

Committee Agenda



Epping Forest District Council

Licensing Committee **Wednesday, 10th October, 2012**

You are invited to attend the next meeting of **Licensing Committee**, which will be held at:

Council Chamber, Civic Offices, High Street, Epping
on **Wednesday, 10th October, 2012**
at **2.00 pm** .

Glen Chipp
Chief Executive

Democratic Services
Officer

Gary Woodhall
The Office of the Chief Executive
Tel: 01992 564470
Email: democraticservices@eppingforestdc.gov.uk

Members:

Councillors K Angold-Stephens (Chairman), A Lion (Vice-Chairman), A Boyce, K Chana, Mrs R Gadsby, L Leonard, A Mitchell MBE, R Morgan, Mrs M Sartin, Ms G Shiell, Mrs P Smith, P Spencer, Mrs T Thomas, D Wixley and N Wright

<p>PLEASE NOTE THE START TIME OF THE MEETING</p>

1. APOLOGIES FOR ABSENCE

(Assistant to the Chief Executive) To be declared at the meeting.

2. DECLARATIONS OF INTEREST

(Assistant to the Chief Executive) To declare interests in any item on this agenda.

3. ANY OTHER BUSINESS

Section 100B(4)(b) of the Local Government Act 1972, together with paragraphs (6) and (24) of the Council Procedure Rules contained in the Constitution require that the permission of the Chairman be obtained, after prior notice to the Chief Executive, before urgent business not specified in the agenda (including a supplementary agenda of which the statutory period of notice has been given) may be transacted.

In accordance with Operational Standing Order (6) (non-executive bodies), any item raised by a non-member shall require the support of a member of the Committee concerned and the Chairman of that Committee. Two weeks notice of non-urgent

items is required.

4. MINUTES OF THE LICENSING COMMITTEE (Pages 5 - 8)

To confirm the minutes of the Licensing Committee meeting held on 30 August 2012 (attached).

5. MINUTES OF THE LICENSING SUB-COMMITTEES

Copies of the minutes from the Sub-Committee's meetings listed below will be available for the relevant Chairmen to sign off:

- (i) 3 April 2012;
- (ii) 12 April 2012;
- (iii) 8 May 2012;
- (iv) 12 June 2012;
- (v) 10 July 2012;
- (vi) 7 August 2012; and
- (vii) 4 September 2012.

6. APPLICATIONS RECEIVED UNDER THE LICENSING ACT 2003 AND GAMBLING ACT 2005 (Pages 9 - 10)

(Assistant Director of Corporate Support Services (Legal)) To consider the attached report (LSC-003-2012/13).

7. CUMULATIVE IMPACT POLICY (Pages 11 - 14)

(Assistant Director of Corporate Support Services (Legal)) To consider the attached report (LSC-004-2012/13).

8. LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS (Pages 15 - 22)

(Assistant Director of Corporate Support Services (Legal)) To consider the attached report (LSC-005-2012/13).

9. GAMBLING ACT 2005 - STATEMENT OF PRINCIPLES (Pages 23 - 58)

(Assistant Director of Corporate Support Services (Legal)) To consider the attached report (LSC-006-2012/13).

10. LIVE MUSIC ACT 2012 (Pages 59 - 60)

(Assistant Director of Corporate Support Services (Legal)) To consider the attached report (LSC-007-2012/13).

11. DRAFT STATEMENT OF LICENSING POLICY (Pages 61 - 78)

(Assistant Director of Corporate Support Services (Legal)) To consider the attached report (LSC-008-2012/13).

12. REVIEW OF LICENSING SUB-COMMITTEE PROCEDURES

To review the proceedings of the Licensing Sub-Committee held during the preceding period and identify any problems of procedure, policy and organisation that have adversely affected the running of the meetings.

13. REVIEW OF CURRENT AND FUTURE TRAINING NEEDS FOR THE COMMITTEE

To highlight any further training considered necessary for the members tasked with discharging the Council's Licensing function.

14. MATTERS ARISING

To consider any further matters arising in respect of the Council's Licensing function, not covered elsewhere on the agenda.

15. DATE OF NEXT MEETING

The next meeting of the Licensing Committee has been scheduled for 10 April 2012 at 2.00pm in the Council Chamber.

This page is intentionally left blank

EPHING FOREST DISTRICT COUNCIL COMMITTEE MINUTES

Committee:	Licensing Committee	Date:	Thursday, 30 August 2012
Place:	Council Chamber, Civic Offices, High Street, Epping	Time:	2.30 - 3.35 pm
Members Present:	Councillors K Angold-Stephens (Chairman), A Lion (Vice-Chairman), A Boyce, K Chana, L Leonard, A Mitchell MBE, R Morgan, Mrs M Sartin, Ms G Shiell, Mrs P Smith, P Spencer, Mrs T Thomas and D Wixley		
Other Councillors:	Councillors G Waller		
Apologies:	Mrs R Gadsby and N Wright		
Officers Present:	A Hendry (Democratic Services Officer) and A Mitchell (Assistant Director (Legal))		

1. Declarations of Interest

There were no declarations of interest pursuant to the Council's Code of Member Conduct.

2. Minutes of the Licensing Committee

RESOLVED:

That the minutes of the meeting held on 11 April 2012 to be taken as read and signed by the Chairman as a correct record subject to the spelling of Councillor Sartin's name correctly in minute item 18 and the deletion of the words "Sainsbury's at" in the first line of the third paragraph of minute item 20.

Councillor Lion shared some research he had undertaken on the cost of the installation of meters in Hackney Carriages. He had ascertained that one company could install a meter for £299 including VAT and fittings. He also established that another company could install a type of meter that fitted to the existing mirror for a cost of £399.

These meters could be installed whenever the existing licence was being renewed.

3. Taxi Ranks

The Committee considered the latest report updating them on the need and location of new taxi ranks in the district. At their last meeting in April 2012 they had considered an initial report and asked for a more detailed report on proposals for taxi ranks within the District to be brought to a special meeting in August.

The Committee noted the outcome of the consultation undertaken. They also noted that after the April meeting, Licensing Officers contacted the owners of any private

land that was identified as a potential taxi rank and the highway authority in respect of any areas which were public highway.

The Committee considered the five supermarkets that had agreed to enter into further discussions with this Authority prior to the land being used as a taxi rank. The supermarkets were:

- Tesco's stores, Epping;
- Marks & Spencer, Loughton;
- Sainsbury's, Loughton;
- Waitrose, Buckhurst Hill; and
- Sainsbury's, Ongar.

They noted that the parking areas next to supermarkets were usually owned by the supermarkets concerned and as it was private land the consent of the land owners must be obtained prior to the land being used as a taxi rank. The consultation determined that the majority of people were in favour of having taxi ranks put in.

After discussing the merits of having taxi ranks in supermarkets, the Committee agreed they were in favour of letting officers proceed with negotiating on the placing of ranks in the supermarket areas which the Committee considered should be progressed.

The Committee then considered the placing of ranks at local stations and on the public highway. They noted that some stations owned the land concerned while others adjoined the public highway, therefore the agreement of the highways authority was needed and a traffic order had to be made. Officers had met with representatives from the North Essex Parking Partnership (NEPP) to discuss whether Essex County Council would agree to permit taxi ranks to be constructed on the highway and what would be NEPP's requirements. The following locations had been identified as possible rank locations:

- Epping High Street outside Barclays Bank;
- Loughton Station;
- Loughton High Street;
- Debden near Churchill Public House; and
- Waltham Abbey on the service road at the rear of the Co-operative.

It was noted that NEPP had about 52 other traffic proposals to consider and that the establishment of taxi ranks would be low on their priority list, with safety schemes taking precedent. A way forward would be we could employ the partnership on our behalf and pay for the work ourselves. This would need a Cabinet commitment for funding.

As a general point, it was noted that the Licensing section would enforce the use of the ranks and the highways agency would look after maintenance of the sites.

The Committee considered the proposed site at Debden and noted that that area was currently under development and this may well affect the site of any ranks. The Committee agreed that this site should not be pursued at present due to the uncertainty of the current development.

It was noted that the area around Loughton Station was publically owned and although it did have a rank it was not an official one as yet. The council would have to advertise the works and draw up a road traffic order. If, as seems likely the council would have to finance these schemes itself, then it was very probable that nothing would happen this financial year. The Committee agreed it needed to decide what it wanted and to put in place long term plans. They would have to look at each scheme

in more detail and decide what they were going to ask Cabinet to finance. Clarification on costs for each site was therefore also needed.

One possible way forward was to ask that the Supermarkets pay for the works themselves as it was on their land and that our officers provide all the help and advice that they could. This should be a general principal for any development proposed on all private property and not just for supermarkets.

RESOLVED:

- (1) That the progress made on the consultations be noted;
- (2) That the Senior Licensing Officer be instructed to proceed with negotiations with the following supermarkets:
 - Tesco's Stores, Epping;
 - Marks and Spencer's, Loughton;
 - Sainsbury's Loughton;
 - Waitrose, Buckhurst Hill; and
 - Sainsbury's, Ongarwith a view to supporting them to help them establish a taxi rank on their land at their own expense.
- (3) That the following areas be further researched and costed with the help of North Essex Parking Partnership to enable a detailed financial case to be put to the Cabinet:
 - Epping High Street, outside Barclays Bank;
 - Loughton Station;
 - Loughton High Street, by the green near 'Luxe's' nightclub; and
 - Waltham Abbey, on the service road at the rear of the Co-operative.
- (4) The Committee agreed that they did not have any other areas they wished to consider at the present.

4. Annual Fees - Suspension of Premises Licence and Club Premises Certificate

The Committee received a report updating them on the new procedures for collecting fees and suspension of premises licence and club premises certificates.

Prior to the 25th April 2012, the Licensing Act 2003 set down a statutory annual fee due by all Licence Holders. If the licence holder failed to pay the fee it became a debt due to the Council, but the licence/certificate continued.

The collection of this debt was through the County Court and recovery was time consuming and expensive.

The Police Reform & Social Responsibility Act 2011 ('the 2011 Act') introduced changes to the Licensing Act 2003, to make provision for licensing authorities to suspend licences due to non-payment of fees. This provision came into effect on 25th April 2012.

The 2011 Act allowed for a "grace period" period of 21 days for licence/club certificate holders to pay their fees. If the fee remained unpaid then the licensing authority must give the licence/club certificate holder a minimum of two days notification that the licence/club certificate would be suspended. If it was suspended the licence/club certificate must be reinstated as soon as the fee was paid and the

authority must notify the licence/certificate holder when their licence/club certificate had been reinstated.

The annual fees for a number of club premises certificates and premises licences were now becoming due for payment. In June of this year, there were ten outstanding licence fees on the AIMS system and this represented a very small increase over the last years. This was a new procedure and members would be kept updated as to its effect.

RESOLVED:

That the procedure for collecting fees and suspension of Premises Licences and Club Premises Certificates introduced by the Police Reform & Social Responsibility Act 2011 be noted.

5. Any Other Business

It was noted that there was no urgent business for consideration by the Committee.

6. Date of Next Meeting

The date of the next scheduled meeting was noted.

CHAIRMAN

Report to Full Licensing Committee

Report reference: LSC-003-2012/13

Date of meeting: 10 October 2012



**Epping Forest
District Council**

Portfolio: Safer Greener Highways

Subject: Licensing statistics

Responsible Officer: Kim Tuckey (01992 564034).

Democratic Services: Gary Woodhall (01992 – 564470).

Recommendations

(1) That members note the report of licensing applications received by the Council.

Purpose of Report:

To report as required by statute the applications received by the licensing section

Applications Received

1. Under the Licensing Act 2003 and the Gambling Act 2005, officers are required to report on numbers of applications received and the determinations of those applications. The following table outlines the applications received from 12 March 2012 to 19 September 2012

Applications Received under the Licensing Act 2003

Premises licence applications/variations

Number of new applications	12
Number of renewals	363
Change of designated premises supervisor/variation	46
Number of applications considered by the sub-committee	12
Number of applications granted subject to conditions	12
Number of applications refused	0
Number of appeals to magistrates	0
Number of revocations	0

Application Received Online - EU Directive

Application received for Temporary Events	6 (EU)
Temporary event notices	126
Late TENS	6

Reviews

Application	0
Reviews refused	0

Personal licence applications

Number of applications received	62
Number of applications granted under delegated authority	62
Number of applications refused	0
Number of appeals to Magistrates	0

Applications Received under the Gambling Act 2005

Betting office applications granted	0
Club gaming permit granted	4
Notifications for 2 gaming machines	14

Report to Licensing Committee

Report reference: LSC-004-2012/13

Date of meeting: 10 October 2012



**Epping Forest
District Council**

Subject: Cumulative Impact Policy

Portfolio: Safer, Cleaner & Greener

Responsible Officer: Alison Mitchell (01992 564017).

Democratic Services: Gary Woodhall (01992 564470).

Decisions Required:

(1) The Committee is asked to decide whether an assessment should be conducted into the cumulative impact of licensed premises on the four licensing objectives in some areas in the district.

Report:

1. The Chairman asked for a report with regards to the introduction of a cumulative impact policy in respect of appropriate areas in the District. The guidance issued by the Secretary of State under S182 of the Licensing Act 2003 sets out the procedure which the Authority would be expected to follow.

What is cumulative impact?

2. 'Cumulative impact' means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. The objectives are:

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

3. The guidance issued under S182 advises on those matters that should be considered as giving rise to a cumulative impact of licensed premises in an area.

"13.20 In some areas, where the number, type or density of premises selling alcohol is high or exceptional, serious problems of nuisance and disorder may be arising or have begun to arise outside or some distance from those premises. Such problems generally occur as a result of large numbers of drinkers being concentrated in an area, for example when leaving premises at peak times or when queuing at fast food outlets or for public transport.

13.21 Queuing in itself may lead to conflict, disorder and anti social behaviour. Moreover, large concentrations of people may also increase the incidence of other criminal activities such as drug dealing, pick pocketing and street robbery. Local services such as public transport services, public toilet provision and street cleaning may not be able to meet the demand posed by such concentrations of drinkers leading to issues such as street fouling, littering, traffic and public nuisance caused by concentrations of people who cannot be effectively dispersed quickly.

13.22 *Variable licensing hours may facilitate a more gradual dispersal of customers from premises. However, in some cases, the impact on surrounding areas of the behaviour of the customers of all premises taken together will still be greater than the impact of customers of individual premises. These conditions are more likely to arise in town and city centres, but may also arise in other urban centres and the suburbs, for example on smaller high streets with high concentrations of licensed premises*"

Evidence of Cumulative Impact

4. The Authority must gather evidence that a special policy is required prior to including a special policy with regards to cumulative impact within its Statement of Licensing Policy. The guidance recommends that:

"Local Community Safety Partnerships and responsible authorities, such as the police and the local authority exercising environmental health functions, may hold relevant information which would inform licensing authorities when establishing the evidence base for introducing a special policy relating to cumulative impact into their licensing policy statement."

5. The public should also be consulted.

6. The information which the Authority may use as evidence of the cumulative impact of licensed premises in the area on the four licensing objectives are:

- "Local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;
- Statistics on local anti-social behaviour offences;
- Health-related statistics such as alcohol-related emergency attendances and hospital admissions;
- Environmental health complaints, particularly in relation to litter and noise;
- Complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations;
- Residents' questionnaires;
- Evidence from local councillors; and
- Evidence obtained through local consultation.

7. The Guidance recommends that if there is not sufficient evidence, the Authority should consider conducting or commissioning a specific study to assess the position.

8. When the information has been obtained a report will be submitted to the next Licensing Committee. The need for a special policy must be considered alongside the local planning policy and other factors which may mitigate cumulative impact.

Steps to a Special Policy

9. The S182 guidance sets out the steps that the Authority must take prior to deciding whether a special policy should be adopted. The Authority must:

- "identify concern about crime and disorder; public safety; public nuisance; or protection of children from harm.
- Consider 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, identify whether these problems are being caused by the customers of licensed premises, or that the risk of cumulative impact is imminent.
- Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
- Consult with those specified in section 5(3) of the 2003 Act, and subject to the outcome of the consultation, include and publish details of the special policy in the licensing policy statement."

10. If the Licensing Committee decides that a special policy should be adopted, the special policy would then be subject to the same consultation procedure as that set out in the report regarding the amendment of the Statement of Licensing Policy. The Committee must then take account of the consultation prior to adopting the special policy.

Limitations on Special Policies Relating to Cumulative Impact

11. The special policy must always allow for the circumstances of each application to be decided on their merits and for applications that are unlikely to add to the cumulative impact to be granted. In reaching a decision the Authority must decide whether or not it is justified in departing from its special policy.

12. The introduction of a special policy cannot be used as a ground for revoking an existing licence or certificate when it receives representations about problems in those premises. The special policy can only be considered when deciding to grant a new licence or certificate or the variation of an existing one.

13. If there is an application to vary an existing licence or certificate the special policy can only be taken into account if relevant to the application that has been submitted.

14. The guidance states "Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all could sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics." The authority must have proper regard to those differences when reaching a decision and the differing impact they will have on the promotion of the licensing objectives.

Resource Implications:

The Committee may decide that the evidence collected is not in sufficient detail to allow it to make a decision and may consider commissioning a report as mentioned in the S182 guidance.

Legal and Governance Implications:

Licensing Act 2003.

Safer, Cleaner and Greener Implications:

If cumulative impact is identified as a problem in an area a special policy may assist in the reduction of crime and disorder and nuisance

Consultation Undertaken:

Consultation is proposed if the Committee recommends that consultation should be undertaken.

Background Papers:

Licensing Act 2003

Impact Assessments:

Risk Management

No identifiable risks at the current time.

Equality and Diversity

None at present.

This page is intentionally left blank

Report to Licensing Committee

Report reference: LSC-005-2012/13

Date of meeting: 10 October 2012



**Epping Forest
District Council**

Portfolio: Safer, Cleaner & Greener

Subject: Late Night Levy and Early Morning Restriction Orders

Responsible Officer: Alison Mitchell (01992 564017)

Democratic Services: Gary Woodhall (01992 564470)

Decision/Recommendations

- (1) To note that the provisions of the Police and Social Reform Act 2011 relating to the Late Night Levy and Early Morning Restriction Orders have now come into force;**
- (2) To determine whether to instruct officers to report further into the introduction of the Late Night Levy after the receipt of guidance from the Secretary of State; and**
- (3) To determine whether to instruct officers to take action to identify whether there are any areas in the District which would benefit from the introduction of an EMRO.**

Report:

Late Night Levy

1. There is attached to this report a copy of the Home Office explanatory note which sets out the purpose of the levy, the charges, and how it is intended that the money raised from the levy will be used.
2. The Secretary of State is to issue guidance in October which should set out those issues that need to be addressed when considering making any order. If members are minded to introduce the Late Night Levy then a further report will be made when the guidance is issued.

Early Morning Restriction Orders (EMROs)

3. A similar note prepared by the Home Office with regards to EMROs is attached. The process for identifying a need for an EMRO is expected to be similar to that required for making a cumulative impact policy however the Secretary of State will issue further guidance on the procedure.

Resource Implications:

Additional staffing resources will be required for the collection of a Late Night Levy which is intended to be self funding

Legal and Governance Implications:

Licensing Act 2003 (as amended)

Safer, Cleaner and Greener Implications:

These measures are intended to reduce crime and disorder and nuisance

Consultation Undertaken:

None

Background Papers:

Police Reform and Social Responsibility Act 2011

Impact Assessments:

Risk Management

None identified at the current time.

Equality and Diversity

The government when introducing the Police Reform and Social Responsibility Act 2011 carried out its own impact assessment and found that there was none.

Police Reform and Social Responsibility Act 2011

Late Night Levy

What is the late night levy?

The late night levy ('the levy') will enable licensing authorities to raise a contribution from late-opening alcohol suppliers towards policing the night-time economy. It will be a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority's area. However, the licensing authority will also choose the period during which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations.

What is the policy's aim?

The levy will empower local areas to charge businesses that supply alcohol late into the night for the extra enforcement costs that the night-time economy generates for police and licensing authorities.

Why is the late night levy needed?

The Coalition Agreement included the commitment to permit local councils to charge more for late night licences to pay for additional policing. We believe it is right that businesses which profit by selling alcohol in the night-time economy should contribute towards these costs, rather than relying on other taxpayers in the community to bear the full costs.

Who will the late night levy affect?

If a licensing authority chooses to introduce the levy in their area, all licensed premises which are authorised to supply alcohol in the levy period will be affected. Premises that do not wish to operate in the levy period will be able to make a free minor variation to their licence before the levy is introduced.

Exemptions

We do not wish to unfairly penalise premises which are not part of the wider night-time economy, and licensing authorities will therefore have the discretion to offer an exemption from the levy to the following categories of premises and schemes:

- Premises with overnight accommodation
- Theatres and cinemas
- Bingo halls
- Community Amateur Sports Clubs ('CASCs')
- Community premises
- Country village pubs
- Business Improvement Districts ('BIDs')

Premises will have to meet specific criteria to be considered for these exemptions. Licensing authorities will also have the discretion to exempt premises that only open late on New Year’s Eve. Guidance on exemptions will be published on the Home Office’s website in October 2012.

Reductions

Licensing authorities will have the discretion to offer a 30% reduction from the levy to premises that are either a member of a best practice scheme (the scheme must fulfil specific criteria), or in receipt of Small Business Rate Relief and have a rateable value of less than £12,000. Guidance on reductions will also be published on the Home Office’s website in October 2012.

What amount will be charged under the late night levy?

The amount of the late night levy will be set at a national level. The charge is calculated according to rateable value. This system applies to the existing licence fee and the levy charge will be collected alongside the annual licence fee. The following charges will apply to the levy:

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Annual levy charge	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises. This will ensure that larger clubs and bars make a higher contribution towards the levy.

Who will receive the revenue raised by the late night levy?

The police will receive at least 70% of the net levy revenue. The licensing authority can retain up to 30% of the net levy revenue to fund other activities besides policing. There will be restrictions on the types of services that licensing authorities can fund with the levy revenue to ensure that levy is spent on tackling alcohol-related crime and disorder and services connected to the management of the night-time economy. The licensing authority will be able to deduct permitted administration, collection and enforcement costs from the gross levy revenue.

Why is the late night levy not targeted at individual premises or areas?

The levy will apply to the whole local authority area because it is the fairest way for all premises that benefit from selling alcohol in the late night economy to contribute towards the additional enforcement costs generated by this practice. Application across the whole licensing authority area will also ensure that the levy raises a meaningful amount for the police and is simple to adopt and administer. We are keen to avoid the mistakes of the previous Government's Alcohol Disorder Zones (ADZs), which were not adopted by any local authority because they were deemed too bureaucratic.

When will the late night levy come into force?

The levy will come into force in October 2012. Licensing authorities will need to consult the police, licensed premises and other relevant parties before deciding whether to introduce the levy in their area. We anticipate that the earliest date that a licensing authority could introduce a levy would be approximately June 2013.

This page is intentionally left blank

Police Reform and Social Responsibility Act 2011

Early Morning Alcohol Restriction Orders

What are Early Morning Alcohol Restriction Orders?

An Early Morning Alcohol Restriction Order (EMRO) is an uncommenced power in the Licensing Act 2003 that will enable licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 12 midnight and 6 am, if they consider this appropriate for the promotion of the licensing objectives.

What is the policy's aim?

The Police Reform and Social Responsibility Act 2011 extended the flexibility of the existing EMRO power in the 2003 Act to provide licensing authorities with an additional tool to shape and determine local licensing, and to address specific problems caused by late night drinking. The 2011 Act extended these uncommenced powers to cover a longer period each night and lowered the threshold for introducing them. Licensing authorities will now have the power to make EMROs if they consider this appropriate for the promotion of licensing objectives, rather than necessary. EMROs are being introduced alongside various other measures aimed at rebalancing the Licensing Act 2003 in favour of local communities, and to increase the tools and powers available to licensing authorities and the police to tackle alcohol-related problems in local areas.

Who will EMROs affect?

EMROs are a local power that licensing authorities can choose whether or not to exercise. If a licensing authority introduces an EMRO, it will apply to premises licences, club premises certificates and temporary event notices that operate within the specified EMRO period. Licensing authorities will be required to advertise the proposal to make the EMRO and demonstrate that they have evidence to justify doing so, as well as considering representations, before its introduction.

Are there any exemptions or exceptions?

Following its public consultation, *Dealing with the Problems of Late Night Drinking*, the Government has announced that in relation to EMROs there will be no exemptions for types of premises, as there are in relation to the late night levy. This will ensure that EMROs will be a simple, pre-packaged tool for licensing authorities to use to readjust the focus of their night-time economy away from problem drinking, if such a measure would promote the licensing objectives.

We will ensure that the provision to supply alcohol to residents through mini-bars and room service in premises with overnight accommodation is not subject to an EMRO.

In recognition of New Year Eve's status as a night of national celebration, EMROs will not apply on New Year's Eve. This is a national exemption and will apply to every EMRO made.

What evidence will licensing authorities need to make an EMRO?

The licensing authority will need to be satisfied that an EMRO is appropriate in a particular area for the promotion of the licensing objectives under the Licensing Act 2003. We will provide further guidance to licensing authorities in revised statutory guidance issued under section 182 of the Licensing Act 2003.

The licensing objectives are: the prevention of crime and disorder; public safety; the prevention of public nuisance; and the prevention of children from harm.

What area will the EMRO apply to?

An EMRO may be applied to the whole or part of the licensing authority's area, if the licensing authority considers this is appropriate for the promotion of the licensing objectives.

Who can recommend the introduction of an EMRO?

The licensing authority decides whether or not to introduce an EMRO. The introduction of an EMRO could be suggested by the public or the Police and Crime Commissioner.

When will EMROs come into force?

The Government expects to bring EMROs into force in October 2012. Licensing authorities will be required to advertise their proposal to make an EMRO and consider any representations made about it before deciding whether to introduce an EMRO in their areas. We therefore anticipate that the earliest date that a licensing authority could make an EMRO would be approximately March 2013.

Report to the Licensing Committee

Report reference: *LSC-006-2012/13*

Date of meeting: *10 October 2012*



**Epping Forest
District Council**

Portfolio: Safer, Cleaner & Greener.

Subject: Gambling Act 2005 – Statement of Principles.

Responsible Officer: Alison Mitchell (01992 564017).

Democratic Services: Gary Woodhall (01992 564470).

Decisions Required:

- (1) To consider the result of the consultation undertaken in respect of the Statement of Principles; and**
- (2) To recommend to the Council that it adopts the Statement of Principles with any amendments required following the consultation.**

Reasons for Proposed Decision:

The Statement of Principles must be reviewed every three years.

Other Options for Action:

None.

Report:

Background

1. The Gambling Act 2005 requires all licensing authorities to prepare and publish a Statement of the Principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies. The Authority is required to review the policy at least every three years.

2. An amended policy was discussed at the meeting of the Licensing Committee on 11 April and it was agreed that a consultation exercise should be undertaken.

Consultation

3. A consultation letter or email was sent out at the beginning of May and replies were asked to be returned by 1 August 2012.

4. Responses were received from:

- (a) Mr Lee Carmichael – Life Church Epping:
 - Pointed out a typographical error.

- Suggested that planning ought to have a licensing liaison who can assist to a certain level by assessing health and safety matters along with building access issues etc., on finished buildings that are applying for a licence.
- In the case of vulnerable persons gambling more than they can afford, how will this be assessed and monitored effectively? Is there scope for a system where a community figure such as himself, who has concern for a persons welfare through excessive gambling, can report to that authority for investigation or action?

(b) Cllr. Angold-Stephens:

- Raised concerns that the reference to ropes at the bottom of page 7 was unclear. This has been amended to refer to 'barriers made up of ropes'.
- Section 10.4 has been amended in a way that clarifies that point.
- Other amendments have been made to clarify the Statement.

5. The following replied with no comments:

- Ms K Canning – Clerk to Chigwell Parish Council;
- Essex County Fire and Rescue Service;
- Mr Peter Jones on behalf of Essex Police;
- Mr Richard Gardiner – Environment and Neighbourhood Manager; and
- Mr David Burch – Essex Chambers of Commerce.

Comments

6. Mr Lee Carmichael raises two questions. The first relates to liaison with the planning service with regards to assessing health and safety issues. When deciding whether to grant a premises licence, the Authority can only take account of the three licensing principles:

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

7. There is no reference to safety. However, if there were an inspection by officers and any doubts were raised then this would be brought to the attention of the owners and other appropriate officers of the Council who may include planning.

8. It is difficult to monitor when a vulnerable person is gambling beyond their means. Part B, Paragraph 1.8 of the Gambling Act 2005 Statement of Principles sets out those matters which the authority would take into account in deciding whether to grant a premises licence. There are other references to the protection of children and vulnerable people in the Statement. Officers will look at ways of bringing to the attention of people who have welfare issues through excessive gambling details of persons and bodies who can be contacted for help.

Decision

9. The Committee is requested review the Statement of Principles taking account the consultation and recommend to Council that the amended Statement is adopted.

Resource Implication:

There will be a cost to carrying out the consultation which will be met from existing budget.

Legal and Governance Implications:

Gambling Act 2005.

Safer and Cleaner and Greener Implications:

Better Regulation of Gambling.

Background Papers:

Current Licensing Statement of Policy
Gambling Commission – Guidance to Local Authorities – Third Edition
LACORS – Draft Statement of Principles

Impact Assessments:

Risk Management

None.

Equality and Diversity

The Statement of Policy addresses the objective of protecting children and other vulnerable persons from being harmed or exploited by gambling.

Children are prohibited from entering premises used wholly or mainly as a casino.

There are admission restrictions on other premises.

The location of premises should be taken into account when deciding to grant a licence.

Conditions can be imposed on premises e.g. supervision of entrances/machines, segregation of areas where machines and gambling are located etc.

This page is intentionally left blank

Gambling Act 2005 Statement of Principles

Draft

This Policy Statement is effective from 31st January 2013 until 31st January 2016

Contents

Item	Page
Part A	
1. The Licensing Objectives	2
2. Introduction	2
3. Declaration	3
4. Responsible Authority for Advising on Protection of Children from Harm	3
5. Interested Parties	4
6. Exchange of Information	5
7. Enforcement	5
8. Licensing Authority Functions	6
Part B - Premises Licences	
1. General Principals	8
2. Adult Gaming Centres	15
3. Licensed Family Entertainment Centres	16
4. Casinos	17
5. Bingo Premises	17
6. Betting Premises	17
7. Tracks	17
8. Travelling Fairs	19
9. Provisional Statements	19
10. Reviews	20
Part C – Permits/Temporary and Occasional Use Notices	
1. Unlicensed Family Entertainment Centre Gaming Machine Permits	23
2. (Alcohol) Licensed Premises Gaming Machine Permits	24
3. Prize Gaming Permits	25
4. Club Gaming and Club Machines Permits	26
5. Temporary Use Notices	27
6. Occasional Use Notices	27
7. Small Society Lotteries	28
APPENDIX A Table of Delegations of Licensing Functions	29
APPENDIX B List of Consultees	30
APPENDIX C – Responsible Authorities	31

This Statement of Licensing Principles was approved by Epping Forest District Council on

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 3rd Edition, published May 2009

PART A

1. The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, Epping Forest District Council, as the Licensing Authority, must have regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

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

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

This Licensing Authority is aware that, as specified in Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives, and
- in accordance with this Statement of Principles

2. Introduction

Epping Forest District Council (the Licensing Authority) is situated in the County of Essex, which contains twelve district or borough councils and two unitary authorities. The district has six main centres of population (Buckhurst Hill, Chigwell, Epping, Loughton, Chipping Ongar and Waltham Abbey) and numerous picturesque villages and hamlets, but no natural centre. The majority of the district lies within the Metropolitan Green Belt, designed to restrict the spread of London into the Home Counties.

The district has a population of approximately 123,900. Approximately half of the population live in the southwest of the district (Buckhurst Hill, Chigwell and Loughton). Most of the rest of the population live in a mixture of market towns, villages and rural hamlets. The local population is set to grow in the coming years. The population is ageing, with the 2001 census profile showing a reduction of under fives and an increase in over seventy fives.

Unemployment in the district is generally low and many residents enjoy a very high standard of living. However, there are also areas of significant disadvantage and the district has four of the wards amongst the ten most deprived in Essex.

Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement will be published every three years. The statement will also be reviewed from “time to time” and any amended parts re-consulted upon. The statement will then be re-published.

Epping Forest Council consulted widely upon this statement before finalising and publishing.

The Gambling Act requires that the following parties are consulted by licensing authorities:

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

The list of persons this authority consulted is attached as Appendix B to this statement. The full list of comments made is available via the Council’s website.

The policy was approved at a meeting of the Full Council on **xxx 2012**. Copies were placed in the public libraries of the area as well as being available in the Civic Offices and on the website on **xxx 2012**

Should you have any comments as regards this policy statement please send them via e-mail or letter to the following contact:

Name: Senior Licensing Officer

Address: Civic Offices, High Street, Epping, Essex CM16 4BZ

E-mail: Licensing@eppingforestdc.gov.uk

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

3. Declaration

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

4. Responsible Authorities

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

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

This authority designates the Essex County Council's Safeguarding Children Service for this purpose.

The contact details of all the Responsible Authorities under the Gambling Act 2005 are listed in this policy which is available via the Council's website at: www.eppingforestdc.gov.uk

5. Interested parties

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

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

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

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

Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities at 8.11 to 8.18. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

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

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing section.

Telephone 01992 564034
Email: licensing@eppingforestdc.gov.uk
Fax: 01992 56016
Address: Licensing Section, Epping Forest District Council, Civic Offices, High Street Epping, Essex CM16 4BZ
DX: 40409 Epping

6. Exchange of Information

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

The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Should any protocols be established as regards information exchange with other bodies then they will be made available.

7. Enforcement

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

This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
- **Consistent:** rules and standards must be joined up and implemented fairly;
- **Transparent:** regulators should be open, and keep regulations simple and user friendly; and

- **Targeted: regulation should be focused on the problem, and minimise side effects.**

In accordance with the Gambling Commission's Guidance for local authorities, the Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

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

- **The licensing objectives**
- **Relevant codes of practice**
- **Guidance issued by the Gambling Commission, in particular at Part 36**
- **The principles set out in this statement of licensing policy**

The main enforcement and compliance role for the Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the Operating and Personal Licences. **It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission. .**

Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request to the Licensing Department at Civic Offices, High Street, Epping Essex CM16 4BZ and email:licensing@eppingforestdc.gov.uk .

8. Licensing Authority functions

The Licensing Authority is required under the Gambling Act 2005 to:

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

- Register small society lotteries below prescribed thresholds;
- Issue Prize Gaming Permits;
- Receive and Endorse Temporary Use Notices;
- Receive Occasional Use Notices;
- Provide information to the Gambling Commission regarding details of licences issued (see section above on information exchange);
- Maintain registers of the permits and licences that are issued under these functions

The Licensing Authority is not involved in licensing remote gambling at all. This is regulated by the Gambling Commission via Operating Licences.

PART B PREMISES LICENCES – CONSIDERATION OF APPLICATIONS

1. General Principles

Premises licences are subject to the requirements set-out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

1.1 Decision-making

The Licensing Authority is required by the Act, in making decisions about premises licences, to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this statement of licensing principles.

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos) and also that unmet demand is not a criterion for a licensing authority.

1.2 Definition of Premises

In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about subdivisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

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

example by barriers made up of ropes or moveable partitions, can properly be regarded as different premises.”

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

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

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

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

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

The Gambling Commission’s guidance as to the relevant access provisions for each premises type are reproduced below:

“7.25: Casinos

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

premises which holds a gambling premises licence.

Adult Gaming Centre

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

Betting Shops

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

Part 7 of the Gambling Commission’s Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

1.3 Premises “ready for gambling”

The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

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

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

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

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

1.4 Location

This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As required by the Gambling Commission’s Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. The applicant must show that they have taken into account such issues as the proximity of schools, centres for vulnerable adults or residential areas with a high concentration of families with children. Should any other specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

1.5 Planning:

The Gambling Commission Guidance to Licensing Authorities states:

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

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

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

Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling

premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

1.6 Duplication with other Regulatory Regimes

Although the Licensing Authority seeks to avoid any duplication with other statutory/regulatory systems where possible, and will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of if the Application. The Authority will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

1.7 Licensing Objectives

Premises licences granted must be consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission's Guidance to local authorities and would make the following comments:

- **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** – This Licensing Authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.
- **Ensuring that gambling is conducted in a fair and open way** - This Licensing Authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. *For Local Authorities with tracks:* There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section).
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This Licensing Authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in

the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

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

As regards the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider this licensing objective on a case by case basis.

1.8 Conditions

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

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

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

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

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

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

- **the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and**
- **at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.**

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

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

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

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

The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes;
- CCTV;
- Door supervisors;
- Supervision of entrances / machine areas;
- Physical separation of areas;

- Location of entry;
- Notices / signage;
- Specific opening hours;
- The location of gaming machines.

This list is not exhaustive.

1.9 Category C machines or above.

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

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

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

1.10 Door Supervisors

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

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

2. Adult Gaming Centres

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

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

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

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

3. (Licensed) Family Entertainment Centres

This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, 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.

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

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

- **Measures / training for staff on how to deal with suspected truant school children on the premises.**

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

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

4. Casinos

4.1 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. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. **Any such resolution will be made by Full Council.**

5. Bingo premises

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

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

This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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

6. Betting Premises

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

In particular, applicants will be expected to show how they will prevent access to under-18s.

7. Tracks

This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. In accordance with the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

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

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

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

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

Betting machines - This licensing authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

Applications and plans

The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28).

Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.29).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.31).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See Guidance to Licensing Authorities, para 20.32).

This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, para 20.33).

8. Travelling Fairs

8.1 It will fall to the Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

8.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

8.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. The Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

9.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence.

There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

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

- expects to be constructed;**
- expects to be altered; or**
- expects to acquire a right to occupy.**

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

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

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

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

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

- (a) which could not have been raised by objectors at the provisional licence stage; or**
- (b) which, in the authority's opinion, reflect a change in the operator's circumstances.**
- (c) where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. This must be a substantial change from the plan and licensing authorities should discuss any concerns they have with the applicant before making a decision.**

9.7 The Licensing Authority has noted in the Gambling Commission's Guidance that the licensing authority should not take into account irrelevant matters. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

10. Reviews

10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. It is for the Licensing Authority, however, to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, repetitious, or will certainly not cause this authority to wish to alter, revoke or suspend the licence.

10.2 Reviews will be carried out:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this statement of licensing principles.

10.3 The Licensing Authority can also initiate a review of a licence for any reason which it thinks is appropriate.

10.4 Once a valid application for a review has been received by the licensing authority, it will publish a notice of the application within 7 days of receipt. Responsible authorities and interested parties can make representations during a 28 day period which begins 7 days after the application was received by the licensing authority.

The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

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

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

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

10.7 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for

gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

10.8 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

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

PART C
PERMITS/TEMPORARY & OCCASIONAL USE NOTICE

1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits)

1.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it must apply to the Licensing Authority for a permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (**Section 238**).

1.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)

Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7).

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

Statement of Principles This licensing authority will expect the applicant to show that:

- there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises, CRB checks for staff.
- This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the

maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;

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

2. (Alcohol) Licensed premises gaming machine permits

2.1 Automatic Entitlement: 2 machines

Premises licensed to sell alcohol for consumption on the premises may automatically have two gaming machines, of categories C and/or D. The premises must notify the Licensing Authority of their intention to exercise this right, but they may remove this automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

2.2 Permit: 3 or more machines

If a premises wishes to have more than two machines, then it must apply for a permit. The Licensing Authority will consider the application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and such matters as it thinks relevant.

Each case will be considered on its merits, but, generally, it will consider the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy them that there will be sufficient measures to ensure that under 18 year olds do not have access to “adult only” gaming machines. Measures which will satisfy the authority that there will be no access may include:

- Supervision of machine areas;
- Physical separation of areas;
- Notices / signage;
- The location of gaming machines

This list is not exhaustive.

2.3 As regards the protection of vulnerable persons, the Licensing Authority will consider measures such as the use of self-barring schemes, provision of information leaflets/helpline numbers for organisations such as GamCare.

2.4 It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

2.5 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

2.6 Where an alcohol licensed premises applies for a premises licence for their non-alcohol licensed areas, any such application would need to be applied for, and will be dealt with, as an Adult Entertainment Centre premises licence.

3. Prize Gaming Permits

3.1 Statement of Principals

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

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

- **that they understand the limits to stakes and prizes that are set out in Regulations;**
- **that the gaming offered is within the law;**
- **Clear policies that outline the steps to be taken to protect children from harm**
- Training to cover how staff would deal with:
 - Unsupervised and/or very young children on/around the premises, and
 - Suspected truants

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

3.2 Applicants for a permit must comply with the conditions laid down by the Gambling Act 2005. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;

- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

The Licensing Authority may not impose any further conditions.

4. Club Gaming and Club Machines Permits

4.1 Qualifying members clubs and Miners' welfare institutes (but not commercial clubs) may apply for a Club Gaming Permit, The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). **NB Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.**

4.2 Gambling Commission Guidance states: "Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations." It is anticipated that this will cover bridge and whist clubs... A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations...

4.3 The Licensing Authority is aware that it may only refuse an application on the grounds that:

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

4.4 Where a premises holds a Club Premises Certificate under the Licensing Act 2003 they may apply using the fast-track procedure. **As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the grounds on which an application under the process may be refused are:**

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

4.5 Objections will not be lodged by the Commission or the police, as these will have been dealt with under the Licensing Act application procedure.

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

5. Temporary Use Notices

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

5.2 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

5.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

5.4 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of this Guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.

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

6. Occasional Use Notices

The Licensing Authority has little discretion as regards these Notices, aside from ensuring that the statutory eight days in a calendar year is not exceeded and will grant such notices where statutory requirements are met.

7. Small Society Lotteries

Lottery licences will be issued in accordance with the Gambling Commission's Guidance to Local Authorities.

APPENDIX A

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			(to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Review of a premises licence		X	
Application for club gaming /club machine permits		Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

APPENDIX B

LIST OF CONSULTEES

Association of Licensed Retailers Attwater & Liell Solicitors Berwin Leighton Paisner Solicitors Betting Offices British Transport Police Butler & Mitchells Brewers Roman Catholic Church Church of England Citizens Advice Bureau Consumers Association Cooley Partnership Campaign for the Protection of Rural England Curwens Solicitors Council for Voluntary Services Crime and Disorder Strategy Panel East Herts DC EFDC Councillors EFDC Senior Officers Eleanor Laing MP Environment agency Epping Forest Conservators Epping Forest PCT Epping Magistrates Eric Pickles MP Essex Ambulance NHS Trust Essex County Council Essex Fire & Rescue Essex Police Service Essex Probation Service Essex Tourist Bodies Federation Synagogue Fosket Marr Gadsby & Head GamCare	Hammonds Solicitors Health and Safety Executive Essex HM Customs and Excise Jarmans Solicitors Laurel Pub Co Lea Valley Park Authority Limes Farm Synagogue Local Chambers of Commerce Local Council Liaison Committee Local Round Tables Mcmullens Brewery Methodist Church Other Faith Groups Parish and Town Councils Police & Community Consultative Group Princess Alexandra NHS Trust Ridleys Breweries Robert Halfon MP Rural Community Council of Essex Scottish & Newcastle Retail Spirit Group Brewery Transport and General Workers Union Town Centre Partnerships Union of Shop, Distributive and Allied Workers Unison Licensed Victuallers Association Whiskers & Co Solicitors All current gambling premises within the district. Disabled Coalition Group Child Protection Essex County Council Gambling Commission HM Revenue & Customs
---	---

APPENDIX C

RESPONSIBLE AUTHORITY'S FOR GAMBLING ACT 2005 APPLICATIONS

<p>Epping Forest District Council Civic Offices High Street Epping Essex CM16 4BZ Att; Mrs K Tuckey- Licensing Unit Tel: 01992 564034 Email: ktuckey@eppingforestdc.gov.uk</p>	<p>Head of Child Protection (Licensing Applications) Essex County Council PO Box 297 County Hall Chelmsford Essex CM1 1YS licensingapplications@essexcc.gov.uk</p>
<p>Harlow Police Station The High Harlow Essex CM20 1HG Att: Peter Jones Tel:01279 625405 Email: peter.jones@essex.pnn.police.uk</p>	<p>Gambling Commission Victoria House Victoria Square Birmingham B2 4BP info@gamblingcommision.gov.uk</p>
<p>Essex Fire & Rescue Service Harlow & Epping Community Command Harlow Service Delivery Point Fourth Avenue Harlow Essex CM20 1DU Att : Community Commander Tel : 01279 420841 Email: he.command@essex-fire.gov.uk</p>	<p>HM Revenue & Customs National Registration Unit Portcullis House Glasgow G2 4PZ nrubetting&gaming@hmrc.gsi.gov.uk</p>
<p>Director of Planning Civic Offices High street Epping Essex CM16 4BZ Tel: 01992 564514 Email: dbaker@eppingforestdc.gov.uk</p>	<p>Pollution & Public Health Unit Civic Offices High Street Epping Essex CM16 4BZ Steve Harcher Tel:01992 564058 Email: sharcher@eppingforestdc.gov.uk</p>

Report to the Licensing Committee

Report reference: LSC-007-2012/13

Date of meeting: 10 October 2012



**Epping Forest
District Council**

Portfolio: Safer, Cleaner & Greener.

Subject: Live Music Act 2012.

Responsible Officer: Alison Mitchell (01992 564017).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decision Required:

(1) To note the changes to the Licensing Act 2003 ('the 2003 Act') brought about on the commencement of the Live Music Act 2012 ('the 2012 Act') which came into force on 1 October 2012.

Report:

Requirement for a Licence or Club Premises Certificate

1. The 2012 Act removes the licensing requirements for:
 - (a) amplified live music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises;
 - (b) amplified live music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment);
 - (c) unamplified live music between 8am and 11pm in all venues; and
 - (d) the provision of entertainment facilities.
2. Where a premises continues to operate other licensable activities such as the sale of alcohol any conditions relating to live music as set out in paragraphs 1(a) to 1(c) above will be suspended unless they have been added following a licence review. It is also possible under the Act to reinstate or impose conditions about live music following a review of a premises licence or club certificate relating to premises authorised to supply alcohol for consumption on the premises.
3. The Act widens the licensing exemption for live music integral to a performance of Morris dancing or dancing of a similar type, so that the exemption applies to live or recorded music instead of unamplified live music.

The Effect of the Act

4. Where there are public nuisance implications i.e. of performances to audiences of greater than 200 or the playing of live music after 11pm, there is no exemption and the current licensing regime continues.
5. Where a premises plays amplified live music to audiences of less than 200 or

amplified music before 11pm, and by so doing it creates a public nuisance, responsible authorities and "other persons" can still seek to review a premise licence as is currently the situation.

6. Further, if the premises create a statutory noise nuisance the Council's Environment and Neighbourhood Team will be able to take action as is currently the situation.

Resource Implications:

None.

Legal and Governance Implications:

None.

Safer, Cleaner and Greener Implications:

None.

Consultation Undertaken:

None.

Background Papers:

Live Music Act 2012.

Impact Assessments:

Risk Management

None identified at the current time.

Equality and Diversity

None identified at the current time.

Report to Licensing Committee

Report reference: LSC-008-2012/13

Date of meeting: 10 October 2012



**Epping Forest
District Council**

Portfolio: Safer, Cleaner & Greener.

Subject: Draft Statement of Licensing Policy.

Responsible Officer: Alison Mitchell (01992 564017).

Democratic Services: Gary Woodhall (01992 564470).

Recommendations/Decisions Required:

- (1) To consider the alterations to the Statement of Licensing Policy and whether it requires any further amendments to be included; and**
- (2) To instruct Officers to conduct a public consultation in respect of the draft Statement of Licensing Policy.**

Report:

1. The current Statement of Licensing Policy was adopted in 2011 and does not need to be reviewed until February 2014. However, because of amendments made to the Licensing Act 2003 ('2003 Act') by the Police Reform and Social Responsibility Act 2011 ('2011 Act') which have recently come into force, it is recommended that the policy is reviewed now.
2. The Home Office provides guidance on:
 - the development and preparation of local licensing policies;
 - the general principals it recommends should underpin them; and
 - the core content.
3. New guidance was issued in April 2012 and amendments have been made to the Statement of Licensing Policy to reflect this. A draft of the amended version of the Statement of Licensing Policy is attached to the agenda. Most additions are shown on bold and wording which it is proposed should be deleted has been struck through. Some references to legislation and policies have been updated but not shown.
4. The new guidance requires the Council to recognize the Authority's Equality Duty and explain how the duty is complied with. After replies have been received to the proposed consultation exercise a Customer Impact Assessment with regards to Equality issues will be prepared and any issues will be reported to the Committee. Paragraph 1.14 has been included in the draft policy to reflect this practice.
5. When licensing applications are received the responsible bodies as named by the 2003 Act must be consulted and may make representations. The 2011 Act added the Licensing Authority and the Primary Care Trusts (and any replacement body) to the list of Responsible Authorities to the list of those Responsible Authorities. Paragraph 1.23 has been amended to reflect this.
6. The 2003 Act originally provided that only persons or businesses in the vicinity of a premises which was the subject of an application could make a representation. The 2011 Act removed the vicinity test. It is therefore open to any person or body to make a representation although the representations must be related to one of the four licensing objectives. A

number of amendments have been made to the draft policy to reflect this.

7. The 2011 Act amended the Licensing Act 2003 so that the Authority may impose any conditions on a licence or a club certificate that are 'appropriate'. Prior to that the conditions imposed had to be 'necessary'.

8. The government guidance suggests a number of issues that premises licence holders or club premises certificate holders should take into account when preparing their operating schedules when considering the Protection of Children from Harm objective. The policy has been amended in line with guidance to make this clearer.

9. The Authority exercising its environmental functions may now object to a Temporary Event Notice. Prior to the 2011 Act provisions being implemented only the police could do so. The schedule of delegations has therefore been amended accordingly.

Resource Implications:

None.

Legal and Governance Implications:

Licensing Act 2003.

Safer, Cleaner and Greener Implications:

The purpose of the amended policy is to better regulate licensing in the District.

Consultation Undertaken:

It is intended to consult those mentioned in the draft policy.

Background Papers:

Amended Guidance issued under S182 of the Licensing Act 2003
Documents listed in the policy document
Statement of Licensing Policy 5th February 2011 to 5th February 2014

Impact Assessments:

Risk Management

None identified at the current time.

Equality and Diversity

To be completed on receipt of the replies to the consultation exercise.

STATEMENT OF LICENSING POLICY

Made under section 5 of the Licensing Act 2003

This policy shall come into force on
not later than 2017

2012 and will be reviewed

Contents

1. Introduction	Page
• Purpose and Scope	3
• Licensing Objectives.....	3
• Consultation, Strategies and Policies.....	4
• Equality Duty	4
• Regulated Entertainment.....	5
• Applications.....	5
• Representations.....	6
• Conditions	7
• Administration, Exercise and Delegation of Functions.....	7
• Cumulative Impact of a Concentration of Licensed Premises.....	8
• Advice and Guidance.....	8
• Reviews.....	9
• Enforcement.....	10
2. Licensing Objectives.....	10
3. Prevention of Crime and Disorder.....	10
4. Public Safety.....	11
5. Public Nuisance	11
6. Protection of Children from Harm.....	11
7. Licensing Hours.....	12
Contact Details.....	12
Appendix 1 Delegation of Functions.....	13
Appendix 2 Consultation.....	14

1. Purpose and Scope

- 1.1 Epping Forest District Council ('the Council') is the licensing authority under the Licensing Act 2003 ('the Act'). This policy relates to all those licensing activities identified as falling within the provisions of the Act, including granting premises licences, club premises certificates, temporary events and personal licences in the district in respect of the sale and/or supply of alcohol and/or the provision of regulated entertainment and late night refreshment.
- 1.2 The Act requires that the Council publish a 'Statement of Licensing Policy' that sets out the policies the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act and to regulate licensable activities on, and in the vicinity of, licensed premises. This 'Statement of Licensing Policy' has been prepared in accordance with the Act.
- 1.3 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the 2003 Act and having regard to the guidance issued under Section 182 of the Act.
- 1.4 This Statement of Licensing Policy has been produced in consultation with the Chief Police Officer for Essex, the Fire and Rescue Authority and bodies representing local holders of premises licences, club premises certificates and personal licences, businesses and residents of the area. The policy will be reviewed in not less than **five** years, or in the light of changes to legislation or circumstances, whichever is sooner.

Licensing Objectives

- 1.5 The Act requires that the Council carry out its various licensing functions so as to promote the following four licensing objectives:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance
 - The protection of children from harm
- 1.6 To achieve these objectives the Council will use the full range of measures available to it, including relevant legislation. The Council will work closely with the police, the fire authority, businesses, community representatives and local people in meeting these objectives.
- 1.7 There are a number of other Council and Government policies, strategies, responsibilities, and guidance documents that have been considered in the formulation of this licensing policy and which will be taken into account in its implementation.
- 1.8 Applicants must be able to demonstrate that they have considered the four licensing objectives within their operating schedule. Applicants know their premises best and will be expected to address all aspects relevant to the individual style of their premises. Consideration must be given to all of the licensing objectives. There are many control measures that are available to applicants to achieve this goal. Where appropriate applicants should consider whether or not any additional measures are required in respect of occasional or specific events that are intended or are likely to attract larger audiences.

Consultation, Strategies and Policies

- 1.9 In developing this Policy Statement, the Council consulted widely. Along with the statutory consultees (the Chief Police Officer for the District and the Essex County Fire and Rescue Service), the views of existing licence holders, businesses, voluntary groups and residents were also taken into account. Due consideration was given to the views of all those who responded to that consultation process.

Details of the consultation on this policy are attached as Appendix 2.

- 1.10 The Council will take account of the guidance and strategies listed or any replacement guidance or strategy when preparing its policies and in its decision making.

- Environmental Health Enforcement Policy
- Enforcement Concordat
- The Corporate Plan

Other Responsibilities

- Responsibilities under Anti Social Behaviour Act 2003
- Equality Act 2010

Guidance Documents

- Guidance issued under S182 of the Licensing Act 2003
- A practical guide for dealing with Alcohol related problems issued by the Home Office
- Home Office - Safer Clubbing Guide
- LACORS – A Practical Guide to Test Purchasing
- Any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols

Any documentation relating specifically to temporary events such as:

- The Event Safety Guide: A Guide to Health, Safety and Welfare at Music and Similar Events (HSE 1999)
- Managing Crowds Safely'
- Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0716 150804
- The Guide to Safety at Sports Grounds
- Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Outdoor Performances Independent Street Arts Network copies of which may be obtained through www.streetartsnetwork.org.uk/pages/publications.htm

- 1.11 The Council will have regard to, and consult with those involved with, local crime prevention, planning, transport, tourism, race equality and cultural strategies. Review or amendment to these strategies will be considered for their impact on this Statement of Licensing Policy.

- 1.12 Furthermore, arrangements will be made for the Licensing Committee to receive reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations. The Licensing Committee will

also be appraised of the local employment situation and the need for new investment and employment, where appropriate.

- 1.13 To ensure proper integration with the Council's planning policies, the Licensing Committee will provide reports to the Development Control Committee, where appropriate, on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder, to enable the Development Control Committee to have regard to such matters when making its decisions.

Equality Duty

- 1.14 The Council recognises its responsibilities under the Equality Act 2012 **to have due regard to the need to eliminate unlawful discrimination, harassment and victimization; to advance equality of opportunity; and foster good relations between persons with the characteristics mentioned in the Act. These characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation.** The impact of this policy on its services will be monitored through the Council's Equality scheme 2012-2016. **This Statement of Licensing Policy has been assessed to take account of equality issues.**

Regulated Entertainment

- 1.15 As part of implementing local cultural strategies, proper account/consultation will be taken of the need to encourage and promote in suitable locations, a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of communities.
- 1.16 If representations are made concerning the potential for disturbance in a particular neighbourhood, the Council's consideration where disturbance is likely to be of limited extent, will be balanced against the wider benefits to the community. When attaching conditions the Council will also be aware of the need to avoid measures that might deter live music, dancing or theatre by imposing indirect costs of a substantial nature.

Applications

- 1.17 In determining a licence application, the overriding principle adopted by the Council will be that each application will be determined on its merits, taking into account:
- the Licensing Act 2003 and the four licensing objectives;
 - Government Guidance issued under Section 182 of the Licensing Act 2003;
 - Supporting regulations;
 - This statement of Licensing Policy; and
 - the nature and locality of the premises and the Operating Plan submitted by the applicant.
- 1.18 The Council requires the applicants to satisfactorily address the licensing objectives, from the design of the premises through to the daily operation of the business, in their Operating Plans, which must be submitted with their application.

1.19 Nothing in this Statement of Policy will:

- Undermine the rights of any person to apply under the Act for a variation of permissions and have the application considered on its individual merits;
- Override the right of any person to make representations on any application or seek a review of a licence or certificate where they are permitted to do so under the Act;
- Prevent any person from applying for a variety of permissions under the Act.

1.20 So far as possible, this policy will not duplicate existing legislation and regulatory regimes that already place obligations on employers and operators e.g. The Health & Safety at Work etc Act 1974, The Environmental Protection Act 1990, equalities legislation, and the Fire Safety Regulatory Reform Order 2005. Conditions in respect of public safety will only be attached to licences if they are necessary for the promotion of a licensing objective.

1.21 When one part of the Council seeks a premises licence from the Licensing Committee, the application will be considered from an entirely neutral standpoint. If relevant representations are made, for example, by local residents or the police, they will be considered fairly by the Committee.

1.22 In all cases, the applicants and those making representations have a right to appeal to the magistrates' court against any decision made by the Council.

Representations

1.23 Responsible Authorities may make representations on applications, so far as they relate to the promotion of the four licensing objectives, and request reviews once licences have been granted. Representations must be evidentially based.

The Responsible Authorities are:

- **The relevant licensing authority or any other licensing authority in whose area part of the premises is situated.**
- Chief Officer of Police,
- the Fire and Rescue Authority,
- the Enforcing Agency for health and safety purposes, the local authority responsible for environmental health,
- the local planning authority, the authority responsible for minimising or preventing the risk of pollution
- the Child Protection Authority,
- **the Primary Care Trusts** (when the relevant provisions of the new Health and Social Care Act 2012 are brought into force, their replacement)
- the local weights and measures authority (trading standards).

1.24 **The Act permits other persons to make representations. This includes Local residents any individual, body or business, in the vicinity of the premises subject to the application, or their representatives are known as 'interested parties' and are free to raise relevant representations regardless of their geographical proximity to the premises. Any representations must be 'relevant' in that the objection relates to one or more of the four licensing objectives. In the case of a review the ground must not be considered to be repetitious.**

- 1.25 A Councillor for the District may also make representations. A representation would only be 'relevant' if it relates to the likely effect of the grant of the licence on the promotion of at least one of the four licensing objectives. Any representation must not be frivolous or vexatious, and in addition, in the case of reviews, not be repetitious. Parties intending to make a representation are directed to the guidance issued by the Department for Culture, Media and Sport (or similar government issued guidance) for assistance as to whether a representation is relevant.
- 1.25 In the absence of any representations the licence must be granted and any representations must be heard at a hearing of the Licensing Sub-committee.

Conditions

- 1.26 Licence conditions will be tailored to the individual application and ~~only those necessary~~ **appropriate** to ~~meet~~ promote the licensing objectives will be imposed. Licence conditions will not be imposed where other controls/legislation exist to provide sufficient protection to the public. ~~There are pools of conditions set out in the Guidance issued under Section 182 of the Licensing Act 2003 which an applicant for a licence may wish to draw on as appropriate.~~ The Council may create its own pool of conditions to assist applicants.
- 1.27 Any conditions arising from the operating schedule or as a result of representations will be focused on the direct impact of the activities taking place at the licensed premises, on members of the public living, working or engaged in normal activity in the area concerned and which are within the control of the individual licensees and others with relevant authorisations.

Administration, Exercise and Delegation of Functions

- 1.28 The powers of the Council under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority.
- 1.29 With the exception of the approval and review of its Licensing Policy, decisions on licensing matters will be taken in accordance with an approved scheme of delegation aimed at underlining the principles of timely, efficient and effective decision-making. A table setting out how we will approach this is attached at Appendix 1.
- 1.30 The Licensing Committee will receive regular reports regarding licences determined by officers under delegated powers, in order to maintain an overview of the general situation.
- 1.31 The Licensing Committee will expect individual applicants to address the licensing objectives in their Operating Plan, 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.
- ~~1.32 The Council recognises the advice of the Department of Culture Media and Sport that the views of vocal minorities should not be allowed to predominate over the general interests of the community. The Council will revisit this policy if there is any indication that regulated entertainment is being deterred by its provisions.~~

Cumulative Impact of a Concentration of Licensed Premises

- 1.33 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area.
- 1.34 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter that the Council can take into account. This will not be confused with 'need', which relates more to the commercial demand for a particular type of premises, and is therefore a matter for planning consideration and does not form part of this Licensing Policy Statement.
- 1.35 The Council may receive representations from either a Responsible Authority or any interested party, (both defined by the Act), that the cumulative impact of new licences is leading to an area becoming saturated with premises of a certain type, making it a focal point for large groups of people to gather, and thereby creating exceptional problems of disorder and nuisance over and above the impact from the individual premises themselves. In such cases, the issue of cumulative impact may be taken into account when considering the individual merits of any application.
- 1.36 The Council will not operate a quota of any kind which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Instead, regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be had to those differences and the impact they are likely to have on the local community.
- 1.37 In determining whether to adopt a '**cumulative impact**' policy for a particular area the Council may, amongst other things:
- **gather evidence of local crime and disorder statistics, including statistics on specific types of crime and crime hotspots;**
 - **gather evidence of environmental health complaints particularly in relation to litter and noise;**
 - **gather evidence of health-related statistics such as alcohol-related emergency attendances and hospital admissions**
 - Identify the area from which problems are arising and the boundaries of that area;
 - Make an assessment of the causes;
 - Adopt a policy about future applications for premises within that area.
- 1.38 The Council recognises however, that as well as the licensing function there are a number of other mechanisms for addressing issues of unruly behaviour that occur away from licensed premises. The Council recognises that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from the premises and beyond the direct control of the licence holder.

Advice and Guidance

- 1.39 The Council recognises the valuable cultural, social and business importance that premises and events requiring a licence under the Licensing Act provide and welcomes the diversity of activities that are provided by licence holders. For this reason, pre-application discussions will be encouraged to assist applicants to develop their operating schedule. The Council, Essex Police and/or Essex County Fire and Rescue Service will offer as much advice and guidance to applicants, as resources permit.
- 1.40 The Council will also seek to liaise with applicants and/or mediate between applicants and others who may make representations, to achieve a satisfactory outcome for all involved, wherever possible and where resources permit. Where an applicant considers that mediation and liaison may be likely or probable, it is recommended that the applicant discuss his proposal with the licensing department/section and those from who they think representations are likely prior to submitting their application. Once an application has been lodged, there are statutory timescales imposed upon the application and determination process, which restrict the opportunity for such discussions, liaison and mediation.

Reviews

- 1.41 A Responsible Authority and/or ~~interested~~ other parties can trigger a review of a premises licence or club premises certificate but an evidentiary basis would be required to be presented to the Licensing Authority. Representations received must be relevant to the promotion of the licensing objectives and submitted in writing. Representations must not be frivolous or vexatious.
- 1.42 The Act provides a mechanism for reviewing Premises Licences where problems associated with achieving the Licensing Objectives occur. However, no more than one review from an interested party will normally be permitted within any 12 month period on similar grounds, except in exceptional and compelling circumstances or where it arises following a Closure Order.
- 1.43 In addition where premises are associated with serious crime or serious disorder a senior police officer (Superintendent or above) may apply for a summary review of the premises licence which may result in :-
- (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence;
 - (d) the suspension of the licence.

The initial decision may be determined in the absence of the premises licence holder. A review hearing must then take place within 28 days.

- 1.44 Where ~~an interested~~ any Party applies for a review, the Licensing Authority has to be satisfied that ~~the person making it qualifies as an Interested Party~~ **and that the grounds** are relevant. There is no appeal to the decision of the Authority other than by way of judicial review.

- ~~1.45 As the Licensing Authority can generally only determine whether a person is an Interested Party by reference to the name and address of the person making the application, this Authority will not consider any application that fails to provide those details.~~
- 1.45 The Licensing Authority accepts that in exceptional circumstances, an Interested Party may not wish to provide his/her personal details to the licence or certificate holder. In those circumstances an Interested Party might consider providing the relevant Responsible Authority with details of how they consider the licensing objectives are being undermined so that the Responsible Authority can apply for a review.
- 1.47 Where possible and appropriate the Council, Essex Police and/or Essex Fire Service will give early warning to licence holders of any concerns about problems identified at premises and of the need for improvement.
- 1.48 No more than one review from interested parties will be normally permitted within any 12 month period on similar grounds except in exceptional and compelling circumstances.

Enforcement

- 1.49 The Council delivers a wide range of enforcement services aimed at safeguarding the environment and the community and at providing a 'level playing field' on which businesses can fairly trade. The administration and enforcement of the licensing regime is one of these services. The Council has adopted the Government's Enforcement Concordat designed to ensure effective and efficient public protection services. Specifically, the Council is committed to the principles of good inspection and enforcement practice and recognises the Hampton principles by carrying out its regulatory functions in a fair, open and consistent manner.
- 1.50 Once licensed, it is essential that premises are maintained and operated so as to ensure the continued promotion of the licensing objectives, and compliance with the specific conditions of their licence and their Operating Plan. The Council will make arrangements to monitor premises and take appropriate enforcement action to ensure this.
- 1.51 The Council has established an enforcement protocol with Essex Police, Essex County Fire and Rescue Service and (Essex County Council) Trading Standards on enforcement issues. This protocol provides for the targeting of resources towards high-risk premises and activities that require greater attention, while providing a lighter touch in respect of low risk premises.

2. Licensing Objectives

- 2.1 The following sections set out the Council's Policy relating to the four licensing objectives:
- the prevention of crime and disorder;
 - public safety;
 - the prevention of public nuisance;
 - the protection of children from harm.

3. Prevention of Crime and Disorder

3.1 When considering Crime & Disorder applicants should look to include in their Operating Plan measures to control problems associated with this as required:

- Effective training and supervision of staff
- Adoption of best practice guidance (e.g. Safer Clubbing, The National Alcohol Harm Reduction Strategy Toolkit, Pub watch schemes, CCTV, Drug Awareness)

4. Public Safety

4.1 When considering Public Safety the applicant should consider whether it is necessary to address the following in their Operating Plan:

- Suitable and sufficient risk assessments;
- Effective and responsible management of premises;
- Adoption of best practice guidance (e.g. Guide to Fire Precautions in Licensed Premises).

5. Public Nuisance

5.1 When considering prevention of public nuisance applicants should consider what measures may be necessary and should take account of the following:

- Adoption of best practice guidance (e.g. Good Practice Guide on the Control of Property, Noise, published by BBPA);
- Ensuring customers leave quietly;
- Installation of sound proofing.

6. Protection of Children from Harm

6.1 The Council recognises the great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, nightclubs, cafes, takeaways, community halls and schools. Access by children to all types of premises will not be limited in any way unless it is considered necessary to do so in order to protect them from harm.

6.2 When deciding whether to limit access to children or not, the Council will judge each application on its own individual merits. Examples that may give rise to concern in respect of children would include premises where:

- entertainment of an adult or sexual nature is provided;
- there is a strong element of gambling taking place;
- there is a known association with drug taking or dealing;
- there have been convictions **of members of the current staff at the premises** for serving alcohol to those under 18;
- there is a reputation for underage drinking;
- **where the supply of alcohol for consumption is the exclusive or primary purpose of the services provided at the Premises.**

6.3 In the case of premises which are used for film exhibitions, conditions will be imposed restricting access only to those who meet the required age limit in line with any certificate granted by the British Board of Film Classification or, in specific cases, a certificate given to the film by the Council itself.

- 6.4 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, then conditions will be imposed requiring the presence of an appropriate number of adult staff to ensure the children's safety and their protection from harm.
- 6.5 **Venue operators seeking premises licenses and club premises certificates should consider including in their operating schedules particularly where their own risk assessments have determined that the presence of children is undesirable or in appropriate conditions which could include –**
- A limit on the hours when children may be present;
 - A limitation or exclusion when certain activities may take place;
 - The requirement to be accompanied by an adult;
 - Limiting access to parts of the premises;
 - An age limitation.
- 6.6 The Council will not impose any condition that specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licensee or club. In all cases, it is expected that the applicant will have considered the protection of children in their Operating Plan. The Council commends the Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks and would expect applicants to consider the Code in their Operating Plan.
- 6.7 In the case of premises giving film exhibitions the Council would expect licensees or clubs to include in their operating schedules arrangements for restricting children from age-restricted films as classified according to the recommendations of the British Board of Film Classification.
- 6.8 The competent responsible authority in relation to the protection of children from harm is the Essex County Council's Children's Safeguarding Service.

7. Licensing Hours

- 7.1 The Council recognises that longer licensing hours may be in the interests of the community by avoiding concentrations of disturbance from customers leaving premises whilst ensuring that nuisance is minimised to local residents. Premises will generally be able to sell alcohol during the hours they are permitted to open. Entertainment providers may provide a range of entertainment during their operating hours. When issuing a licence, however, stricter conditions are likely to be imposed with regard to noise control in the case of premises situated in largely residential areas.

Contact Details

Further information concerning all aspects of licensing can be obtained from our website: www.eppingforestdc.gov.uk

or

Licensing Section
Corporate Support Services
Epping Forest DC
Civic Offices

Tel: 01992 564034

Delegation of Functions

Appendix 1

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If a police objection	If no objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant 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 complaint 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	
Decision to object when local authority is acting as a Responsible Authority			All cases
Determination of an police objection to a temporary event notice		All cases	
Decision whether to consult other responsible authorities on minor variation			All cases
Determination of minor variation			All cases
All policy matters except the formulation of the statement of	All cases		

licensing policy			
------------------	--	--	--

Consultation

Consultation will be undertaken with those listed below. The majority of those being contacted via email and the remainder by post. A copy of the draft policy will be available on the EFDC website. All comments received will be considered and the results of the consultation published on the EFDC website. The consultation period will be three months.

Arriva Bus Company Arts Council England Association of Licensed Retailers Attwater & Liell Solicitors Berwin Leighton Paisner Solicitors British Transport Police Butler & Mitchells Brewers Churches and Religious Groups Citizens Advice Bureau Consumers Association Cooley Partnership Campaign for the Protection of Rural England Curwens Solicitors Council for Voluntary Services Crime and Disorder Strategy Panel East Herts DC EFDC Councillors EFDC Senior Officers Eleanor Laing MP Environment agency Epping Forest Conservators Epping Forest PCT Epping Magistrates Equity Eric Pickles MP Essex Ambulance NHS Trust Essex County Council Essex Fire & Rescue Essex Police Essex Probation Service Essex Tourist Bodies Fosket Marr Gadsby & Head	General Municipal and Boilermakers Union Hammonds Solicitors Health and Safety Executive Essex Jarmans Solicitors Laurel Pub Co Lea Valley Park Authority Limes Farm Synagogue Local Chambers of Commerce Local Council Liaison Committee Local Round Tables Local Taxi Operators Loughton Residents Association LUL Transport for London McMullens Brewery Musicians Union Parish and Town Councils Police & Community Consultative Group Princess Alexandra NHS Trust Ridleys Breweries Robert Halfon MP Rural Community Council of Essex Scottish & Newcastle Retail Somerfield Supermarkets Spirit Group Brewery Transport and General Workers Union Town Centre Partnerships Union of Shop, Distributive and Allied Workers Unison Licensed Victuallers Association Whiskers & Co Solicitors Whipps Cross NHS Trust All current holders of liquor, public entertainment, private places of entertainment, cinemas, theatre and late night refreshment houses licences within the district.
--	--

This page is intentionally left blank