>	<b>D</b>

\* It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machines can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

\*\* Adult gaming centre and bingo premises are entitled to make available a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available four (adult gaming centre premises) or eight (bingo premises) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Adult gaming centre premises and bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four or eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. But not B3A machines.

## SUMMARY OF GAMING MACHINE CATEGORIES AND ENTITLEMENTS

Category of Machine	Maximum stake (from Jan 2014)	Maximum prize (from Jan 2014)
A	Unlimited	Unlimited
B1	£5	£10,000*
B2	£100 (in multiples of £10)	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D -money prize (other than a coin pusher or penny falls machine)	10p	£5

<b>D – combined money and non-money prize (other than a coin pusher or penny falls machine)</b>	10p	£8 (of which no more than £5 may be a money prize)
<b>D – combined money and non-money prize (coin pusher or penny falls machine)</b>	20p	£20 (of which no more than £10 maybe a money prize)

\*or £20,000 if linked to another category B1 machine on the same premises

## SUMMARY OF GAMING ENTITLEMENTS FOR CLUBS AND ALCOHOL LICENSED PREMISES

	<b>Members' club or MW institute with club gaming permit</b>	<b>Bridge or whist club</b>	<b>Members' club or commercial club with club machine permit</b>	<b>Members' club, commercial club or MW institute without a club gaming permit or club machine permit</b>	<b>Pubs and other alcohol-licensed premises</b>
<b>Equal chance gaming</b>	Yes	Bridge and/or Whist only	Yes	Yes	Yes
<b>Limits on stakes</b>	No limit	No limit	<u><b>Poker</b></u> £1000 per week £250 per day £10 per person per game <u><b>Other gaming</b></u> No limit	<u><b>Poker</b></u> £1000 per week £250 per day £10 per person per game <u><b>Other gaming</b></u> No limit	<u><b>Cribbage &amp; dominoes</b></u> No limit <u><b>Poker</b></u> £100 per premises per day <u><b>Other gaming</b></u> £5 per person per game
<b>Limits on prizes</b>	No limit	No limit	<u><b>Poker</b></u> £250 per game <u><b>Other gaming</b></u> No limit	<u><b>Poker</b></u> £250 per game <u><b>Other gaming</b></u> No limit	<u><b>Poker</b></u> £100 per game <u><b>Other gaming</b></u> No limit
<b>Maximum participation fees – per person per day</b>	<u><b>Bridge and/or whist*</b></u> £20 <u><b>Other gaming</b></u> £3	£18 (without club gaming permit) £20 (with club gaming permit)	<u><b>Bridge and/or whist*</b></u> £18 <u><b>Other gaming</b></u> £3 (commercial club) £1 (members' club)	<u><b>Bridge and/or whist*</b></u> £18 <u><b>Other gaming</b></u> £1	No permitted
<b>Bankers or unequal chance gaming</b>	Pontoon Chemin de Fer	None permitted	None permitted	None permitted	None permitted
<b>Limits on bingo</b>	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	No bingo permitted	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.	Maximum of £2,000 per week in stakes/prizes. If more then will need an operating licence.

\* On a day when no other facilities for gaming are provided.

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## **Power Leisure Bookmakers Limited response to Huntingdonshire District Council's Consultation on its draft Statement of Gambling Principles – Appendix 2**

Paddy Power is Ireland's biggest Bookmaker and operates both a retail business through licensed betting offices and an online/telephone business. Paddy Power operates 251 licensed betting offices in Ireland and 325 betting offices in the United Kingdom.

Paddy Power is a leading national operator of betting premises with clear and proactive policies to promote the Gambling Licensing Objectives. Operators of premises licences have full authority to provide their services by the provision of an Operators' Licence granted by the Gambling Commission. The UK's gambling regulator has therefore approved the measures implemented by operators to ensure that effective anti-money laundering procedures are implemented and that policies have been developed that ensure responsible trading in accordance with gambling legislation, the licensing objectives and the Licence Conditions and Codes of Practice. Of particular relevance are the obligations and requirements now placed upon operators under the social responsibility provisions of the LCCP, which were introduced by the Gambling Commission earlier this year.

We refer the authority to the Regulators' Code, which was introduced by the Legislative and Regulatory Reform Act 2006 and provides the code to which the Authority must have regard. Specifically, regulators should avoid imposing unnecessary burdens and choose proportionate approaches to those they regulate and have mechanisms in place for consultation. The Code provides that before any changes in policy are implemented the effect that any proposed amendments may have on businesses should be considered and stakeholders should be engaged. Where local risks are to be addressed, an evidenced based approach should be taken.

Unnecessary burdens would include those which duplicate existing regulation. Licensing Authorities must therefore avoid approaches to regulation in their policy statements which mirror those already imposed by the Gambling Commission.

### **General Policy Commentary**

Licensing Authorities are under the statutory obligation to aim to permit the use of premises for gambling so far as the authority believes that an application is reasonably consistent with the licensing objectives and in accordance with its own statement of principles. Authorities can request additional information in support of an application to assist with the determination in consideration of the above criteria. The draft statement of principles correctly identifies that unmet

demand is not a criterion that can be considered and that duplication with other regulatory regimes will be avoided.

### **Location and local area risk assessment**

Under new Gambling Commission LCCP provisions, from April 2016 operators will be required to complete local area risk assessments that identify risks posed to the licensing objectives and how these should be mitigated. We refer the Authority to the Regulators' Code, which provides that in making an assessment of risk, regulators should recognise the compliance record of those they regulate and take an evidenced based approach to determining the priority risks in their area of responsibility. To ensure that better regulation principles are followed, operators should be allowed to assess their existing operational processes, informed by Statements of Principle, which highlight potential areas of particular sensitivity and known vulnerability. High risk areas must only be identified where empirical evidence is adduced that clear gambling related harm would be caused by the presence of gambling related premises. Identification of theoretical risk factors such as area demographics, proximity to certain premises, ethnicity and deprivation should only be included where local evidence is available, which quantifies the ascertainable risk to be mitigated. Any proposed measures to address risks identified should be proportionate, effective and tailored to specific concerns identified. All risks must be substantiated in order to prevent the implementation of a disproportionate regulatory burden upon operators. We believe the draft policy must be amended to follow these principles, as the suggested draft does not adhere to better regulation.

Where variations are made to existing permissions, additional measures should only be considered where empirical evidence suggests there is an actual risk to the promotion of the licensing objectives and that existing approved measures are insufficient to address those concerns. It may not be proportional for applicants or existing licence holders to actively engage in investigations for unique localised risk factors where problems which may be associated with gambling premises are not realised. Operators are under existing obligations to regularly review their policies and procedures incorporating risk assessment at a local premises level and, as such, it may not be appropriate for the Authority to prescribe the nature of such assessment as internal processes should already be responsive to evidence of changes in local operational risk profiles.

The Authority must consider the extensive policies, already implemented by operators, in accordance with the Gambling Commission's LCCP. Without evidence to suggest that such policies are insufficient to address concerns within local areas, a repeat analysis of standardised procedures within new applications will not be proportionate or necessary, as this would duplicate the requirements under operating licence provisions. For example, whilst obligations with regard to advertising practice, self-exclusion, age verification, training and the provision of appropriate



information are not conditions under sections 167 and 168 of the Gambling Act 2005, they are imposed as code provisions under the Licensing Conditions and Codes of Practice.

The draft policy confirms that the Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling. The policy also states that consideration will be given to the location of proposed premises in particularly sensitive locations along with those areas with known high levels of crime and disorder (section 7). In order to fully address any potential concerns, all risk profiles must be based upon factual evidence of gambling related harm in consideration of those measures already in place to mitigate actual rather than theoretical risk. Well managed and controlled premises, compliant with the Gambling Commission's LCCP, do not pose a gambling related risk to children and young people and additional measures, controls or conditions considered should not be imposed to address wider social issues. Any reference to vulnerability should specifically address evidence based risks of gambling related harm caused to individuals and populations identified. Any additional proposed measures to mitigate those risks will only be appropriate where they cannot be addressed by operators' existing measures and compliance with governing legislation.

When considering crime and disorder, although the policy identifies that there is a clear distinction between disorder and nuisance, the Authority must consider that nuisance was specifically rejected by Parliament as a licensing objective under the Gambling Act 2005. As part of any analysis of crime and disorder, the Authority must consider the prevalence of illegal gambling and ensure that any policies or controls proposed to address crime are proportionate to the existing operational procedures implemented and that they will effectively address any concerns identified.

Should the Licensing Authority contemplate introducing detailed policies regarding the location of specific gambling premises, thorough details should be provided for consultation with stakeholders at that time. Such consultation would permit the thorough assessment of the validity of any potential local area profiling that may be completed. Any evidence gathered should directly correlate with actual risks identified in those locations and appropriate assessment completed of any detrimental impact that any proposed gaming provision may have.

Any finalised policy must not suggest that gaming related applications pose an inherent risk to 'vulnerable people', regardless of status or evidence of actual harm. Where operators are asked to mitigate any perceived risks, sufficient parameters should be identified addressing the specific risks concerned relative to those individuals who may be at risk from the grant of any proposed application.

**Primary Authority**

Power Leisure Bookmakers Limited has established Primary Authority Partnerships with Reading Council. The primary authorities worked with each other and the Gambling Commission to develop a national inspection strategy to be implemented to help protect underage people from gambling. Such schemes enable a consistent approach to regulation and enforcement and provide a uniform standard.

**Conditions**

Mandatory and default premises licence conditions are already imposed on operators and the authority must consider that operators are required to uphold social responsibility. Additional conditions should only be imposed in exceptional circumstances where evidence based risks are identified and operators existing provisions are considered inadequate to specifically address those concerns.

**Conclusion**

We are committed to working in partnership with the Gambling Commission and local authorities to continue to promote best practice and compliance in support of the licensing objectives.

Date received	From	Comment summary	Response	Action
6.9.2015	Poppleston Allen acting for Power Leisure Bookmakers Ltd	<b>Paragraphs 1-4</b> provides background to Paddy Power as a business and to the Regulators’ Code to which the Authority must have regard. It advises that Licensing Authorities must avoid approaches to regulation if their policy statement which mirror those already imposed by the Gambling Commission.	Comments considered and noted. Paragraphs 7.2 and 16.6 of the draft policy refer to the Authority seeking to avoid any duplication with other statutory or regulatory regimes so far as is possible.	No further action considered necessary
		<p><b>General Policy Commentary – Paragraph 5</b></p> <p>Licensing Authorities are under the statutory obligation to aim to permit the use of premises for gambling so far as the authority believes that an application is reasonably consistent with the licensing objectives.</p> <p>The draft statement correctly identifies that unmet demand is not a criterion that can be considered and that duplication with other regulatory regimes will be avoided.</p>	<p>Comments considered.</p> <p>Paragraphs 3.1 and 5.2 of the draft statement refer.</p> <p>Paragraphs 7.2, 16.5 and 16.6 of the draft statement refer.</p>	<p>No further action considered necessary</p> <p>No further action considered necessary</p>
		<b>Location and local area risk assessment- Paragraphs 6-12</b>		Three new paragraphs, 2.4 – 2.6 have been added to the statement to reflect Local area Profiling and area risk assessment matters raised.

		<p>6. We believe the draft policy must be amended to follow the better regulation principles contained within the Regulators' Code as the suggested draft does not adhere to better regulation.</p> <p>7. Where variations are made to existing permissions, additional measures should only be considered where empirical evidence suggests there is an actual risk to the promotion of the licensing objectives and that existing approved measures are insufficient to address those concerns.</p> <p>8. The Authority must consider extensive policies already implemented by operators in accordance with the Gambling Commissions LCCP. Without evidence to suggest such policies are insufficient to address concerns within local areas, a repeat analysis of standardised procedures within new applications will not be proportional or necessary and it would duplicate the requirements under operating licence provisions.e.g. advertising practice, self-exclusion, age verification, training and the provision of appropriate information are imposed as code provisions under the licensing conditions and codes of practice.</p> <p>9. The draft confirms that the Authority will pay attention to the protection of children and vulnerable persons from being harmed or exploited by gambling and that consideration will be given to the location of proposed premises, in particularly</p>	<p>Comment considered and noted. Section 11 of the draft statement addresses a risk based approach, reflecting the district and there is specific reference to the Regulators Code.</p> <p>Comment considered and noted.</p> <p>Comment considered and noted. Each application is considered on its individual merits/ on a case by case basis. Para 7.4 and 16.9. of the draft statement.</p> <p>Comment noted and agreed. Contained within paragraphs 7.16-7.25 of draft policy</p>	<p>No further action considered necessary</p> <p>No further action considered necessary</p> <p>New paragraph 7.3 inserted</p> <p>No further action considered necessary.</p>
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		<p>sensitive locations along with known high levels of crime and disorder. To fully address concerns all risk profiles must be based on factual evidence of gambling related harm in consideration of those measures already in place to mitigate actual rather than theoretical risk. Well managed premises do not pose a gambling related risk to children and young people and additional measures control or conditions should not be imposed to address wider social issues.</p> <p>Any reference to vulnerability should address evidence based risks of gambling related harm caused to individuals and populations identified. Any proposed measures to mitigate those risks will only be appropriate where they cannot be addressed by operators' existing measures and compliance with governing legislation</p> <p>10. Although the policy identifies there is a clear distinction between disorder and nuisance, the Authority must consider that nuisance was rejected as a licensing objective. As a part of any analysis of crime and disorder the Authority must consider the prevalence of illegal gambling and ensure that any policy or controls proposed to address crime are proportionate to the existing operational procedures implemented and that they will effectively address any concerns identified.</p> <p>11. If introducing policies regarding the location of specific gambling premises, details should be provided to stakeholders at that time. Any evidence</p>	<p>Noted. This would need to be addressed in a separate risk profile document, should an evidential risk be identified.</p> <p>Comment considered and noted. Illegal activity covered in 11.5 of the draft policy</p> <p>Comment considered and noted</p>	<p>No further action considered necessary at the present time.</p> <p>No further action considered necessary</p> <p>Addressed by new paragraphs above</p>
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		<p>gathered should correlate with actual risks identified in those locations assessing any detrimental impact the proposed gaming provision may have.</p> <p>12. Any finalised policy must not suggest that gaming related applications pose an inherent risk to vulnerable people regardless of status or evidence of actual harm.</p>	We believe our statement does not identify this suggestion.	No further action considered necessary
		<p><b>Primary Authority – Paragraph 13</b></p> <p>Power Leisure has established Primary Authority Partnerships with Reading Council.</p>	Noted, but for consistency, is not considered as being appropriate or necessary for inclusion within the policy.	No further action considered necessary.
		<p><b>Conditions – Paragraph 14</b></p> <p>The Authority must consider that operators are required to uphold social responsibility.</p> <p>Additional conditions should only be imposed in exceptional circumstances where evidence based risk are identified and operators existing provisions are considered inadequate to specifically address those concerns.</p>	<p>Considered and noted</p> <p>Sections 16.8 – 16.15 in the draft policy address conditions, acknowledging that mandatory and default conditions have been set by the Secretary of State. The draft policy (16.8) states that any conditions attached to the licence by the licensing authority will be proportional to the circumstances they are seeking to address. 16.9 refers to a perceived need.</p>	<p>No further action considered necessary</p> <p>Paragraph 16.8 expanded</p>

**Public**  
**Key Decision Yes**

## HUNTINGDONSHIRE DISTRICT COUNCIL

**Title/Subject Matter:** Licensing Act 2003 - Statement of Licensing Policy

**Meeting/Date:** Licensing Committee - 20 October 2015  
Council – 16<sup>th</sup> December 2015

**Executive Portfolio:** Councillor Roger Harrison, Executive Councillor for  
Strategic Economic Development and Legal

**Report by:** Chris Stopford, Head of Community

**Ward(s) affected:** All

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### **Executive Summary:**

The Council is required to produce a Licensing Act 2003 Statement of Licensing Policy on which it will base its decisions. The production of the document required the Council to undertake a period of public consultation which ended on 4 September 2015. This report provides the Licensing Committee with a draft of the final revised document and seeks the recommendation for approval of the Committee on the document, and the approval and adoption by Full Council.

The costs of reviewing the statement will be set against the income from the application and annual licence fees received under the Licensing Act 2003 regime.

### **Recommendation(s):**

1. That Members of the Licensing Committee note, and provide any further comments on the Licensing Act 2003 – Statement of Licensing Policy that has been produced following the required consultation; and further recommend that the Statement of Licensing Policy be referred to Council for approval.
2. That Full Council approve and adopt the Licensing Act 2003 – Statement of Licensing Policy 2016





## **1 WHAT IS THIS REPORT ABOUT/PURPOSE?**

- 1.1 The Licensing Act 2003 (the Act), requires that for each five year period, the Council must determine its policy on how it will exercise its statutory duties relating to its licensing function and publish a statement of that policy before the beginning of the period. The Statement of Licensing Policy must be kept under review and approved by Full Council.
- 1.2 The current Huntingdonshire District Council policy expires on 6<sup>th</sup> January 2016 and the Council is required to determine the policy for the period 7<sup>th</sup> January 2016 to 6<sup>th</sup> January 2021, having undertaken public consultation and considered any feedback. If the Council fails to do this, then it will be unable to fulfil its licensing duties under the Act. It is vital therefore that we progress the approval and adoption of the revised draft document to enable us to meet the statutory timeframe.
- 1.3 The purpose of this report is to invite Members to recommend the approval of the revised draft, having undertaken public consultation and considered all comments received.

## **2 WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 The Council is the 'Licensing Authority' for the purposes of the Act, having taken on its licensing responsibilities in 2005, when the Act came into effect. The Act requires the Licensing Authority to prepare and publish a 'Statement of Licensing Policy' that it proposes to apply in exercising its functions under the Act. The policy statement must be kept under review and reviewed at least every five years.
- 2.2 The Council is now required to undertake a review of its policy. The policy must be drafted and consulted upon prior to it being adopted. All comments received must be considered.
- 2.3 The current policy, prepared in 2010, reflected the legislation and Government Guidance at that time. Since this date, there have been some substantial changes to the legislation and a number of updated versions of the Government Guidance have been issued, the latest being in March 2015. Additionally, in October 2012 the LGA published a best practice framework for the review of licensing policy statements.
- 2.4 The policy has therefore been re-drafted in its entirety, following the best practice framework. It takes into account the relevant legislative changes and provisions as they now apply to Huntingdonshire District Council and all comments received as a result of public consultation. The revised document is attached as Appendix 1.

## **3 CONSULTATION**

- 3.1 Before determining or revising its policy, legislation requires the licensing authority to consult with bodies prescribed in the Act. These include the police, fire and rescue and persons/bodies representative of local holders of personal and premises licences, club premises certificates and persons/bodies representative of businesses and residents in the area.

3.2 Ten weeks consultation took place between 26 June and 4 September in accordance with Cabinet Office guidelines. Wide consultation was undertaken in accordance the legislation by a variety of means, including our website, in libraries and council offices.

3.4 It is important that the views of the consultees are taken into account. One response with comments and two acknowledgements were received. The response has been attached and is summarised in Appendix 2 with the consideration given in the drafting of the revised statement recommended for approval. The policy must comply with the Act and Statutory Guidance. For this reason, it is not always possible to adopt all suggestions put forward. Appendix 2 indicates the consideration given to each comment received and provides reasons for the decisions taken. The changes made have been highlighted in the policy.

#### **4 OPTIONS**

4.1 The Council has a statutory duty to adopt and publish a Statement of Licensing Policy before 7<sup>th</sup> January 2016 in order to fulfil its legal obligations under the Act.

#### **5 LEGAL IMPLICATIONS**

5.1 Should the Council fail to have a policy in place by 7<sup>th</sup> January 2016, then it will be unable to fulfil its licensing duties under the Act, with possible additional financial and legal consequences arising as a result. The Licensing Act sets out key principles of:-

- the prevention of crime and disorder,
- public safety,
- prevention of public nuisance, and.
- the protection of children from harm.

Clearly, these principles have cognisance with our own Corporate Priorities and therefore the provision of a Licensing Act 2003 licensing regime must remain a priority

5.2 The Licensing Act 2003, Section 5 places a statutory obligation on the Council to prepare its Statement of Licensing Policy

#### **6 RESOURCE IMPLICATIONS**

6. 1 The cost of implementing the policy is covered from the fees income generated under the Licensing Act 2003.

#### **7 OTHER IMPLICATIONS**

7.1 No other implications are envisaged. The legislation sets out four licensing objectives to be followed and provides certain checks and balances to protect the local environment and community.

## **8 REASONS FOR THE RECOMMENDED DECISIONS**

- 8.1 The present Statement of Licensing Policy must be replaced for a further maximum period of five years and be kept under review. It is therefore:

### **RECOMMENDED**

- 1 That Members of the Licensing Committee note, and provide any further comments on the Licensing Act 2003 – Statement of Licensing Policy that has been produced following the required consultation; and further recommend that the Statement of Licensing Policy be referred to Council for approval.
- 2 That Full Council approve and adopt the Licensing Act 2003 – Statement of Licensing Policy 2016

## **9. LIST OF APPENDICES INCLUDED**

Appendix 1 – Draft Statement of Licensing Policy  
Appendix 2 – Consultation response and summary

### **BACKGROUND PAPERS**

Revised Guidance issued under section 183 of the Licensing Act 2003- March 2015 edition  
Best Practice Framework for the Review of Licensing Policy Statements – October 2012

### **CONTACT OFFICER**

**Christine Allison, Licensing Manager**  
**☎ 01480 387075**

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**THE LICENSING ACT 2003  
STATEMENT OF LICENSING POLICY**

**7TH JANUARY 2016**

Licensing Section, Community,  
Huntingdonshire District Council, Pathfinder House,  
St Mary's Street, Huntingdon, Cambridgeshire, PE29 3TN  
[www.huntingdonshire.gov.uk](http://www.huntingdonshire.gov.uk)

Licensing Act 2003  
Huntingdonshire District Council Statement of  
Licensing Policy for  
Regulated Entertainment, Late Night Refreshment and the Sale of Alcohol

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# 1. Executive Summary

- 1.1 Section 5 of the Licensing Act 2003 has imposed a statutory duty on the Licensing Authority to produce a statement of licensing policy beginning with such day as the Secretary of State may by order appoint. The last policy commenced on 7<sup>th</sup> January 2011 and was initially for a period of three years, but was extended to five years following the Police Reform and Social Responsibility Act 2011.
- 1.2 This policy statement will therefore take effect from 7<sup>th</sup> January 2016. The policy statement will remain in existence for up to five years. This Licensing Authority may make revisions to it as it considers appropriate. It will be subject to review and further consultation before 7<sup>th</sup> January 2021, or as required by law.
- 1.3 Huntingdonshire District Council is the authority responsible for the licensing of such activities within Huntingdonshire and is referred to in this statement as the 'Licensing Authority'. This document sets out the Licensing Authority's policy, which will guide the Council when considering applications under the Act. The policy provides guidance on the general approach the Council, as the Licensing Authority within the meaning of the Act, will take in terms of licensing. However, each licence application will be considered separately on its individual merits.
- 1.4 It is recognised that licensed entertainment provides a valuable contribution which can have a positive impact towards the economy of the area. This authority seeks to balance the needs of local businesses and licensees, whilst protecting those of local residents and giving tougher controls for the police and the Licensing Authority.
- 1.5 This Licensing Authority recognises that in the absence of relevant representations it will grant licenses on the terms sought.
- 1.6 The Licensing Authority has had regard to the guidance issued by the Secretary of State under Section 182 of the Act when developing this statement of Licensing Policy. This Council may deviate from the guidance but will demonstrate good reasons for doing so.
- 1.7 The Licensing Authority may depart from this policy if the individual circumstances of any case merit such a decision in the interests of the promotion of the licensing objectives. This Council may deviate from this policy but will demonstrate good reasons for doing so.
- 1.8 The policy relates to all types of premises covered by the Act.

# 2. Purpose and Scope of the Licensing Policy

- 2.1 The Licensing Authority has a duty under the Act to carry out its functions by promoting the four licensing objectives, which are:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance, and
  - The protection of children from harm
- 2.2 The Act regulates the following activities:
  - The sale by retail of alcohol
  - The supply of alcohol by or on behalf of a club, or to the order of a member of a club
  - The provision of regulated entertainment
  - The provision of late night refreshment
- 2.3 The Licensing Authority will take this policy into account where its discretion is engaged (i.e. at a hearing following representations).
- 2.4 In determining its statement of licensing policy, this Authority will have regard to the guidance issued by central government and other regulatory bodies to ensure that its actions are consistent with those nationally.
- 2.5 Licensing decisions will be made in accordance with the current legislation, case law, relevant

guidance and in accordance with this policy.

- 2.6 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and to have any such application considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 2.7 Licensing is about regulating licensable activities on licensed premises, such as qualifying clubs, pubs and at temporary events which fall within the terms of the Act. Any conditions imposed will focus on matters that individual licensees and others in possession of relevant authorisations are able to control.
- 2.8 This Licensing Authority will primarily focus on the direct impact the activities taking place at the licensed premises will have on those living, working or engaged in normal activity in the area concerned.
- 2.9 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned. Nonetheless, it is a key aspect of such control and licensing laws will always be part of the holistic approach to the management of the evening and night-time economy in Huntingdonshire.
- 2.10 The views of all of those consulted will be given appropriate weight when the policy is determined together with those of any other persons or bodies which the Authority considers appropriate to consult with. When undertaking consultation exercises, this Authority will also have regard to cost and time.

### **3. Duplication**

- 3.1 So far as is possible, this policy seeks to avoid duplication with other regulatory regimes and if the control measures contained in any conditions sought are already provided for in other legislation, they cannot be imposed in the context of licensing law. It is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. The Health & Safety (First Aid) Regulations 1981 and the Regulatory Reform (Fire Safety) Order 2005.

### **4. Strategies and Partnership working**

- 4.1 By consultation and liaison, the Licensing Authority seeks to secure the proper integration of this licensing policy with local crime prevention, planning, transport, tourism, equality schemes, cultural, **health and wellbeing** strategies and any other plans introduced for the management of the town centres and the night-time economy. Many of these strategies may impact upon the four licensing objectives.

### **5. Live Music Act**

- 5.1 The Live Music Act came into force on 1<sup>st</sup> October 2012 and is designed to encourage more performances of 'live' music.
- 5.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review. When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits.

### **6. Objectives**

#### **6.1 Prevention of crime and disorder**

Conditions attached to premises licenses and club premises certificates will so far as possible reflect local crime prevention strategies and should be targeted on deterrence and preventing crime and disorder e. g. the use of Closed Circuit television cameras in certain premises, or a requirement for door supervisors, with security staff holding an appropriate licence.



Various 'PubWatch' schemes operate in Huntingdonshire which aim to counter individuals who damage property; are violent and cause disorder; or use or deal in drugs through exclusions. This Licensing Authority is supportive of such schemes and considers premises should join where it is appropriate to do so.

## **6.2 Public safety**

This Licensing Authority recognizes that licence holders have a responsibility to ensure the safety of those using their premises. Matters in relation to public safety that could be considered include, fire safety matters, the presence of trained first aiders on the premises, waste disposal methods and CCTV provision. The measures that are appropriate to promote public safety will vary between premises and these matters may not apply in all cases.

Applicants should consider their individual circumstances when making applications, which steps are appropriate to promote the public safety objective and to demonstrate how they will achieve it.

## **6.3 The prevention of public nuisance**

Public nuisance is given a statutory meaning in many pieces of legislation. It is however not narrowly defined in the 2003 Act and retains its broad common law definition.

The public nuisance objective is designed to focus on the effect of licensable activities at specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable. These issues may concern noise nuisance, light pollution, noxious smells and litter.

Conditions relating to noise nuisance will usually concern steps appropriate to control the levels of noise emanating from the premises e.g. noise limiters, that doors and windows remain closed, or notices asking patrons to leave quietly.

## **6.4 The protection of children from harm**

The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language, sexual expletives, violence or frightening images, for example, in the context of film exhibitions, or where adult entertainment is provided.

Applicants will be expected to be clear in their operating schedules about the activities and times at which the events would take place to help determine when it is not appropriate for children to enter the premises.

Aspects of an application that would be likely to raise concerns in relation to access by children would include:

- adult entertainment is provided;
- a member or members of the current management have been convicted for serving alcohol to minors, or with a reputation for allowing underage drinking;
- it is known that unaccompanied children have been allowed access;
- there is known association with drug taking or dealing; or
- in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.

It is not possible to provide an exhaustive list of the entertainment or services that are of an adult or sexual nature, therefore a common sense approach will be taken to interpretation. However such entertainment or services would also include entertainment involving strong and offensive language.

A very serious view is taken of the persistent and illegal sale of alcohol and other age-restricted goods to children. Together with the appropriate external partners, this Licensing Authority will continue to seek to ensure that illegal sales of alcohol and other age-restricted goods are reduced and ultimately eradicated.

The sale of alcohol to minors (under 18 years of age) is a criminal offence. The Licensing Authority will maintain close contact with our partners regarding unlawful activities and share actions and intelligence where appropriate

## 7. The Licensing Authority as a responsible authority

- 7.1 This Licensing Authority acknowledges that it is now included in the list of responsible authorities. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. Therefore, it is for this Licensing Authority to determine when it considers it appropriate to act in its capacity as a responsible authority.
- 7.2 This Licensing Authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for this licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and this licensing authority is aware of relevant grounds to make a representation, a choice may be made to act in its capacity as responsible authority.
- 7.3 This Licensing Authority expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance.
- 7.4 In cases where this Licensing Authority is also acting as responsible authority there will be a separation of powers between those officers who exercise that role and those who administer the licensing application to ensure procedural fairness and eliminate conflicts of interest.

## 8. Health as a responsible authority

- 8.1 Cambridgeshire County Council Directors of Public Health (DPH) are now responsible authorities with all of the powers and responsibilities this brings.
- 8.2 This Licensing Authority envisages that DPH will be useful in providing evidence of alcohol-related health harms that might be directly relevant to an application under the Act or when there is a revision of policy particularly in relation to cumulative impact policies or early morning restriction orders.
- 8.3 This can include evidence such as:
- alcohol-related hospital admissions;
  - alcohol specific admissions;
  - alcohol related deaths;
  - treatment data on the number of people in a structured alcohol treatment service;
  - ambulance service data.

## 9. Responsible Authorities are:

- 9.1 **Police:**  
The Chief Officer of Police, Cambridgeshire Constabulary , Huntingdon Police Station, Ferrars Road, Huntingdon, PE29 3DQ  
Tel: 01480 456111
- 9.2 **Fire and Rescue:**  
Cambridgeshire Fire and Rescue Service, Fire Safety Department, Huntingdon Fire Station, Hartford, Huntingdon, Cambs, PE29 3RH
- 9.3 **Child Protection:**  
Child Protection Services, Licensing Applications, OCYPS, PO Box 144, St Ives, Cambs, PE27 9AU

Tel: 0345 045 5203

**9.4 Public Health:**

The Director of Public Health, C/O Head of Public Health Programmes, Cambridgeshire County Council, Scott House, PO Box No SCO2213, 5, George Street, Huntingdon, PE29 3AD

**9.5 Trading Standards:**

Supporting Business and Communities, Cambridgeshire County Council, PO Box 450, Great Cambourne, Cambridge, CB23 6ZR

**9.6 The Licensing Authority, Planning, Environmental Protection and Health and Safety:**

The Licensing Authority - Licensing  
Planning – The Head of Planning Services  
Environmental Protection and Health & Safety – The Head of Community

Huntingdonshire District Council, Pathfinder House, St Mary's Street, Huntingdon, PE29 3TN  
Tel 01480 388388

**9.7 In addition, for vessels:**

Great Ouse and Stour Waterways, Environment Agency, Kingfisher House, Goldhay Way, Orton Goldhay, Peterborough, Cambs, PE2 7ZR  
Tel 01733 371811

The Surveyor in Charge, Maritime and Coastguard Agency, East Terrace, Walton-on-the-Naze, Essex CO14 8PY  
Tel 01255 682107

The Team Leader, River Nene, Nene House, Pytchley Road Industrial Estate, Pytchley Lodge Road, Kettering, Northants, NN15 6JN  
Tel 01536 517721

## **10. Planning**

- 10.1 The planning and licensing regimes will be properly separated to avoid duplication and inefficiency. The planning and licensing regimes involve consideration of different (albeit related) matters. Licensing Committees are not bound by decisions made by a planning committee and vice versa. It should be noted however that there is no legal basis for the licensing authority to refuse a licence application because it does not have planning permission.
- 10.2 When a terminal hour has been set as a condition of planning permission that is different from the licensing hours, the applicant must observe the earlier of the two closing times.
- 10.3 Where appropriate there will be liaison between the Licensing Committee and the Planning Committee.

## **11. Licensing Hours**

- 11.1 When the Licensing Authority's discretion is engaged, consideration will be given to the individual merits of an application in line with the four licensing objectives and any relevant representations.
- 11.2 This Licensing Authority recognises that in some circumstances, flexible licensing hours for the sale of alcohol need to be managed effectively to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which may lead to disorder and disturbance.
- 11.3 Shops, stores and supermarkets, will generally be permitted to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless representations raise reasons, based on the licensing objectives for restricting those hours.

## **12. Temporary Event Notices**

- 12.1 This requires the notification of a qualifying event to the Licensing Authority, Environmental Health

and Cambridgeshire Constabulary, subject to fulfilling certain conditions.

- 12.2 The Licensing Authority would encourage event organisers not to rely on giving the minimum amount of notice, given the possibility of police intervention. Event organisers are encouraged to contact the police and environmental health as early as possible about their proposed event(s).
- 12.3 Where the application is not within the parameters defined in the legislation, the Licensing Authority will issue a Counter Notice to the person giving the TEN.
- 12.4 Notice givers will be advised of police powers to close down an event with no notice on grounds of disorder or because of public nuisance caused by noise emanating from the premises.

### **13. Sexual Entertainment**

- 13.1 This Licensing Authority has adopted a policy in relation sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. With reference to this related policy standard conditions are attached to such licences and where there are similar conditions in the two regimes, the more onerous apply.
- 13.2 This Licensing Authority acknowledges there is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly,

### **14. Entertainment Provision**

- 14.1 This Licensing Authority welcomes a broad range of entertainment provision for enjoyment by a wide cross-sector of the public. The Authority will endeavour to strike a balance between promoting the provision of entertainment and addressing concerns relevant to the licensing objectives.

### **15. Cumulative Impact and Special Policies**

- 15.1 Cumulative impact is the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 15.2 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that this Licensing Authority can consider.
- 15.3 This Licensing Authority can adopt a special policy on cumulative impact if there is an evidential basis that a significant number of licensed premises concentrated in one area is causing a cumulative impact on one or more of the licensing objectives.
- 15.4 The absence of a special policy does not prevent any responsible authority or other person making representations on a new application for the grant or variation of a licence on the grounds that the premises will give rise to a detrimental cumulative impact on one or more of the licensing objectives in a particular area.
- 15.5 If after considering the available evidence and consulting relevant individuals and organisations, this Licensing Authority is satisfied that it is appropriate to include an approach to cumulative impact in the statement of licensing policy, a special policy will be included in the statement that the licensing authority will generally refuse new applications for premises licences or club premises certificates whenever relevant representations are received about the cumulative impact on the licensing objectives.
- 15.6 The steps to be followed in considering whether to adopt a special policy within the statement of licensing policy will be:
  - The identification of concern about crime and disorder, public safety, public nuisance or the protection of children from harm;
  - Consideration as to whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm;
  - If such problems are occurring, to identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent;

- Identification of the boundaries of the area where problems are occurring;
- Consultation with those specified in the Act and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement.

### **Other mechanisms for controlling cumulative impact**

15.7 Once away from licensed premises, a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing these problems. Other mechanisms both within and outside the licensing regime are available for addressing such issues. For example:

- Planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices;
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance;
- the power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question;
- raising a contribution to policing the late night economy through the Late Night Levy;
- Early Morning Alcohol Restriction Orders

15.8 The above may be supplemented by other local initiatives that seek to address these problems, for example through the Huntingdonshire Community Safety Partnership in line with the strategic objectives for crime and disorder reduction within the district.

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

16.1 The power for this Licensing Authority to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. These provisions and the regulations prescribing the requirements in relation to the process were brought in force on 31<sup>st</sup> October 2012. Government Guidance has also been produced.

16.2 The legislation provides this Licensing Authority with the discretion to restrict sales of alcohol by introducing an EMRO to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of this licensing authority's area and if relevant on specific days and at specific times. This licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives.

16.3 The only exemptions relating to EMROs are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.

16.4 The decision to implement an EMRO will be evidence based. The function of making, varying or revoking an EMRO is specifically excluded from the delegation of functions and may not be delegated to the licensing committee.

## **17. Late night levy**

17.1 The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31<sup>st</sup> October 2012.

17.2 Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions. Government Guidance has been produced.

- 17.3 These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. The function of making, varying or ceasing the requirement for a levy may not be delegated to the licensing committee.

## **18. Public Spaces Protection Order**

- 18.1 The Designated Public Place Order (DPPO) was replaced by the Public Spaces Protection Order (PSPO) in the Anti-social Behaviour Crime and Policing Act 2014. DPPO's continue to be valid for a period of three years following commencement of the PSPO. Once the three year period expires, they are treated as a PSPO and enforceable as such.

## **19. Children**

- 19.1 There are a great variety of premises for which licences may be sought, including theatres, cinemas, restaurants, concert halls, cafes, take-away food businesses and fast food outlets, community halls and schools, as well as public houses and nightclubs.
- 19.2 This Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of harm to children. Conditions requiring the admission of children to any premises cannot be attached to licences or certificates.
- 19.3 No statement of policy can properly anticipate every issue of concern that could arise in respect of children in relation to individual premises and therefore the individual merits of each application will be considered in each case.
- 19.4 Conditions relating to the access of children where alcohol is sold and which are appropriate to protect them from harm will be carefully considered. Conditions restricting access of children to premises will also be considered in circumstances where:
- adult entertainment is provided;
  - a member or members of the current management have been convicted for serving alcohol to minors, or with a reputation for allowing underage drinking;
  - it is known that unaccompanied children have been allowed access;
  - there is known association with drug taking or dealing; or
  - in some cases, the premises are used exclusively or primarily for the sale of alcohol for consumption on the premises.
- 19.5 The range of alternatives which may be considered for limiting the access of children where they are appropriate to protect children from harm can include:
- restrictions on the hours when children may be present;
  - restrictions or exclusions on the presence of children under certain ages when particular specified activities are taking place;
  - restrictions on the parts of the premises to which children may have access;
  - age restrictions (below 18)
  - restrictions or exclusions when certain activities are taking place;
  - requirements for an accompanying adult (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
  - full exclusion of people under 18 from the premises when any licensable activities are taking place.
- 19.6 The Licensing Authority commends the Portman Code of Practice on the naming, packaging and promotion of alcoholic drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.
- 19.7 This Licensing Authority recognises the Office of Children and Young People's Services (Social Care) of Cambridgeshire County Council as being competent to advise on matters relating to the protection of children from harm.
- 19.8 Where a premises licence or club premises certificate authorises the exhibition of a film, a condition will be included requiring the admission of children to films be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence e.g. the British Board of Film Classification, or by this Authority itself.

19.9 This Licensing Authority will expect licence holders or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification (or other body designated under section 4 of the Video Recordings Act 1984) or the licensing authority itself.

## 20. Conditions

- 20.1 Conditions (other than the statutory mandatory conditions) may only be attached to a licence or club premises certificate if relevant representations are received (except for conditions drawn from the applicant's operating schedule since these are voluntary propositions). Any such conditions will be tailored to the individual style and characteristics of the premises and events concerned. This is essential to avoid the imposition of disproportionate and overly burdensome conditions.
- 20.2 Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.
- 20.3 Blanket standard conditions will not be imposed without regard to the merits of the individual case.

## 21. Reviews

- 21.1 The proceedings set out in the Act for reviewing premises licences and club premise certificates represents a key protection for the community where problems associated with the licensing objectives occur after the grant or variation of a premises licence or club premise certificate.
- 21.2 At any stage following the grant of a premises licence or club premises certificate, a responsible authority, or any other person, may ask this Licensing Authority to review the licence or certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 21.3 This Licensing Authority will work in partnership with other responsible authorities to achieve the promotion of the licensing objectives and will give licence or certificate holders early warning of any concerns identified at a premises. The Licensing Authority will also encourage other responsible authorities to do the same.
- 21.4 When a review has been requested the role of the Licensing Authority will be to administer the process and determine its outcome at a hearing. Where the Licensing Authority had applied to review an authorisation, there will be a clear separation of responsibilities to ensure procedural fairness and eliminate conflicts of interest.
- 21.5 This Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any appropriate steps to promote the licensing objectives. In appropriate cases this Authority may issue an informal warning to the licence holder and/or recommend improvement within a particular period of time. Any warnings will be issued in writing.
- 21.6 Where this Licensing Authority considers that action under its statutory powers is appropriate it may take any of the following steps:
- modify the conditions of the premises licence (which includes adding new conditions or any alteration or omission of an existing condition);
  - exclude a licensable activity from the scope of the licence;
  - remove the designated supervisor;
  - suspend the licence for a period not exceeding three months;
  - revoke the licence.
- 21.7 In cases where the crime prevention objective is being undermined, this Licensing Authority will seriously consider revocation of the licence, even in the first instance.

## 22. Enforcement

- 22.1 This Licensing Authority will consult and liaise with the local police and any other relevant enforcement body on enforcement issues. This will provide for the targeting of agreed problem and high- risk premises which require greater attention while providing a lighter touch for low risk premises or those that are well run.

22.2 In general, action will only be taken in accordance with the Council's licensing compliance and enforcement policy, as adopted at the time, which reflects the Council's obligations relating to licensing enforcement. The key principles of consistency, openness, proportionality, clear standards and practices, courtesy and helpfulness and training will be maintained. The policy is available on our website [www.Huntingdonshire.gov.uk](http://www.Huntingdonshire.gov.uk) or a copy can be made available upon request. This Licensing Authority will also have regard to the Regulators' Code <https://www.gov.uk/government/publications/regulators-code> or any future replacement.

## **23. Licence Suspensions**

23.1 This is a power brought as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. This Licensing Authority must suspend premises licences and club premises certificates on the non-payment of annual fees. The procedure to be used is set out in regulation.

## **24. Administration, Exercise and Delegation of Functions**

24.1 The functions of the Licensing Authority under the Act may be taken or carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.

24.2 Many of the decisions and functions will be largely administrative in nature. In the interests of speed, efficiency and cost-effectiveness these will, for the most part be delegated to officers as set out in the Huntingdon District Council Constitution.

24.3 On applications where there are relevant representations these will be dealt with by a Committee or sub committee of the Licensing Authority, as will any application for review of a licence.

24.4 This Licensing Authority will expect applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.

24.5 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Schedule.

24.6 The 2003 Act provides that decisions and functions may be taken or carried out by licensing committees or delegated to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. In the interests of speed, efficiency and cost-effectiveness, as many of the decisions and functions will be purely administrative in nature, functions will be delegated to the appropriate level within the organisation where possible. See Annex 1.

## **25. Advice and Guidance**

25.1 Advice can be obtained via the Licensing Team and we will assist people on the types of licences they will need to apply for, the team can be contacted in the following ways:-

Website:

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

Email :

[licensing@huntingdonshire.gov.uk](mailto:licensing@huntingdonshire.gov.uk)

Telephone: 01480 3887075

In person or writing to:

The Licensing Team  
Huntingdonshire District Council  
Pathfinder House  
St Mary's Street  
Huntingdon  
PE29 3TN



## **26. Appendices**

- 26.1 The following appendices are provided with this policy:
- Appendix 1 – Delegation of Functions
  - Appendix 2 – Other policies, legislation and guidance sources
  - Appendix 3 – Useful references (organisations)

## **27. Equal Opportunities**

- 27.1 This Licensing Authority will have due regard to the need to eliminate unlawful discrimination, harassment and victimization; to advance equality of opportunity; and to foster good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
- 27.2 In implementing the Licensing Act 2003, associated legislation and guidance, this Licensing Authority is committed to ensuring that the obligations and duties within this legislation are met.

## **28. Review of the Policy**

- 28.1 This licensing policy will be formally reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy will be subject to the consultation process. In addition, Section 5(4) of the Act provides that the licensing authority must keep its policy under review during each five year period and make appropriate revisions. Again, any revisions will be subject to consultation.
- 28.2 Where a special policy relating to cumulative impact or early morning restriction orders is adopted this will be reviewed regularly at least every five years, to assess whether it is needed any longer, or indeed needs expanding.

## Appendix 1 - Delegation of functions

Matter to be dealt with	Full Committee	Sub Committee or Panel	Officers
Application for personal Licence	-	If a police objection made	If no objection made
Application for personal licence with unspent convictions	-	All cases	-
Application for premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application for provisional statement	-	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	-	If a police objection	All other cases
Request to be removed as designated premises supervisor	-	-	All cases
Application for transfer of premises licence	-	If a police objection	All other cases
Applications for interim Authorities	-	If a police objection	All other cases
Application to review premises licence/club premises certificate	-	All cases	-
Decision on whether a representation is irrelevant frivolous vexatious etc.	-	-	All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	-	All cases	-
Determination of application to vary premises licence at community premises to include alternative licence	-	If a police objection	All other ca
Decision whether to consult on other Responsible authorities on minor variation Application	-	-	All cases
Determination of minor variation application	-	-	All cases
Determination of a police objection to a temporary event notice	-	All cases	-

## Appendix 2 Other policies, legislation and guidance sources

There are a number of other local and national policies, strategies, responsibilities, and guidance documents which should be taken into account in order to complement this authority's licensing policy. In particular the policy should provide a clear indication of how the licensing authority will secure the proper integration of the licensing policy and other local policies such as the local crime prevention, planning, transport, tourism, cultural strategies and the local alcohol policy.

### (i) Legislation

- The Health and Safety at Work etc. Act 1974
- The Environmental Protection Act 1990
- The Noise Act 1996
- Crime and Disorder Act 1998
- Human Rights Act 1998
- Criminal Justice and Police Act 2001
- Private Security Industry Act 2001
- Anti-Social Behaviour Act 2003
- The Clean Neighbourhoods and Environment Act 2005
- The Gambling Act 2005
- The Regulatory Reform (Fire Safety) Order 2005
- The Health Act 2006
- Violent Crime Reduction Act 2006
- Policing and Crime Act 2009
- Equalities Act 2010
- Crime and Security Act 2010
- The Police Reform and Social Responsibility Act 2011
- Live Music Act 2012
- Anti-social Behaviour Crime and Policing Act 2014
- Deregulation Act 2015

*Note: These and other relevant pieces of legislation can be found at [www.opsi.gov.uk](http://www.opsi.gov.uk)*

### (ii) Strategies and Policies

- Alcohol Strategy
- Alcohol Harm Reduction Strategy in Cambridgeshire
- Best Bar None
- British Beer and Pub Association Partnerships Initiative
- Community Alcohol Strategy
- Community Safety Strategy
- Crime & Disorder Reduction Strategy
- Council's Licensing Compliance and Enforcement Policy
- Cultural and Tourism Strategies including promotion of live music and community events
- Home Office: Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries
- Local Development Framework
- Local Transport Plan
- Memorandum of Understanding and Joint Enforcement Protocol
- National and local PubWatch schemes
- Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks
- Purple Flag (ATCM)
- Regulators' Code

- Safer Socialising

### (iii) Guidance Documents

- [Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems](#)
- [Home Office Safer Clubbing Guide](#)
- [Home Office Designated Public Place Order \(DPPO\) Guidance](#)
- [Home Office s182 Guidance](#)
- [LACORS/TSI Code of Practice on Test Purchasing](#)
- [The Event Safety Guide](#)
- [Licensing large scale events \(music festivals etc.\)](#)
- [Managing Crowds Safely](#)
- [5 Steps to Risk Assessment](#)
- [The Guide to Safety at Sports Grounds](#)
- [Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Performances](#)
- [UK BIDS: Business Improvement Districts \(national BIDS advisory service\)](#)
- [BIS Code of Practice on Consultation](#)
- [The Plain English Campaign](#)

### (iv) Relevant case law regarding policy statements

- Limits of licensing policy:  
*BBPA & Others v Canterbury City Council* [2005] EWHC 1318 (Admin)
- “Strict” licensing policies and exceptions to policy:  
*R (Westminster City Council) v Middlesex Crown Court and Chorion plc* [2002] LLR 538
- Cumulative impact policies and hours  
*R (JD Wetherspoon plc) v Guildford Borough Council* [2006] EWHC 815 (Admin)
- Duplication and conditions:  
*R (on the application of Bristol Council) v Bristol Magistrates’ Court* [2009] EWHC 625 (Admin)
- Extra-statutory notification by the licensing authority:  
*R (on the application of Albert Court Residents Association and others) v Westminster City Council* [2010] EWHC 393 (Admin)
- The prevention of crime and disorder: ambit of the objective  
*Blackpool Council, R (on the application of) v Howitt* [2008]
- Crime and disorder: sanctions on review: deterrence  
*Bassetlaw District Council, R (on the application of) v Workshop Magistrates Court* [2008]

**Note: This list is not exhaustive**

## Appendix 3 Useful References (organisations)

**Local Government Association:**

<http://www.local.gov.uk/regulatory-services-and-licensing>

**Association of Convenience Stores (ACS)**

<http://www.acs.org.uk/>

**Association of Licensed Multiple Retailers (ALMR)**

**Now incorporating Bar, Entertainment and Dance Association (BEDA)**

<http://www.almr.org.uk/>

**Association of Town Centre Managers (ACTM and Purple Flag)**

<http://www.atcm.org/>

**Better Regulation Delivery Office (BRDO)**

<http://www.bis.gov.uk/brdo>

**British Beer and Pub Association (BBPA)**

<http://www.beerandpub.com/>

**British Board of Film Classification (BBFC)**

<http://www.bbfc.co.uk/>

[http://](http:///)

**British Institute of Inn Keeping (BII)**

<http://www.bii.org/home>

**British Retail Consortium (BRC)**

[http://www.brc.org.uk/brc\\_home.asp](http://www.brc.org.uk/brc_home.asp)

**Cinema Exhibitors' Association (CEA)**

<http://www.cinemark.org.uk/>

**Department for Culture, Media and Sport**

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

**Home Office**

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

**Institute of Licensing (IOL)**

<http://www.instituteoflicensing.org/>

**Licensed Victuallers Associations (LVAs)**

<http://www.flva.co.uk/>

**National Association of Licensing and Enforcement Officers (NALEO)**

<http://www.naleo.org.uk/>

**The Portman Group**

<http://www.portmangroup.org.uk/>

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Summary of consultation response and amendments to draft Statement of Licensing Policy  
Appendix 2

Date received	From	Relevant section	Comment Summary	Response	Action
21.8.15	Cambridgeshire County Council, Public Health Directorate	4.1 – Strategies and Partnership Working	Consider adding ‘health and wellbeing’ within the list of strategies that the policy seeks to integrate	Considered and agreed	Paragraph amended as appropriate.
		6. Objectives	Examples of management practices given to assist applicants in preparing their operating schedules. Examples given relate to 6.2 Public Safety, 6.3 The prevention of public nuisance and 6.4 The protection of children from harm.	Comments considered. Similar examples are given in the Government S182 Guidance to which the Licensing Authority must have regard. For conciseness and to avoid duplication, they have not therefore been repeated in the policy for this authority.	No further action is considered necessary.
		8. Health as a Responsible Authority	Recognition of Health as a Responsible Authority is welcomed.	Noted	No further action necessary
		9. Responsible Authorities	Contact detail updates given	Noted	Amended as appropriate
		15. Cumulative Impact	Consider including additional points: <ul style="list-style-type: none"> <li>Health Data including the wider public health and local alcohol profiles for England (LAPE) data <a href="http://www.lape.org.uk">www.lape.org.uk</a></li> <li>Data on alcohol related hospital admissions, alcohol specific admissions and alcohol related deaths in the local area</li> <li>Treatment data on the number of people in the area in a structured</li> </ul>	Comments considered. Paragraph 8.2 acknowledges that the Director of Public Health will be useful in providing evidence of alcohol-related health harms when there is a revision of policy particularly in relation to cumulative impact policies. Paragraph 8.2 makes reference to cumulative	Section 8 has been expanded to include the additional areas identified.

			alcohol treatment service	impact policies, so it is not considered necessary to duplicate this in Section 15. Paragraph 8.3 envisages that the Director of Public Health will be useful in providing evidence such as alcohol related A&E admissions or ambulance service data. The additional areas specified in the response have been noted.	
24.7.15	Hemingford Grey Parish Council		The parish council has no comments to make.	Noted	No further action necessary
6.8.15	Catworth Parish Council		Catworth Parish Council is content with the proposal.	Noted	No further action necessary
Additional amendment	March 2015 edition of S182 Government Guidance to Licensing Authorities	Paragraph 13.55	Children and cinemas – The statement of policy should make clear that in the case of premises giving film exhibitions the licensing authority will expect licence holders or clubs to include in the operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the BBFC or the licensing authority itself.	Noted	New paragraph 19.9 added to reflect latest Government Guidance
Additional amendment	March 2015 edition of S182 Government Guidance to Licensing Authorities	Paragraph 13.40	Two new bullet points added.	Noted	Paragraph 15.7 of policy amended to reflect Government Guidance



Additional amendments	Legislation update	Appendix 2	Some legislation omitted. Not in logical order.	Noted	Appendix updated.
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f/licensing/Licensing Act 2003/Policy Statement/consultation responses/summary of consultation responses

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Public  
Key Decision - No

## HUNTINGDONSHIRE DISTRICT COUNCIL

**Title/Subject Matter:** Classification of Film

**Meeting/Date:** Licensing Committee - 20 October 2015

**Executive Portfolio:** Councillor Roger Harrison, Executive Councillor for Strategic Economic Development and Legal

**Report by:** Chris Stopford, Head of Community

**Ward(s) affected:** All

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### **Executive Summary:**

The Council's responsibilities relating to film classification are now incorporated into the Licensing Act 2003 so it is necessary to adopt a policy and procedure and to delegate powers for authorisation. The Council's existing Constitution delegates all functions under the Licensing Act 2003 to the Licensing Committee.

This report presents an updated policy for the determination of applications, and seeks to further delegate the responsibility for determining applications.

The cost of undertaking the function will be absorbed within the Licensing Team.

### **Recommendation(s):**

- (a) That members consider and approve the adoption of the policy and procedure for the classification of film, attached as Appendix 1 to the report.
- (b) That the Head of Community, or in his absence the Licensing Manager; in consultation with the Chair and Vice Chair of the Licensing Committee or a nominated representative of the Licensing Committee, be authorised to determine requests to amend the classification of films by the British Board of Film Classification (the BBFC) and to classify films that have not been classified which are intended for public exhibition in the District.

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## **1. WHAT IS THIS REPORT ABOUT/PURPOSE?**

- 1.1 In June 2002, the Licensing and Protection Panel authorised the Licensing and Applications Sub-Group to determine requests to amend the classification of films by the British Board of Film Classification (the BBFC) and to classify films that had not so been classified, but were intended for public exhibition in the District.
- 1.2 Since then, the Council's responsibilities relating to film classification have been amended and incorporated into the Licensing Act 2003. This report seeks approval of the Licensing Committee therefore, to approve a policy and procedure for dealing with such matters and to delegate the powers of authorisation.
- 1.3 Section 26 of the Counter-Terrorism and Security Act 2015 places a duty on Huntingdonshire District Council to have 'due regard to the need to prevent people from being drawn into terrorism'. The use of unclassified film to promote terrorism is considered to be a National threat. The proposed policy includes measures to ensure that the Council has regard to this additional duty.

## **2. WHY IS THIS REPORT NECESSARY/BACKGROUND**

- 2.1 Section 20 of the Licensing Act 2003 contains a mandatory condition that the admission of children be restricted in accordance with any recommendation made by a person or persons designated as a 'film classification body' under Section 4 of the Video Recordings Act 1984 (currently only the BBFC). Where the film classification body is not specified, then the admission of children must be restricted in accordance with any recommendations made by the Licensing Authority.
- 2.2 The BBFC performs a national film classification role on behalf of local authorities, acting as regulator across the United Kingdom in classifying films, trailers and advertisements. However there is not a single legal system and account is taken of different legal systems that coexist, including the Licensing Act 2003.
- 2.3 We should not duplicate the role of the BBFC; however the Council, as the Licensing Authority, is the classification body for the public exhibition of unclassified film shown in the district. It may also be asked to reclassify films or receive appeals from distributors against BBFC decisions.
- 2.4 In addition the Licensing Authority can issue a classification waiver which permits the exhibition of film within the local area without a classification, but subject to certain conditions and restrictions.

## **3. OPTIONS CONSIDERED/ANALYSIS**

- 3.1 To enable the Council to perform its statutory functions under the Licensing Act 2003, relating to the exhibition of film, it must have a policy and procedure in place for dealing with such matters. Having a policy in place will enable a consistency of practice and leave us less open to challenge.
- 3.2 Attached as Appendix 1 is a Policy for Determining Film Classification, setting out matters such as the background, procedure, process, classification, authorisation and exemptions. It also addresses the protection of children from harm objective.

#### **4. KEY IMPACTS/RISKS?**

##### **HOW WILL THEY BE ADDRESSED?**

- 4.1 Having a procedure in place will ensure films are classified appropriately and negate the risk of moral or psychological harm being caused to members of the public, in particular children, by film exhibitions containing strong language, horror/violence or sexual expletives.

#### **5. WHAT ACTIONS WILL BE TAKEN/TIMETABLE FOR IMPLEMENTATION**

- 5.1 The procedure and scheme of delegation will be brought into effect immediately.

#### **6. LINK TO THE CORPORATE PLAN**

- 6.1 A strong local economy, working with our communities, ensuring we are a customer-focused and service-led council.

#### **7. LEGAL IMPLICATIONS**

- 7.1 The public exhibition of film on licensed premises must either be classified by the BBFC or authorised by the Licensing Authority under the powers of the Licensing Act 2003. Paragraph 2(1) (b) of Schedule 1 of the Act defines the exhibition of a film as regulated entertainment. Section 20(3) states that where film is not classified by the relevant classification body, the admission of children to the screening of that film must be restricted in accordance with any recommendation made by the Licensing Authority. The admission of children to the public screening of material unclassified by the film classification body is therefore subject to authorisation by the Licensing Authority in accordance with the powers of the Act.

- 7.2 Section 136 of the Act states that a person commits an offence if they carry on, or attempt to carry on a licensable activity on or from any premises otherwise than in accordance with an authorisation, or knowingly allows a licensable activity to be so carried on. A person guilty of such an offence is liable on summary conviction to up to six months imprisonment and/or a fine not exceeding £20,000.

- 7.3 It is vital therefore that we have the correct policy and procedures in place to enable us to fulfil our statutory duties.

#### **8. RESOURCE IMPLICATIONS**

- 8.1 The cost of carrying out any form of film classification will be met from within existing licensing budgets. The service will be delivered from within the existing Licensing Team resource.

#### **9. OTHER IMPLICATIONS**

- 9.1 The Licensing Authority has a duty under the Licensing Act 2003 to promote the Licensing Objectives. Of particular importance in this respect is the protection of children from harm. The Licensing Authority must have regard to its Statement of Licensing Policy, any Statutory Guidance under the Licensing Act 2003 and is bound by the Human Rights Act 1988. The Council must also fulfil its obligations under Section 17 of the Crime and Disorder Act 1988 to do all that it reasonably can to prevent crime and disorder in its district.

9.2 Paragraphs of the Home Office Guidance issued under S182 of the Licensing Act 2003 (March 2015 edition) of particular relevance are:

- Paragraph 2.21 – the protection of children from harm
- Paragraph 2.26 – conditions relating to the protection of children from harm
- Paragraph 2.29 – Mandatory condition in relation to the admission of children for films to be restricted.
- Paragraph 10.17 – Censorship
- Paragraphs 10.61 & 10.62 - Exhibition of film
- Paragraph 13.55 – Children and cinemas

## **10 REASONS FOR THE RECOMMENDED DECISIONS**

10.1 Having a policy and procedure in place will aid consistency of practice. The proposed scheme of delegation to Officers, in consultation with the Chair and Vice Chair, or nominated representative of the Licensing Committee will promote efficiency and speed up the determination period.

## **11. LIST OF APPENDICES INCLUDED**

Appendix 1 – Policy for Determining Film Classification

### **BACKGROUND PAPERS**

BBFC classification guidelines – latest edition - June 2104  
Statement of Licensing Policy

### **CONTACT OFFICER**

Christine Allison, Licensing Manager  
Tel No. 01480 387075

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## **POLICY FOR DETERMINING FILM CLASSIFICATION**

### **1. INTRODUCTION**

- 1.1 Section 20 of the Licensing Act 2003 (the Act) provides that where a Premises Licence or Club Premises Certificate authorises the exhibition of a film(s), the licence must include a condition requiring the admission of children to films to be restricted in accordance with recommendations given either by a body designated under section 4 of the Video Recordings Act 1984 specified in the licence, currently only the British Board of Film Classification (BBFC), or by the Licensing Authority itself.
- 1.2 The public exhibition of films on licensed premises must therefore either be classified by the BBFC or authorised by the Licensing Authority under the powers of the Licensing Act 2003.
- 1.3 The purpose of this Policy is to set out the formal procedure for Huntingdonshire District Council (the Licensing Authority) to determine within its area, the classification of previously unclassified films, to amend classifications and deal with appeals by distributors against the BBFC's decisions or requests to reclassify films.
- 1.4 Section 26 of the Counter Terrorism and Security Act 2015 places a duty on Huntingdonshire District Council to have 'due regard to the need to prevent people from being drawn into terrorism'.
- 1.5 Where a premises seeks or intends to exhibit film(s), the venue must be covered by a Premises Licence, Club Premises Certificate or Temporary Event Notice under the Licensing Act 2003. In the case of a Temporary Event Notice, the Licensing Act 2003 mandatory condition does not apply, but applicants may still request the assistance of the Council in determining the classification of a film(s)
- 1.6 The Act defines children as 'any person under the age of 18' and the exhibition of film as 'the exhibition of moving pictures'.

### **2. BACKGROUND**

- 2.1 The Licensing Authority may be requested to authorise the showing of an unclassified film(s) within the Huntingdonshire District Council district. Typically this will be for:
  - A film festival covering a specific period of time
  - A one off screening of a film(s)
  - A trailer for a film
- 2.2 The Licensing Authority may also be requested to authorise a film that has already been classified by the BBFC when:
  - A distributor of a film wishes to appeal against the decision of the BBFC and request that the Licensing Authority re-classifies/authorises the film for local screening with recommendations on age restrictions) or;

- An independent party may request that the Licensing Authority reclassifies/authorises the film for local screening (with recommendations on age restrictions).

### **3. PROCEDURE FOR SUBMISSION OF FILM(S)**

- 3.1 Applications for authorisation of film(s) shall be referred to the Head of Community and will be determined by the Head of Community, or in his absence the Licensing Manager; in consultation with the Chair and Vice Chair of the Licensing Committee or a nominated representative of the Licensing Committee.
- 3.2 Applications should be submitted to the Licensing Authority, for the attention of the Head of Community, at least 28 days before the proposed screening.
- 3.3 An application for authorisation needs to be in a form that can be viewed, read and understood, should state detailed reasons for the request and include the following information:
- The date(s), time(s) and proposed venue for the exhibition of the film(s)
  - The name of the film maker;
  - A brief synopsis of the film(s);
  - Any recommendation that may have been made by the film maker regarding an age limit for the intended audience for exhibition of the film;
  - Any existing classification issues by an existing classification body, whether within or outside the UK.
  - If the film has previously been classified by another Licensing Authority, details of the classification awarded by that authority, together with the date and venue at which it was shown.
  - Information identifying the material within the film considered by the exhibitor to be likely to have a bearing on the age limit for the audience for exhibition of the film;
  - The language spoken in the film and whether there are subtitles in English
  - Details of how any age restrictions will be enforced;
- 3.4 All requests shall be accompanied by the film(s), where possible in DVD format to avoid delays, the cost to be borne by the applicant. If DVD format is not possible, then arrangements will be made for a suitable venue to view the film(s).
- 3.5 If the film contains dialogue is in a language other than English, an interpreter, approved by the Licensing Authority may be required for the classification, the cost to be borne by the applicant.
- 3.6 Applicants must ensure all material subject of the application complies with the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988, the Counter Terrorism and Security Act 2015 or any other relevant legislation and has not been created through the commission of a criminal offence.

#### **4. PROCESS**

- 4.1 Requests will be dealt with as expeditiously as possible as it is appreciated that films are generally only shown in cinemas for a relatively short period.
- 4.2 The Head of Community, or in his absence the Licensing Manager; along with the Chair and Vice Chair or their nominated member of the Licensing Committee will view the film and assess it against the BBFC guidelines and Government Guidance. At least one of the Chair or Vice Chair will be present at the viewing.
- 4.3 The Chair will have the final decision on the classification to be applied to the film. In the absence of the Chair, the decision will be made by the Vice Chair.
- 4.4 A notice of determination will be issued within 5 working days of the viewing.
- 4.5 The Licensing Authority will formally advise the applicant and the licence holder of any recommendation(s) restricting the admission of children to the film(s).
- 4.6 Where the Licensing Authority has determined to refuse the authorisation of a film, reasons for the decision shall be given.

#### **5. CLASSIFICATION**

- 5.1 The BBFC classifies film in accordance with published guidelines that are based on extensive research into public opinion and professional advice, generally reflecting public sensibilities and expectations as they change over time.
- 5.2 The Licensing Authority considers the classification system used by the BBFC to be nationally understood and accepted and will use this system together with any future amendments that may apply, as a reference point for determining its recommendation(s) on the restriction of access of children to the film(s). The Licensing Authority, however, is not obliged to follow these guidelines.
- 5.3 Where a licensed premises within the Huntingdonshire District Council district seeks to exhibit a film(s) that has not been classified by the BBFC, then it will be the responsibility of the Licensing Authority to authorise that film(s).
- 5.4 The Licensing Authority recognises the principle within the Human Rights Act 1998 that adults should be free to choose their own entertainment. However material should not be in breach of the criminal law, including material judged to be obscene under the current interpretation of the Obscene Publications Act 1959, or is in breach of the Copyright Design and Patents Act 1988, or the Counter Terrorism and Security Act 2015; or has been created through the commission of a criminal offence.
- 5.5 The Licensing Authority shall concern itself primarily with the protection of children from harm and will not use its powers to censor films unless there is a clear cause to believe that this is required to promote the licensing objectives.

## **6. PROTECTION OF CHILDREN FROM HARM**

- 6.1 The protection of children from harm is a licensing objective under the Act. Section 182 Government Guidance to Licensing Authorities under the Act states: *It includes the protection of children from moral, psychological and physical harm. This includes not only protection children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives, for example , in the context of exposure to certain films or adult entertainment. Licensing Authorities must also consider the need to protect children from sexual exploitation when undertaking licensing functions.*
- 6.2 In line with the Government Guidance, where a film(s) is recommended by the Licensing Authority as falling into an age restrictive category, no person under the age specified shall be admitted.
- 6.3 Where a film(s) is recommended by the Licensing Authority as falling into a category requiring any person under a specified age to be accompanied by an adult, no person under the age specified shall be admitted unless accompanied by an adult.
- 6.4 In these circumstances, the licence holder will be required to display in a conspicuous position, a notice clearly stating the relevant age restrictions and requirements or non-admittance. E.g.:

*Persons under the age of (insert appropriate age) cannot be admitted to any part of the programme*

*Persons under the age of (insert appropriate age) cannot only be admitted to the programme if accompanied by an adult.*

## **7. AUTHORISATION**

- 7.1 Any authorisation(s) for the exhibition of film issued by the Licensing Authority will only apply when the film is exhibited within the area covered by Huntingdonshire District Council and does not affect the authorisations of any other Authority.
- 7.2 Once authorised by the Licensing Authority a film(s) will be authorised for a particular showing or festival only and subject to the recommendations imposed by the Licensing Authority.
- 7.3 The issue of any authorisation by the Licensing Authority is strictly limited to the determination of film classification and it will be assumed that all relevant third party consents and licences in respect of any and all copyright confidential information and all other intellectual property rights have been obtained.
- 7.4 Where the Licensing Authority has authorised unclassified material to be shown, it will require an undertaking from the applicant of that they are satisfied, after making proper enquiry, that no material to be exhibited contravenes the current interpretation of the Obscene Publications Act 1959, the Copyright Design and Patents Act 1988, Counter Terrorism and Security Act 2015 or any other relevant legislation and has not been created through the commission of a criminal offence.

- 7.5 The Licensing Authority shall also not be liable for any material that has been created through the commission of a criminal offence. It is the responsibility of the applicant to ensure that no film or trailer contravenes the law.
- 7.6 Each application will be considered on its individual merits. There is no right of appeal to the classification imposed by the Licensing Authority.
- 7.7 All authorisations issued under a Premises Licence or Club Premises Certificate will be subject to the mandatory conditions contained in the Act relating to the exhibition of film.

## **8. EXEMPTIONS**

- 8.1 The provision of the exhibition of film is exempt from regulation by the Act if either:
- It consist of or forms part of an exhibit put on show for any purposes of a museum or art gallery, or:
  - Its sole or main purpose is to:
    - demonstrate any product,
    - advertise any goods or services, or
    - provide information, education or instruction

## **9. CONTACT DETAILS**

- 9.1 All applications should be sent for the attention of:

Head of Community, Huntingdonshire District Council, Pathfinder House,  
St Mary's Street, Huntingdon, PE29 3TN.

Tel 01480 387075

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

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# Agenda Item 6

Public  
Key Decision - No

## HUNTINGDONSHIRE DISTRICT COUNCIL

**Subject Matter:** LICENSING SUB COMMITTEES

**Meeting/Date:** Licensing Committee – 20th October 2015

**Executive Portfolio:** Councillor R Harrison – Executive Councillor for Strategic Economic Development and Legal

**Report by:** Elections and Democratic Services Manager.

### 1. INTRODUCTION

- 1.1 The Licensing Sub Committee comprising three Members of the Licensing and Committee is convened when necessary to determine such matters which have been delegated to it in accordance with the Licensing Act 2003. Below is a summary of the meetings that have taken place since the last meeting of the Committee. Full copies of the Records of a Hearing are available on request.

Meeting Date	Chairman	Application	Determination
7th July 2015	R Fuller	Application for a premises licence under Section 18 (3) (a) of the Licensing Act 2003.  Dobra Bo Polski, Unit 16, St Benedicts Court, Huntingdon.	The Sub-Committee agreed to grant the application as applied for, namely -  Supply of alcohol (off the premises)  Mon-Sun 09:00 to 21:00 Conditions to be added as volunteered in the operating schedule.
21st September 2015	R Fuller	Application for a review of a premises licence made under Section 51 of the Licensing Act 2003 by Cambridgeshire Constabulary.  The Akbar Tandoori 99 Great North Road Eaton Socon St Neots Cambridgeshire PE19 8EL	The Sub-Committee decided that no further action be taken.

### 2. RECOMMENDATION

- 2.1 The Panel are invited to note the above information.

#### BACKGROUND PAPERS

Agenda, Reports and Minutes of the Licensing Sub Committee meetings held on 7th July and 21st September 2015.

**Contact Officer:** Mrs C Bulman, Democratic Services - ☎ 01480 388234.

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