



## LICENSING COMMITTEE

YOU ARE REQUESTED TO ATTEND A MEETING OF THE LICENSING COMMITTEE TO BE HELD IN THE PRINCIPAL COMMITTEE ROOM, THE DEANE HOUSE, BELVEDERE ROAD, TAUNTON ON WEDNESDAY 12TH JULY 2006 AT 18:15.

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### **AGENDA**

1. Appointment of Chairman
2. Appointment of Vice-Chairman
3. Apologies
4. Minutes of the meeting of the Licensing Committee held on 16 January 2006 (attached)
5. Public Question Time
6. Declaration of Interests  
To receive declarations of personal and prejudicial interests, in accordance with the Code of Conduct
7. Gambling Act 2005 - Draft Statement of Principles (attached) Nicky Easton
8. The Licensing of Sex Establishments within the Borough of Taunton Deane (attached) Paul Dare
9. Licensing Progress Report (attached). Followed by a verbal update by Sergeant Nick Frewin, Taunton Town Centre Police Sergeant Jim Hunter

G P DYKE  
Member Services Manager  
04 July 2006

LICENSING COMMITTEE Members:-

Councillor Mrs Allgrove (Chairman)

Councillor House (Vice-Chairman)

Councillor Beaven

Councillor Mrs Bradley

Councillor Croad

Councillor Floyd

Councillor Hall

Councillor Mrs Hill

Councillor Hindley

Councillor Mrs Lewin-Harris

Councillor Meikle

Councillor Phillips

Councillor Slattery

Councillor Mrs Smith

Councillor Stuart-Thorn



Members of the public are welcome to attend the meeting and listen to the discussion. Lift access to the main committee room on the first floor of the building is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available. There is a time set aside at the beginning of the meeting to allow the public to ask questions



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter. If you require any further information, please contact Greg Dyke on:



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Website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk) (Council, Executive, Review Board & Review Panel Agenda, Reports and Minutes are available on the Website)

## **Licensing Committee – 16 January 2006**

Present: Councillor Mrs Allgrove (Chairman)  
Councillor House (Vice-Chairman)  
Councillors Beaven, Croad, Floyd, Hall, Hindley,  
Mrs Lewin-Harris, Meikle, Phillips, Slattery and  
Stuart-Thorn.

Officers: Mr J Barrah (Chief Environmental Health Officer)  
Mrs D Durham (Review Support Officer)  
Mr J Hunter (Licensing Manager)  
Mr I Taylor (Chief Solicitor)

Also present: Sergeant N Frewin and WPC T Woodside (Avon and  
Somerset Constabulary)

(The meeting commenced at 6.15 pm)

### **1. Minutes**

The minutes of the meeting held on 28 February 2005 were taken as read and signed.

### **2. Review of Licensing Act 2003 Implementation**

Considered report previously circulated, concerning the implementation of the Licensing Act 2003 by the Council.

The implementation of the Act had been successful and the Council had performed well in many areas of the transitional activities. However, some issues had been identified where the service could continue to be improved and there were a range of further tasks and responsibilities that would continue to engage both officers and Members.

The Council's Licensing Policy had been published on 14 December 2004 and the transitional period from the old to new arrangements had now taken place. The second appointed day in November 2005 had also passed, which resulted in all new licenses going live and the new legislation coming fully into force.

The Council had undertaken a massive task in implementing the Act during 2005. Most of the transitional work had been completed and a review was therefore considered appropriate. The statutory requirement was for a review to be carried out every three years, but it was anticipated that it would be done alongside the consultation for the Gambling Act, early in 2007.

At the end of the transitional period, the Council had received 95% of the premises licence applications it had anticipated. This was due to

extensive advertising, workshops and letters to local traders, encouraging the submission of applications.

406 premises licences had been issued and many premises had taken the opportunity to maximise their trading hours. However, only 18 premises (12 hotels, 5 off-licenses and one public house) had been granted 24 hour licenses.

Where premises licence applications had resulted in concerns being raised in the form of representations, many had been resolved through consultation and the imposition of suggested conditions. However, where issues could not be resolved, a Licensing Sub-Committee had been held, of which there had been 22. The hearings demonstrated the effective way in which the Licensing Unit, Member Services and Legal Services worked together to deliver a specific goal.

Following Sub-Committee hearings, six appeal notifications had been lodged at Taunton Magistrates Court, two of which were withdrawn and two resolved by reaching a compromise agreement. The Magistrates Court had upheld the Council's original decision for the two cases that were heard.

Also reported that 493 personal licenses had been issued which allowed individuals to sell alcohol in licensed premises.

Although the process had generally been successful, there were some matters that could have been done differently:-

- i) Noise Conditions – Both applicant and interested parties had felt that the use of existing noise conditions had been confusing, hard to understand and in some cases appeared to be inconsistent. It was felt that future noise conditions should be accompanied by a suitable explanation as to why that specific condition had been used;
- ii) Last Time of Entry/Re-entry – A condition of no entry or re-entry to premises after 00.30 hours was imposed on many town centre, high volume, alcohol led venues. The conditions were imposed following representations from the Police as part of their approach towards reducing crime and disorder. This was the main issue at the two Magistrates Court Appeal hearings and its inclusion in the Council's Licensing Policy would therefore be considered;
- iii) Extending Opening Hours – Some applications had requested standard extended hours for late operation but had then taken advantage of the wording in the Licensing Policy to apply for a further 3 hour extension for 24 occasions during a calendar year. This section of the Policy might need to be reviewed.

Future issues were discussed and included:-

- i) Enforcement – The Council was now responsible for over 400 premises and an effective enforcement approach was required. A contractual out of hours commitment from key officers enabled late night venues to be monitored, in particular, to ensure that they were complying with new conditions. If a review was requested by either an interested party or responsible authority, a report would go to a Licensing Sub-Committee on the subsequent investigation undertaken by the Licensing Unit. The Sub-Committee would be able to amend the licence and associated conditions or withdraw the licence completely;
- ii) Public Register – The Licensing Act 2003 required that public registers of relevant information were held. Arrangements were being made for this information to be available through the Council's website.
- iii) Collection of Annual Charge for Premises Licences – A premises licence did not need to be renewed, but there was an annual charge to cover the cost of the licensing process. Collection of the charge, if not forthcoming, would be by way of sundry debt, but the licence would continue to remain in force regardless.

Further reported that Taunton Deane Borough Council had been asked to be one of only ten local authorities in England and Wales to act as Scrutiny Councils to the Government on the progression and effectiveness of the licensing reforms. This gave the Council an opportunity to influence national policy and the first meeting with the Department of Culture, Media and Sport (DCMS) had proved to be very informative.

New applications and other licensing matters such as taxi fares would continue to be dealt with by Licensing Sub-Committees and a review of Members training requirements in connection with all matters would be considered.

The Chairman commented on how well the implementation had gone and asked that the Committee's thanks be passed to all members of the team for their support and involvement.

Members agreed that the Community Council should be consulted about licences for village halls and community centres. The Licensing Manager agreed that he would discuss the issues raised by the Community Council and pass them on to the DCMS for consideration.

Concern was expressed at the number of intoxicated people who were still being served alcohol in venues across Taunton Deane. Noted that the Police had powers to carry out joint licensing checks and with the use of video cameras, fixed penalty tickets could be issued to individuals.

Members also discussed the following:-

- Temporary Event Notices;
- Hackney carriages;
- Off licences;
- Litter; and
- The role of Ward and Parish Councillors.

RESOLVED that:-

- i) the report and progress made to date with implementation of the Licensing Act 2003 and the licensing reforms be noted; and
- ii) the Licensing Policy be reviewed with a view to necessary amendments being made.

### **3. The Gambling Act 2005**

Considered report previously circulated, concerning the passing of the Gambling Act 2005 and its implications for the Council.

Since 1976, Local Authorities had had the responsibility for registering society or Local Authority lotteries and since 1968 they had been responsible for issuing permits for amusement machines with prizes.

Shortly after expressing its intention to revise the Alcohol Licensing Legislation, the Government expressed its intention to also revise Gambling Legislation.

Noted that the Gambling Act 2005 had been passed during April last year and would come into force in accordance with provisions to be made by the Secretary of State.

The Act established a Gambling Commission which would take over the functions of the Gaming Board. It also established that a District Council was to be a Licensing Authority responsible for issuing premises licenses, family entertainment centre licenses, club gaming permits and Temporary Use Notices.

The Act established the gambling licensing objectives as:-

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

Section 154 of the Act delegated the functions of a Licensing Authority to the Licensing Committee of the Authority. Some functions could be sub-delegated to officers.

Section 349 of the Act required the Licensing Authority to prepare a Licensing Policy, to renew it every three years and keep it under review. The Chief of Police would be consulted when preparing a Policy

Statement, along with those who represented the interests of those carrying on gambling businesses and those who represented the interests of those likely to be affected by the exercise of the Council's functions under the Act.

Further reports would be submitted to the Licensing Committee in connection with the required Policy Statement as the various sections of the Act were implemented.

RESOLVED that the report be noted.

(The meeting ended at 7.29pm).



# **REPORT TO THE LICENSING COMMITTEE**

## **TAUNTON DEANE BOROUGH COUNCIL**

### **LICENSING COMMITTEE – 12 July 2006**

#### **Report of the Licensing Officer**

### **GAMBLING ACT 2005 – DRAFT STATEMENT OF PRINCIPLES**

#### **Summary**

The Gambling Act 2005 received Royal Assent on the 7 April 2005.

The Act places a duty on the Licensing Authority to produce a Statement of Principles. (This may also be referred to as the “Gambling Policy”). Licensing Authorities are required to review the policy document at least every three years. In producing this document, the Licensing Authority is required to take account of the views of those representing the holders of existing licences and certificates, local residents and businesses, and the police. The policy must be written, adopted and published by the Licensing Authority by 31<sup>st</sup> January 2007.

This report introduces the draft statement of principles for consideration.

#### **1. PURPOSE OF REPORT**

- 1.1 To agree a draft statement of principles for consultation in accordance with the requirements of the Gambling Act 2005.

#### **2. BACKGROUND**

- 2.1 The Gambling Act 2005 repeals the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. The Act removes from licensing justices all responsibility for granting gaming and betting permissions, which they currently undertake. The gaming responsibilities undertaken by the licensing justices will pass to Taunton Deane Borough Council under the Gambling Act 2005.
- 2.2 The new system will be administered by Local Authorities (and the Gambling Commission) with the aim of promoting the three licensing objective laid down in the Act. These are:
  - Preventing gambling from being a source of crime or disorder, being associated with crime and disorder or being used to support crime;
  - Ensuring that gambling is conducted in a fair and open way; and
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 2.3 When the Act comes into force, Local Authorities will issue premises licences to gambling premises within their area. Operating and personal licences will be granted by the Gambling Commission.

#### **3. LEGAL POSITION**

- 3.1 The Gambling Act will be implemented on an incremental basis. The Licensing Authority must adopt a Statement of Principles by 31 January 2007, which is the same date on which applications for premises licences and permits can be submitted. The Act goes live on 1 September 2007, when the existing legislation is repealed.

- 3.2 The Gambling Act gives Licensing Authorities a number of important functions in relation to gambling. These functions include:
- licensing premises for gambling activities;
  - considering notices given for the temporary use of premises for gambling;
  - granting permits for gaming and gaming machines in clubs and miners' welfare institutes;
  - regulating gaming and gaming machines in alcohol licensed premises;
  - granting permits to family entertainment centres for the use of certain lower stake gaming machines;
  - granting permits for prize gaming;
  - considering occasional use notices for betting at tracks; and
  - registering small societies' lotteries.
- 3.3 The Act has created the Gambling Commission, who will act as a unified regulator for gambling in Great Britain. The role of the Gambling Commissions is to:
- Issue Operating and Personal Licences to specified organisations and individuals
  - Issue guidance and codes of practice
  - Monitor licence holders and apply penalties where required
  - Advise the Secretary of State on gambling matters.
- 3.4 The Gambling Act 2005 will be supported by Statutory Guidance, codes of practice and Regulations. At present only one Statutory Guidance document has been published, with the aim of assisting Licensing Authorities in preparing their statements of principles under the Act.
- 3.5 In preparation for the implementation of the Gambling Act 2005, a draft statement of principles has been developed. The draft policy document has been based on advice received from LACORS (Local Authorities Co-ordinators of Regulatory Services). The draft statement of principles is shown at Appendix 1.
- 3.6 The Licensing Act 2003 gave Licensing Authorities wider discretion in compiling a licensing policy, and was not as prescriptive as the Gambling Act. It is expected that most authorities will largely adhere to the format and content of the LACORS template, and we would need to show good local reasons if we wished to depart from this framework.
- 3.7 As with the Licensing Act 2003 Statement of Licensing Policy, the statement of principles must be approved by Full Council, rather than this Licensing Committee.

#### **4 ISSUES**

- 4.1 The attached draft statement of principles has been developed around the Statutory Guidance to Licensing Authorities issued by the Gambling Commission. It is possible that the final versions of the yet unpublished additional Statutory Guidance, Regulations and Codes of Practice will contain provisions that could affect the policy produced. Officers are mindful of this fact, but consider that any changes that are made will be able to be incorporated into the policy and fully considered by members prior to formal adoption of the statement of principles later in the year.
- 4.2 The Act does not allow gaming machine applications from premises to which children have free access. Paragraph 20.4 of the draft statement of principles provides a list of premises from which gaming machine applications will not be accepted.

- 4.3 The Council's statement of principles can be developed within existing resources. The implementation of the Gambling Act 2005 and associated legislation, guidance and codes of practice will add to the workload of the Council. At present it is not possible to predict the financial implications for the Authority, as the fees for the various functions have not been published. Fees and charges under the Gambling Act 2005 will be set centrally by the Government and there will be only very limited local discretion in relation to these.
- 4.4 When the Gambling Act 2005 comes into effect, there will be approximately 100 premises requiring premises licences. This figure includes public houses, betting shops, bingo halls, tracks and amusement arcades.

## **5. CONSULTATION**

- 5.1 It is intended that the draft statement of principles will be subject to extensive consultations prior to adoption by the Council. The bodies and persons who will be consulted are detailed at paragraphs 1.6 and 1.7 in the draft Statement of Principles.
- 5.2 The Statutory Guidance to Licensing Authorities advises that the consultation process should follow best practice as set out by the Cabinet Office, and 12 weeks should be allowed for responses to the consultation.

## **6. RECOMMENDATION**

- 6.1 It is recommended that the Committee agrees a draft statement of principles under the Gambling Act 2005.
- 6.2 It is recommended that the agreed draft statement of principles undergoes consultation as required by the Gambling Act 2005 and associated statutory guidance.
- 6.3 It is recommended that a final statement of principles is submitted to full Council for consideration and approval following consultation, later this year.

### **Contact Officer:**

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# **Gambling Act 2005**

# **Draft Statement of Principles**

***Should you have any comments regarding this draft Statement of Principles then please send them by letter to:***

Taunton Deane Borough Council  
Licensing Unit  
The Deane House  
Belvedere Road  
Taunton  
TA1 1HE

Or:

Via email to [licensing@tauntondeane.gov.uk](mailto:licensing@tauntondeane.gov.uk).

By fax to 01823 356564

This Statement of Principles has been drafted at a time when a number of regulations, Operating/Personal Licence conditions, Codes of Practice and guidance are not yet published. Should anything in these impact upon the content of this document it will need to be borne in mind and amended at a later stage. All references to the Gambling Commission's Guidance for local authorities refer to the Guidance published in April 2006.

If you need any information in this document translated into another language or in Braille, large print, audiotape, or CD please telephone us on 01823 356343 or e-mail us at [licensing@tauntondeane.gov.uk](mailto:licensing@tauntondeane.gov.uk)

**Taunton Deane Borough Council**  
**Draft Statement of Principles**  
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***The sections highlighted in the shaded boxes are either quotes from the Act, accompanying Statutory Guidance, or comments from the Council.***

***These comments are included for information purposes only and will not form part of the Council's final Statement of Principles.***

## PART A - OVERVIEW

### 1. Introduction

- 1.1 Taunton Deane is a mixed urban and rural district in Somerset covering approximately 178 square miles and with a population of nearly 103,000 (2001 census). The area encompasses the fertile vale of the River Tone to the centre and is bounded by Exmoor National Park to the West, the Quantock Hills to the North, the Blackdown Hills to the South and the Somerset Levels to the East.

There are approximately 45,000 dwellings and 4,000 businesses within the borough. The main urban areas are Taunton, the County Town, and Wellington. The remainder of the area is a mixture of villages and farmland. The population of Taunton is 60,400 and Wellington 12,200. Taunton Deane is not densely populated, there are approximately 2.2 people per hectare, although there are concentrations of housing in some areas.

- 1.2 The Council will become the Licensing Authority under the Gambling Act 2005. This will result in it becoming responsible for granting premises licences and permissions in Taunton Deane in respect of:-

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming and Prize Gaming Permits;
9. Temporary Use Notices;
10. Registration of small society lotteries

- 1.3 The Gambling Act 2005 requires the Council by the 31 January 2007 to prepare and publish a "Statement of Principles" that sets out the policies that the Council will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.

- 1.4 This draft "Statement of Principles" has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Gambling Act 2005. It is intended to be a discussion document leading to adoption by Taunton Deane Borough Council of a formal Statement of Principles, after having due regard to any responses from those consulted on this draft policy statement.

- 1.5 Our consultation will take place between 12 July 2006 and 4 October 2006 with final comments being accepted up to the 6 October 2006. We shall be following the Cabinet Office Guidance on consultations by the public sector prior to adoption of the final Statement of Principles.

- 1.6 The Act requires that Licensing Authorities carry out consultation of their proposed principles and that all of the following parties are consulted:

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



- 1.7 In addition to the above, the following will also be consulted: a range of organisations including voluntary and community organisations working with children and young people, organisations working with people who are problem gamblers, Primary Care Trust and advocacy organisations such as the Citizen's Advice Bureau. There will also be consultation with other local government related services and local businesses who are, or will be, holders of a premises licence.
- 1.8 The list of persons to be consulted is deliberately wide. This will enable the Licensing Authority to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the licensing policy statement.
- 1.9 The formal Statement of Principles once agreed by the Council will be available on Taunton Deane Borough Council's website and in Taunton Deane libraries.
- 1.10 The statement of principles will come into effect on the 31 January 2007 and will be reviewed as necessary, and at least every three years from the date of adoption.

## **2. Licensing Objectives**

- 2.1 The Gambling Act 2005 requires that the Council carries out its various licensing functions with a view to promoting the following three licensing objectives:-

- 1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**
- 2. Ensuring that gambling is carried out in a fair and open way;**
- 3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.**

## **3. Declaration**

- 3.1 In producing its final policy statement, this Licensing Authority declares that it will have regard to the licensing objectives of the Act, the Guidance issued by the Gambling Commission, and any responses from those consulted on the draft policy statement.

## **4. General Principles**

- 4.1 Nothing in this Statement of Policy will:-
  1. Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; or
  2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.
- 4.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it is:
  1. In accordance with any relevant code of practice issued by the Gambling Commission;
  2. In accordance with any relevant guidance issued by the Gambling Commission;
  3. Reasonably consistent with the licensing objectives; and
  4. In accordance with the authority's statement of principles.
- 4.3 The Gambling Commission's Guidance for local authorities provides that "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.

- 4.4 The Licensing Authority, in carrying out its functions, will not duplicate existing legislation and regulatory regimes that already place obligations on employers and operators.
- 4.5 Premises licences will be subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which will be detailed in regulations issued by the Secretary of State. The Licensing Authority is able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 4.6 The starting point in determining applications will be to grant the application without conditions. Conditions will only be considered where they are needed to meet the requirements of the licensing objectives, and any conditions applied will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by either mandatory/default conditions or other legislation.
- 4.7 The Council, in undertaking its licensing function, will have due regard to the need to eliminate unlawful discrimination and to promote equality and good relations between persons of different racial groups.

## 5. 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

- 5.1 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Local Safeguarding Children Board for this purpose.
- 5.2 The details of the Responsible Authorities under the Gambling Act 2005 are shown at Appendix A.

## 6. Interested Parties

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.

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)"

- 6.1 The licensing authority will apply the following principles in determining an interested party:

1. 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 8.14 and 8.15. 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.
  2. The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission Guidance for local authorities 8.17). This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
  3. Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons requesting the representation is sufficient.
- 6.2 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 unit whose details are given at the end of this document.

## **7. Exchange of Information**

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

- 7.1 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes that the provisions of the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter when it is published, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 7.2 Should any protocols be established regarding information exchange with other bodies then they will be made available. Discussions with the Gambling Commission and Local Authorities Co-ordinators of Regulatory Services (LACORS) regarding information exchange between the Commission and local authorities are, at the time of writing, at an early stage.

## 8. 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.

The Gambling Commission's Guidance for local authorities does provide some information about compliance and enforcement, but it is subject to a separate consultation exercise, which will take place in the summer of 2006 with a final document being issued in December 2006.

- 8.1 This licensing authority's proposed principles are that it will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:
1. **Proportionate:** regulators should only intervene when necessary and remedies should be appropriate to the risk posed, and costs identified and minimised;
  2. **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
  3. **Consistent:** rules and standards must be joined up and implemented fairly;
  4. **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
  5. **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 8.2 This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme. Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement, this has not been possible. At the time of writing, the Gambling Commission has not published its risk criteria, and regulations such as mandatory/default conditions, and Codes of Practice have not been published. LACORS is working with the Gambling Commission to produce a risk model for premises licences and this authority will consider that model once it is made available.
- 8.3 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 8.4 This licensing authority will keep itself informed of developments as regards the work of the Better Regulation Executive (or any body subsequently taking over its role) in its consideration of the regulatory functions of local authorities.
- 8.5 The Licensing Authority will seek to work actively with the police in enforcing licensing legislation and intends to establish protocols with the Avon and Somerset Constabulary, Somerset Fire and Rescue Service, and other Council bodies such as Environmental Health, Trading Standards and Child Protection on enforcement issues to ensure an efficient deployment of officers.
- 8.6 Bearing in mind the principle of transparency, this Licensing Authority's enforcement policy and joint protocol will be available upon request from the Licensing Unit.

## 9. Licensing Authority functions

The Gambling Commission has recommended that licensing authorities include a list of licensable activities in their policy statements. LACORS has requested a definitive list from the Gambling Commission and this will be incorporated into this policy statement once provided.

Licensing Authorities are required under the Act to:

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

9.1 Local licensing authorities will not be involved in licensing remote gambling. This will fall to the Gambling Commission via operating licences.

## 10. Legislation

10.1 In undertaking its licensing function under the Gambling Act 2005, the Council is also bound by other legislation, including:-

1. Section 17 of the Crime and Disorder Act 1988;
2. Human Rights Act 1998;
3. Health and Safety at Work Etc Act 1974;
4. Environmental Protection Act 1990;
5. The Anti-Social Behaviour Act 2003 (as amended);
6. The Race Relations Act 1976 (as amended);
7. Licensing Act 2003

## PART B

### PREMISES LICENCES

#### 11. General Principles

A “premises” is defined in the Act as “any place”. Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to 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. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

This licensing authority takes note of the Gambling Commission’s Guidance for local 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 that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not ‘drift’ into a gambling area.
- licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example, whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But, in addition an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

It should be noted that an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed. The Gambling Commission has advised that reference to “the premises” are to the premises in which gambling may now take place. Thus a licence to use premises for gambling will only be issued in relation to premises that are ready to be used for gambling. This authority agrees with the Gambling Commission that it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence. The Gambling Commission emphasises that requiring the building to be complete ensures that the authority can, if necessary, inspect it fully, as can other responsible authorities with inspection rights.

#### 11.1 Transitional Arrangements

The transitional arrangements at the time of preparing this document had not been finalised by the Department for Culture, Media and Sport. The arrangements have been subject to a consultation exercise with interested parties that closed on the 2 May 2006.

11.1.1 The Licensing Authority will follow guidance issued by the Government on the transitional arrangements for implementing the new provisions of the Gambling Act 2005, and will endeavour, as far as is reasonably practicable, to assist with a smooth transfer to the new licensing regime.

## **11.2 Location**

11.2.1 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission's Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. 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 to show how potential concerns can be overcome.

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

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

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

11.4.1 This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime, this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable, such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act provisions.

11.4.2 Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and Avon and Somerset Constabulary before making a formal application.

11.4.3 In considering licence applications, the Local Authority will particularly take into account the following:

1. The design and layout of the premises;
2. The training given to staff in crime prevention measures appropriate to those premises;
3. Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
4. Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
5. The likelihood of any violence, public order or policing problem if the licence is granted.

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

This Licensing Authority understands that there may be further guidance from the Gambling Commission on this issue which it will have regard to, when available.

11.5.1 The Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way, as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks, which is explained in more detail in the 'tracks' section below.

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

11.6.1 The Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as a 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.

11.6.2 This licensing authority will also make itself aware of Codes of Practice issued by the Gambling Commission regarding this licensing objective, in relation to specific premises such as casinos.

11.6.3 As regards the term "vulnerable persons" the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future, this policy statement will be updated.

## **11.7 Conditions**

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

1. Relevant to the need to make the proposed building suitable as a gambling facility;
2. Directly related to the premises and the type of licence applied for;
3. Fairly and reasonably related to the scale and type of premises; and
4. Reasonable in all other respects.

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

11.7.3 This licensing authority will also consider specific measures which may be required for buildings 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.



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

1. 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;
2. Only adults are admitted to the area where these machines are located;
3. Access to the area where the machines are located is supervised;
4. The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
5. 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.

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

11.7.6 It is noted that there are certain conditions which the licensing authority cannot attach to premises licences. These include:

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

## **11.8 Door Supervisors**

11.8.1 The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. However, door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA).

11.8.2 In view of the above, this Licensing Authority has specific requirements for door supervisors working at casinos or bingo premises, in that they will be qualified to the SIA standard. This requirement is consistent with the standards set by the Gambling Commission for door supervisors, and is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

11.8.3 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether these need to be SIA licensed or not. It will not be automatically assumed that they need to be.

## **12. Adult Gaming Centres**

Adult gaming centres (AGC's) are a new category of premises introduced by the Act. No one under the age of 18 is permitted to enter an AGC and persons operating an AGC must hold a gaming machines general operating licence from the Gambling Commission and must seek a premises licence from the Licensing Authority. They will be able to make category B, C and D gaming machines available to their customers.

- 12.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 12.2 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:
1. Proof of age schemes
  2. CCTV
  3. Supervision of entrances/machine areas
  4. Physical separation of areas
  5. Location of entry
  6. Notices/signage
  7. Specific opening hours
  8. Self-barring schemes
  9. 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.

### **13. Licensed Family Entertainment Centres**

The Act creates two classes of family entertainment centre (FEC). Licensed FECs provide category C and D machines and require a premises licence. Unlicensed FECs provide category D machines only and are regulated through FEC gaming machine permits.

Children and young persons are permitted to enter an FEC and may play on the category D machines. They are not permitted to play on the category C machines and there must be a clear segregation between the two types of machine, so that children do not have access to category C machines.

- 13.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, 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.
- 13.2 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:
1. CCTV
  2. Supervision of entrances/machine areas
  3. Physical separation of areas
  4. Location of entry
  5. Notices/signage
  6. Specific opening hours
  7. Self-barring schemes
  8. Provision of information leaflets/helpline numbers for organisations such as

GamCare.

9. 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.

- 13.3 This licensing authority will, as per 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.

## **14. Casinos**

There are currently no casinos within the district of Taunton Deane and the authority has not been successful in its bid for the location of any of the 17 new style casinos permitted by the Gambling Act 2003 in the district.

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

### **14.1 Casinos and competitive bidding**

- 14.1.1 Where a licensing authority is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005), there are likely to be a number of operators wishing to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This licensing authority will run such a competition in line with any regulations/codes of practice issued under the Gambling Act 2005.

### **14.2 Licence considerations/conditions**

- 14.2.1 The Gambling Commission has stated that "further guidance will be issued in due course about the particular issues that licensing authorities should take into account in relation to the suitability and layout of casino premises" (Gambling Commission Guidance for local authorities - 17.30). This guidance will be considered by this licensing authority when it is made available.

### **14.3 Betting machines**

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

### **14.4 Credit**

- 14.4.1 The Gambling Commission has stated in its Guidance for Local Authorities that "Section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service provider and does not profit from the arrangement, not make any payment in connection with the machines".

## 15. Bingo premises

Under the previous legislation, two types of bingo could be offered:

- Cash bingo, where the stakes paid made up the cash prizes that were won; or
- Prize bingo, where various forms of prizes were won, not directly related to the stakes paid.

The Gambling Act 2005 abolishes the distinction between these two versions of the game and the holder of a bingo operating licence will be able to offer any type of bingo game, whether cash or prize.

- 15.1 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, the licensing authority will seek to ensure that:
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
  - only adults are admitted to the area where the machines are located;
  - access to the area where the machines are located is supervised;
  - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
  - at the entrance to, and inside any such area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 15.2 The Gambling Commission intends to issue further guidance about the particular issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises. This licensing authority will consider this guidance once it is made available.

## 16. Betting Premises

A betting premises is where off-course betting, ie betting that takes place other than at a track, takes place, in what is currently known as a licensed betting office. Under the Act, licensing authorities are responsible for issuing and monitoring premises licences for all betting premises. Children and young persons will not be able to enter premises with a betting premises licence, although special rules apply to tracks.

### 16.1 Betting machines

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

### 16.2 Credit

- 16.2.1 The Gambling Commission's Guidance as detailed in 14.4.1 above applies. It is also understood that the Gambling Commission will be placing restrictions and requirements on Operating Licences for betting premises regarding credit, and this Licensing Authority will consider the guidance when it is available.

## 17. Tracks

Tracks are sites (including horse racecourses and dog tracks) where races or other sporting events take place. Betting is a major gambling activity on tracks, both in the form of pool betting (often known as the totalisator or tote), and also general betting, often known as "fixed-odds" betting.

Under previous legislation, licensing authorities already held responsibility for licensing dog tracks. The Act continues this responsibility and extends it to other tracks and racecourses.

- 17.1 This licensing authority is aware that tracks may be subject to one or more premises licences, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas which they are not permitted to enter.
- 17.2 This authority will therefore expect applicants for premises licences to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. 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 they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 17.3 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:
1. Proof of age schemes
  2. CCTV
  3. Supervision of entrances/machine areas
  4. Physical separation of areas
  5. Location of entry
  6. Notices/signage
  7. Specific opening hours
  8. Self-barring schemes
  9. 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.

- 17.4 Further guidance from the Gambling Commission is awaited regarding where gaming machines may be located on tracks, and any special considerations that should apply in relation to, for example, supervision of the machines and preventing children from playing them. The Commission's Guidance provides that licensing authorities need to consider the location of gaming machines at tracks. Applicants for track premises licences will therefore need to demonstrate that, where the applicant holds a pool betting operating licence and intends to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.
- 17.5 This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of betting 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. It will also take note of the Gambling Commission's

suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

- 17.6 The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."
- 17.7 This licensing authority awaits regulations setting-out any specific requirements for applications for premises licences but accepts the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring"), and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities." and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."
- 17.8 This licensing authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

## **18. Travelling Fairs**

- 18.1 It will fall to this licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 18.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 18.3 The 27-day statutory maximum for land being used as a fair is per calendar year, and it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **19. Provisional Statements**

- 19.1 The Gambling Commission's guidance states that "it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".
- 19.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (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.

19.3 The Gambling Commission's Guidance states that "A 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."

## PART C

### Permits/Temporary & Occasional Use Notices

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

Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

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 for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits....., licensing authorities will want to give weight to child protection issues." (24.6)

20.1 The Guidance to the Act 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 Family Entertainment Centre, and if the chief officer of police has been consulted on the application..."

20.2 This licensing authority proposes to consider asking applicants 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.

A licensing authority cannot attach conditions to this type of permit.

20.3 With regard to renewals of these permits, a Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

20.4 Gaming Machines - The Act does not allow gaming machine applications from premises where children have free access. In view of this, and in order to promote the licensing objectives, this Licensing Authority will not accept any new gaming machine applications or renewal applications from existing gaming machine permit holders in relation to places including the following:

*Accommodation Agencies, Art Galleries, Assembly Rooms, Bus Stations, Railway Stations, Cafes, Canteens, Cinemas, Theatres, Schools and Colleges, Youth Clubs, Swimming Pools, Off Licences, Loan Offices, Church Halls, Banks, Car Hire Premises, Employment Agencies, Garden Centres, Hospitals, Museums, Nurseries, Sales Rooms, Showrooms, Surgeries, Hotels, Registered Homes, Garages and Service Stations, Retail Shops and Warehouses, Video Hire/Sale Premises, Shopping Arcades/Centres, Dance Halls/Discotheques, Salons/Hairdressing Premises, Snooker/Billiards and Pool Halls, Taxi and Private Hire Offices and Ranks, Waiting Rooms and Reception Areas, Leisure/Health/Sports/ Community Centres, Restaurants, Take-away Food Premises.*



*This is not an exhaustive list and the Licensing Authority reserves the right to refuse applications where the licensing objectives are likely to be undermined.*

## **21. Alcohol Licensed premises - gaming machine permits**

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines of categories C and/or D. The premises licence holder must notify the Licensing Authority by completing the requisite application form, paying the prescribed fee and also complying with any relevant Code of Practice issued by the Gambling Commission (Section 282). The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- 1 Provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- 2 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);
- 3 The premises are mainly used for gaming; or
- 4 An offence under the Gambling Act has been committed on the premises.

21.1 If a premises wishes to have more than 2 machines, it must apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor the machines to ensure they are not being used by persons under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/ helpline numbers for organisations such as GamCare.

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

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

21.4 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.

## **22. Prize Gaming and Prize Gaming Permits**

A prize gaming permit is a permit issued by the licensing authority authorising the provision of facilities for gaming with prizes on specified premises.

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

- 22.1 This licensing authority's Statement of Principles 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;
  - and that the gaming offered is within the law.
- 22.2 In making its decision on an application for this type of permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 22.3 The permit holder must comply with certain conditions imposed by the Gambling Act 2005. However, the licensing authority cannot attach any other conditions to a permit. The conditions provided by the Act are that:
- 1 The limits on participation fees, as set out in regulations, must be complied with;
  - 2 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;
  - 3 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
  - 4 Participation in the gaming must not entitle the player to take part in any other gambling.

### **23. Club Gaming and Club Machines Permits**

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide only gaming machines (i.e. up to 3 machines of categories B4, C or D).

- 23.1 The 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, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 23.2 The Commission Guidance also states that "licensing authorities may only refuse an application on the grounds that:
- 1 The applicant does not fulfil the requirements for a members' or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - 2 The applicant's premises are used wholly or mainly by children and/or young persons;
  - 3 An offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - 4 A permit held by the applicant has been cancelled in the previous ten years; or
  - 5 An objection has been lodged by the Commission or the police.
- 23.3 There is also a 'fast-track' procedure available under the Act for premises holding a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). The Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the

police, and the grounds upon which an authority can refuse a permit are reduced". Furthermore, the guidance states: "The grounds on which an application under the process may be refused are:

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

23.4 There are statutory conditions on club gaming permits that no child may use 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.

## **24. Temporary Use Notices**

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

24.1 There are a number of statutory limits as regards Temporary Use Notices. It falls to the Licensing Authority to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site (see Gambling Commission's Guidance for Local Authorities).

## **25. Occasional Use Notices**

The Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.

25.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will however consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **PART D DECISION MAKING, COMPLAINTS & REVIEWS**

### **26. Decision Making**

#### **26.1 Licensing Committee Terms of Reference**

26.1.1 The committee's terms of reference will be set out in the Council's Constitution. The terms of reference will be guided by Regulations issued under the Act, which have not yet been published.

#### **26.2 Allocation of Decision Making Responsibilities**

26.2.1 These responsibilities will be set out in the Council's policy. The table shown at Appendix B indicates how the delegation of functions might be allocated.

### **27. Complaints against licensed premises**

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

27.2 Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

27.3 This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

27.4 When dealing with a complaint about a licensed premises the Licensing Authority will have due regard to the Environmental Health Enforcement Policy.

### **28. Reviews**

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

- In accordance with any relevant code of practice issued by the Gambling Commission;
- In accordance with any relevant guidance issued by the Gambling Commission;
- Is reasonably consistent with the licensing objectives; and
- In accordance with the authority's statement of licensing principles.

Requests for reviews will not be considered by the Licensing Authority where:

- The request is frivolous or vexatious;
- It will not cause the authority to consider altering, revoking or suspending the licence;  
or
- It is substantially the same as previous representations or requests for review.

28.2 The licensing authority can also initiate a review of a licence if it feels it appropriate.

## **29. Further information**

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

Taunton Deane Borough Council  
Licensing Unit  
The Deane House  
Belvedere Road  
Taunton  
TA1 1HE

Tel: 01823 356343  
Fax: 01823 356564  
E-mail: [licensing@tauntondeane.gov.uk](mailto:licensing@tauntondeane.gov.uk)  
Website: [www.tauntondeane.gov.uk](http://www.tauntondeane.gov.uk)

- 29.2 Information is also available from:-

### **Gambling Commission**

Berkshire House  
168-173 High Holborn  
London  
WC1V 7AA

Tel: 020 7306 6219  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

### **Department of Culture, Media and Sport**

2-4 Cockspur Street  
London  
SW1Y 5DH

Tel: 020 7211 6200  
E-mail: [Enquires@culture.gov.uk](mailto:Enquires@culture.gov.uk)  
Website: [www.culture.gov.uk](http://www.culture.gov.uk)

**Gamcare:** [www.gamcare.org.uk](http://www.gamcare.org.uk)

# APPENDIX A

## RESPONSIBLE AUTHORITIES DETAILS

<b>RESPONSIBLE AUTHORITY</b>	<b>ADDRESS</b>	<b>TELEPHONE NUMBER</b>
<b>Taunton Deane Borough Council (in the capacity of Licensing Authority)</b>	Licensing Unit The Deane House Belvedere Road Taunton TA1 1HE	01823 356343
<b>Avon and Somerset Constabulary</b>	Liquor Licensing Bureau New Bridewell Bridewell Street Bristol BS1 2QH	0117 945 5154
<b>Somerset Fire and Rescue Service</b>	Chief Fire Officer The Fire Station Lisieux Way Taunton TA1 2LB	01823 273020
<b>Taunton Deane Borough Council Environmental Protection Team</b>	The Deane House Belvedere Road Taunton TA1 1HE	01823 356339
<b>Somerset Local Safeguarding Children Board</b>	Somerset Local Safeguarding Children Board County Hall Taunton TA1 4DY	01823 358098
<b>Taunton Deane Borough Council (Planning Department)</b>	Development Control Manager Planning Department The Deane House Belvedere Road Taunton TA1 1HE	01823 356464
<b>Gambling Commission</b>	Berkshire House 168-173 High Holborn London WC1V 7AA	020 7306 6219
<b>HM Revenue and Customs</b>	Michael Paul House Corporation Street Taunton TA1 4BZ	0845 010 9000

# APPENDIX B

## TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE OR SUB-COMMITTEE	OFFICERS
Three year licensing policy	<input type="checkbox"/>		
Policy not to permit casinos	<input type="checkbox"/>		
Fee Setting - when appropriate			<input type="checkbox"/> (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		<input type="checkbox"/>	
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		<input type="checkbox"/>	
Applications for other permits			<input type="checkbox"/>
Cancellation of licensed premises gaming machine permits			<input type="checkbox"/>
Consideration of temporary use notice			<input type="checkbox"/>
Decision to give a counter notice to a temporary use notice		<input type="checkbox"/>	

## Glossary of Terms

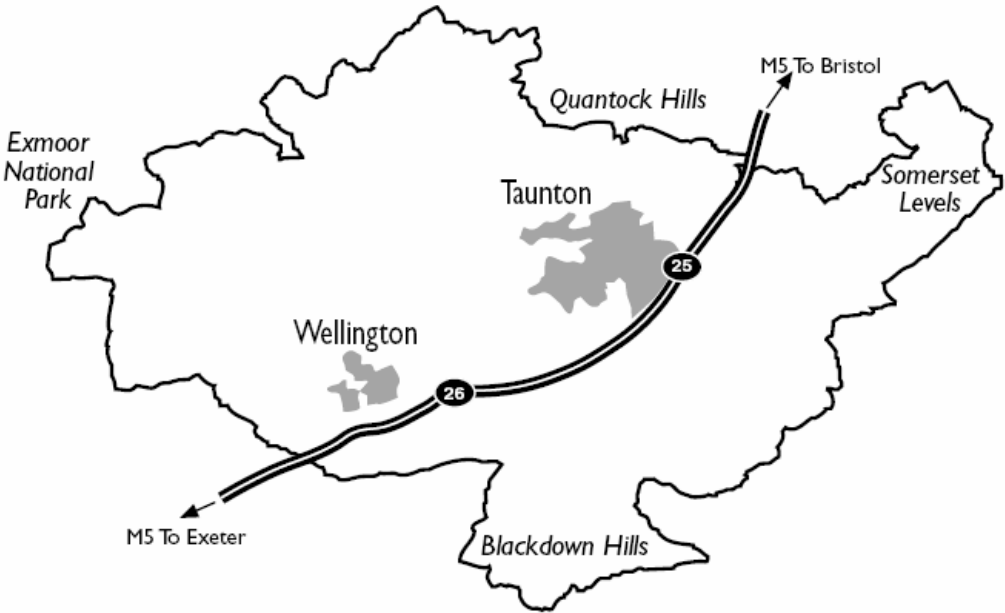
Within this Statement of Policy, the following words and terms are defined as stated:

Act:	The Gambling Act 2005																											
Betting Machine	A machine which has been designed or adapted for use to bet on future real events, such as horse racing, and used as a substitute for placing a bet over the counter.																											
Code of Practice:	Any relevant code of practice under section 24 of the Gambling Act 2005																											
Council:	Taunton Deane Borough Council																											
Council area:	The area of Taunton Deane administered by Taunton Deane Borough Council (Map appended at Appendix D)																											
DCMS	Department of Culture, Media and Sport																											
Default Condition:	A specified condition provided by regulations to be attached to a licence, unless excluded by Taunton Deane Borough Council																											
Gaming Machine	<table border="1"> <thead> <tr> <th>Category</th> <th>Maximum Stake</th> <th>Maximum Prize</th> </tr> </thead> <tbody> <tr> <td>A</td> <td>Unlimited</td> <td>Unlimited</td> </tr> <tr> <td>B1</td> <td>£2</td> <td>£4,000</td> </tr> <tr> <td>B2</td> <td>£100</td> <td>£500</td> </tr> <tr> <td>B3</td> <td>£1</td> <td>£500</td> </tr> <tr> <td>B4</td> <td>£1</td> <td>£250</td> </tr> <tr> <td>C</td> <td>50p</td> <td>£25</td> </tr> <tr> <td>D</td> <td>10p</td> <td>£5 cash</td> </tr> <tr> <td></td> <td>30p when non-monetary prize</td> <td>or £8 non-monetary prize</td> </tr> </tbody> </table>	Category	Maximum Stake	Maximum Prize	A	Unlimited	Unlimited	B1	£2	£4,000	B2	£100	£500	B3	£1	£500	B4	£1	£250	C	50p	£25	D	10p	£5 cash		30p when non-monetary prize	or £8 non-monetary prize
Category	Maximum Stake	Maximum Prize																										
A	Unlimited	Unlimited																										
B1	£2	£4,000																										
B2	£100	£500																										
B3	£1	£500																										
B4	£1	£250																										
C	50p	£25																										
D	10p	£5 cash																										
	30p when non-monetary prize	or £8 non-monetary prize																										
Guidance	Guidance issued to Licensing Authorities by the Gambling Commission (April 2006) as required by section 25 of the Gambling Act 2005.																											
LACORS	Local Authorities Co-ordinators of Regulatory Services ( <a href="http://www.lacors.gov.uk/">http://www.lacors.gov.uk/</a> )																											
Licensing Authority	Taunton Deane Borough Council																											
Mandatory Condition:	A specified condition provided by regulations to be attached to a licence																											
Notifications:	Notification of temporary and occasional use notices																											
Premises:	Any place, including a vehicle, vessel or moveable structure																											
Regulations:	Regulations made under the Gambling Act 2005																											



# APPENDIX D

## MAP OF TAUNTON DEANE



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## **REPORT TO THE LICENSING COMMITTEE**

### **TAUNTON DEANE BOROUGH COUNCIL LICENSING COMMITTEE – 12<sup>th</sup> July 2006**

#### **Report of the Licensing Officer**

#### **The Licensing of Sex Establishments within the borough of Taunton Deane**

##### **Summary**

Two sex shop licences have been granted for premises located in Station Road, Taunton. This report summarises the options available to limit the number of sex establishments in the relevant locality under the Local Government (Miscellaneous Provisions) Act 1982, and clarifies the legal position in this regard.

#### **1. Purpose of Report**

- 1.1 The purpose of this report is to make recommendations to the Licensing Committee in respect of setting an appropriate number of sex establishments in specific areas within the Borough and to adopt a policy guide to administer this process.

#### **2 Background**

- 2.1 There are currently licences for two sex shops in the Station Road area, one granted in November of 2003 at 50 Station Road, the other premises is due to open shortly at 85 Station Road.
- 2.2 The objection letters received when the previous licence applications were considered detail that objectors had concerns that the premises were close to schools, churches and The Ablemarle Centre. The letters also state that Station Road is used by children who walk to school and to various amenities in the town.
- 2.3 The Objectors felt that the presence of the sex shops may lead to a number of extra problems including curb crawling, prostitution, lap dancing premises and more sex shops. It appears from the experiences of other Authorities that these concerns will not be realised with the volume of establishments present at the current time, but it would be reasonable to suggest that this may not be the case should the number of these establishments increase.
- 2.4 A scale map of Station Road and surrounding areas is at Appendix 1.

#### **3 Legal Position**

- 3.1 The Local Government (Miscellaneous Provisions) Act 1982 Part 2 Schedule 3 governs sex establishments. Paragraph 2 describes the meaning of a sex establishment as a “sex cinema or sex shop”.
- 3.2 Paragraph 12 details the reasons why a licence for a sex establishment shall not be granted or renewed, and paragraph 12(3)(c) states: “that the number of sex establishments in the relevant locality at the time the

application is made is equal to or exceeds the number which the Authority consider is appropriate for that locality”.

- 3.3 The area designated as the “relevant locality” should pass the “Wednesbury” principle of reasonableness (*R. v Birmingham City Council and other Ex. P. Quietlynn Ltd (1985)*) – Is a decision so unreasonable that no reasonable person would have made it?
- 3.4 There is case law that states that the whole of an administrative area is too large an area to establish as a relevant locality (*R v Peterborough City Council and others ex p. Quietlynn 1986*).
- 3.5 The Licensing Committee may therefore decide whether it is appropriate to establish the number of sex establishments for a relevant locality, and decide what area that relevant locality should be.

#### **4 Options**

- 4.1 The appropriate number of sex establishments in any specified locality may be zero, or any number as deemed appropriate.
- 4.2 The Licensing Committee when determining a locality to specify the appropriate number of sex establishments may do so in a variety of ways including:
  - Using a point in a map as the centre of a circle.
  - Using specific points or landmarks in an area as boundary points.
  - Specifying a locality already determined by other means such as areas constituting Council wards.
- 4.3 The Licensing Committee may determine that there is no benefit in having a policy that limits an appropriate number of sex establishments in any specified locality.

#### **5 Officers Comments**

- 5.1 There are two existing premises in Station Road licensed as sex shops. It may therefore be prudent to set a limit on the appropriate number of sex establishments in this locality to minimise the risk of further applications being made in this locality.
- 5.2 In determining the locality to set an appropriate number it may be useful to use a pre-existing method of determining the boundary of the locality such as Council wards. All Wards within the district are known areas, and information of where the boundaries lie is readily available. The suggested Council wards that could be used in setting an appropriate number of sex establishments in a given locality are detailed on a map shown at Appendix 2 to this report.
- 5.3 Any policy that details the appropriate number of sex establishments in a given area will not preclude an application being made for additional sex establishments in that locality. Should such an application be made the application must be considered on its own merits.
- 5.4 If the Council approves a policy detailing the appropriate number of sex establishments in a given locality it will not mean that an application for a sex establishment in other locations will be granted, as any such application would also have to be considered on its own merits. In these

circumstances consideration will be given to the location of the premises and the suitability of the premises.

- 5.5 Should the Licensing Committee set an appropriate number of sex establishments in a locality the Licensing Committee may also wish to provide some additional guidance as to what factors are generally taken into account when determining any application for a sex establishment. A suggested guidance document is at Appendix 3 to this report.

## **6 Recommendation**

- 6.1 That the Licensing Committee agrees to recommend to The Council to adopt a policy that sets the appropriate total number of sex establishments in the Wards of Fairwater and Lyngford as two.
- 6.2 That the Licensing Committee approves the guidance, as detailed in Appendix 3, and that it be provided to applicants for sex establishments.

### **Contact Officer:**

Paul Dare, Licensing Officer, 01823 356343 or Ext. 2397, email:  
p.dare@tauntondeane.gov.uk



## **Guide Policy to the Licensing of Sex Establishments**

### **Local Government (Miscellaneous Provisions) Act 1982**

The following guidance is supplied to assist potential applicants for Sex Establishments within the Borough. A sex establishment means Sex Shops and Sex Cinemas.

This document is intended as a guide only, and each individual application will be considered on its individual merits.

When considering an application for a Sex Establishment the Council will pay due regard to the locality of the premises relating to any such application and the suitability of the intended premises.

In considering the locality of the premises the following factors may be amongst those considered, other factors not detailed may also be considered.

- a) Proximity to residential property.
- b) Proximity to shops and other business premises that are aimed or cater for the family market especially those that cater for children.
- c) Proximity to properties that are sensitive for religious purposes such as but not exclusively churches.
- d) Proximity to areas that are sensitive because they are frequented by children or families, including but not limited to educational establishments, leisure facilities such as parks, libraries or swimming pools, markets or covered markets.

In considering the suitability of the premises the following factors may be amongst those considered, other factors not detailed may also be considered.

- a) Historical significance and previous use of the building.
- b) The design and lay out the building.

# REPORT TO THE LICENSING COMMITTEE

## TAUNTON DEANE BOROUGH COUNCIL

LICENSING COMMITTEE – Wednesday 12 July 2006

### Report of the Licensing Manager

#### Licensing Progress Report

##### Executive Summary

This report details the current number and the opening hours of licensed premises within Taunton Deane Borough Council's licensable area. This report has been compiled to show the current position in order to assess the impact of the Licensing Act 2003. The report also details Taunton Deane Borough Council's role as a Scrutiny Council and outlines some of the issues that are being considered by the Department of Culture Media and Sport, (DCMS) as part of the review of the Secretary of State's Guidance that accompanies the Licensing Act 2003.

#### 1. Purpose of Report

- 1.1 The purpose of this report is to provide information to enable the Licensing Committee to assess the impact of the Licensing 2003 and to advise members of the Scrutiny Council Process.

#### 2 Background

- 2.1 There are 425 premises licensed to sell or supply alcohol or provide regulated entertainment or late night refreshment. The Licensing Authority has issued 547 Personal Licences.

- 2.2 The breakdown of the types of licensed premises is detailed below:

Premises Type	Number
Pubs, Clubs and Bars	118
Village/Church Halls	45
Cinemas and Theatres	4
Registered Members Clubs	33
Hotels, B&Bs and Restaurants	75
Off-licences, Supermarkets and Shops	82
Takeaways	28
Sports Clubs	11
Other	29
<b>Total</b>	<b>425</b>

- 2.3 The terminal Hours for licensed premises are detailed below:

Up to 11pm	Up to 12midnight	Up to 1am	Up to 2am	Up to 3am	24 hours
134	106	62	11	9	7

- 2.4 A previous report was received by the Licensing Committee on 16 January 2006, this report is attached at Appendix 1

- 2.5 There are a number of applications still being made in relation to the Licensing Act. The number and types of applications are detailed in Appendix 2.

### **3. Scrutiny Council Process**

- 3.1 Taunton Deane was one of only ten councils selected in England and Wales by the Department of Culture Media and Sport, (DCMS) to be a "Scrutiny Council". The purpose of the Scrutiny Councils was to evaluate the implementation of the new licensing regime. Additionally it was to review the current Secretary of State's guidance issued in accordance with Section 182 of the Licensing Act 2003 and to make recommendations to improve the guidance. Specifically there were a number of areas of guidance that needed to be clarified. Details of the areas under consideration will be verbally reported during the committee hearing. There has been a very minor change to the Guidance, which was published on the 22 June 2006. It is expected the complete revision of the guidance will be published in November 2006.

### **4. Licensing Issues**

- 4.1 The Council are now responsible for 425 premises licences, most of which have conditions attached to the licence to promote the licensing objectives. In order to ensure that the conditions are being adhered to and the licensing objectives are being met officers from the licensing unit are working often along side the Police to ensure compliance with the conditions that are attached to the licence.
- 4.2 To date the licensing unit has received less than 10 complaints in relation to licensed premises. All the complaints relate to either noise or light pollution. To date there have been no requests from responsible authorities or interested parties for a Review of a licence.
- 4.3 There are ongoing problems in relation to the publicity of applications for either a premises licence or a variation of a premises licence. At present the statutory requirement is for a public notice and a notice on the premises. In addition the licensing unit also details any such applications in the Weekly Bulletin, which also includes details of all Temporary Event Notices (TENs). Previously with any application for a Public Entertainment Licence Ward Councillors were advised of the application using the Ward Based Information Service. Due to the large number of applications last year it was not possible to offer the same level of information sharing.
- 4.4 Members will appreciate that the role of ward Councillors in relation to licensing applications is limited

### **5. Recommendation**

- 5.1 It is RECOMMENDED that the Licensing Committee note the contents of this report.
- 5.2 It is RECOMMENDED that the Licensing Committee decide whether all new applications and applications to vary a licence are detailed using the Ward Based Information Service.

Contact Officer: **Jim Hunter Licensing Manager**

**Appendix 1  
TAUNTON DEANE BOROUGH COUNCIL**

**LICENSING COMMITTEE**

**16<sup>th</sup> January 2006**

**REVIEW OF LICENSING ACT 2003 IMPLEMENTATION.**

**(This matter is the responsibility of Executive Councillor Edwards)**

**JOINT REPORT OF CHIEF ENVIRONMENTAL HEALTH OFFICER,  
LICENSING MANAGER and CHIEF SOLICITOR**

**1. PURPOSE**

- 1.1 The purpose of this report is to review the implementation of the Licensing Act 2003 by Taunton Deane Borough Council, and to raise lessons learnt from the events of 2005 with a view to further improving the administration of the Licensing Act 2003 by the Council.

**2. EXECUTIVE SUMMARY**

The implementation of the Licensing Act 2003 by Taunton Deane Borough Council over the last year has generally been successful. The Council has performed well in many areas of the transitional activities receiving national recognition and praise for some aspects of this work. However some issues have been identified where the service can continue to improve. With the transitional work completed there are a range of tasks and responsibilities that arise from the Licensing Act 2003 that will continue to engage officers and members alike.

**3. BACKGROUND**

- 3.1 The Licensing Act 2003 introduced a fundamental change in the way premises and activities are regulated. The Act transferred the responsibility for alcohol related licensing from the local justices to the local authority. The Act is deregulatory in nature and seeks to implement a new alcohol and entertainment culture by relaxing previous restrictions on these activities. Protection of local communities is afforded by pursuance of the four licensing objectives, which underpin local authority considerations in implementing the new regime.
- 3.2 The Council published a Licensing Policy following an extensive consultation process, on 14<sup>th</sup> December 2004. The policy outlines the Council's position on how it will determine all applications to supply alcohol, provide regulated entertainment and operate late night refreshment. It seeks to provide assistance and clarity to applicants, interested parties and responsible authorities at a local level, incorporating the fundamental principles of the Act and associated guidance.
- 3.3 Since the creation of the Licensing policy in late 2004, the transitional period from the old to new arrangements has taken place. In addition, the second appointed day in November 2005 has now passed, which resulted in all new licenses going live and the new legislation coming fully into force.



3.4 During 2005 the Council has undertaken a massive task in implementing the Licensing Act 2003. The activity has primarily fallen to the Licensing Unit within Environmental Health, but with significant support from Legal Services and Member Services and of course significant contributions from members. Most of this transitional work is now completed, so it is appropriate to review this activity, take stock and consider issues that might arise in the future from these new responsibilities.

#### **4. LOCAL PUBLICITY**

4.1 Following the issue of the licensing policy there was a need to publicise the change in the legislation to local traders. The transitional period started with the first Appointed Day in February 2005. All applications to convert existing licences to the new regime needed to be submitted by the 6<sup>th</sup> August 2005.

4.2 It was important to ensure that the highest possible level of conversion applications were received before the deadline. This was to avoid the potential for many premises to have to cease trading if conversions were not made correctly, resulting in a significant enforcement issue for the Council and local Police. In addition it was desirable to encourage a reasonable spread of conversion applications through the six-month period to avoid a significant peak in administration, if all applicants left making their applications until the last minute.

4.3 Extensive efforts were made to communicate with the local trade. Information was available on the Council's website, letters were sent to known premises, workshops were undertaken in the Council offices on the new arrangements including surgeries where applicants could talk through their specific application with a licensing officer. Visits were also undertaken to premises where requested to discuss applications, and visits were also undertaken proactively to some types of premises, for example takeaway food outlets, that had not been subject to licensing previously and may therefore have been unaware of the changes.

4.4 In addition, the local media was used extensively with the assistance of the Council's Public Relations Officer to regularly raise the issue on local TV, radio and especially local newspapers.

4.5 This approach was very successful, at the end of the transitional period the Council had received 95% of the premises licence applications that it was anticipating. This figure was later confirmed by the Department for Culture, Media and Sport as the highest level of applications in the country.

4.6 Throughout the transitional period the Council's website was continually refined and utilised by applicants. In particular the addition of sample completed application forms was particularly well received. This work culminated in Taunton Deane Borough Council being specifically praised for its website by the Department for Culture, Media and Sport, who in turn signposted other local authorities to the Council's website as an example of best practice.

## 5. PREMISES LICENSES

- 5.1 To date 406 premises licences have been issued. This number is made up from the following types of business.

Premises Type	Number
Village/Church Halls	37
Schools/Colleges	9
Pubs/Clubs	128
Hotels	14
Off-licences	58
Takeaways/Restaurants/Cafes	77
Sports Venues	26
Club Premises Certificates	19
Other	38
<b>Total</b>	<b>406</b>

- 5.2 Many premises have taken advantage of the opportunity to maximise their trading potential in the new regime by, for example, extending their trading hours. However only 18 premises have been granted 24 hour licences. These 18 premises include 5 off-licences (4 supermarkets and 1 garage), 1 pub and 12 hotels (where trade relates to hotel residents only).
- 5.3 Many premises' applications resulted in concerns being raised in the form of representations either from Interested Parties (usually local residents) or Responsible Authorities. Where these concerns, or in the case of Responsible Authorities suggested conditions, could be resolved by discussion with the applicant, then this route was pursued. If all parties were in agreement the issue could then be included as a condition on the licence, and the licence issued. However, where issues could not be resolved by informal discussion a Licensing Sub Committee was required to determine the application.
- 5.4 To date a Licensing Sub Committee has been convened on 22 occasions to determine premises licence applications. This process has generally worked effectively and has been well received by all participants. Both applicants and interested parties have welcomed the opportunity to voice their respective positions. This in turn has allowed the Sub Committee to make a balanced decision on the basis of presentations made.
- 5.6 The Sub Committee hearings have also demonstrated that three separate Council departments, i.e. Licensing, Legal Services and Member Services can work closely and effectively together and with members to deliver a specific goal.

## 6. LICENSING SUB COMMITTEE DECISION APPEALS.

- 6.1 Following Sub Committee decisions on premises licence applications, six appeal notifications were lodged at Taunton Magistrates Court. Subsequently two of these appeals were withdrawn, two were resolved by reaching a compromise agreement and two cases went to a full hearing in front of the Magistrates.
- 6.2 The Council instructed external solicitors to represent it in connection with these appeals and a Barrister with specific expertise was subsequently appointed. The hearings proceeded with the Council's evidence consisting of submissions from officers of Licensing, Environmental Protection and from the Avon and Somerset Police.

- 6.3 Both cases mostly considered the specific matter of the Councils' decision to impose a last time of entry and/or re-entry of 00.30 hours. Each case was considered in some detail and both resulted in the Council's original decisions being upheld by the court. During one of the hearings the Council was praised for the way it had worked effectively in partnership with Avon and Somerset Police and how it had considered local issues and specific local circumstances when making licensing decisions.

## **7. PERSONAL LICENCES**

- 7.1 The Council has currently issued 493 Personal Licences, which allow persons to sell alcohol in licensed premises.

## **8. LESSONS LEARNT**

- 8.1 The process of implementing the Licensing Act 2003 has been a major challenge for Taunton Deane Borough Council and has on the whole been very successful. However, there are some matters that with hindsight may have been done differently. Some of these matters are worthy of consideration now because even though the vast majority of premises are now licensed, some issues may necessitate amendment of the licensing policy that will impact on any future new premises applications and guide the ongoing reviews of existing licences. Three such issues are described below:

### **1. Noise Conditions**

The Environmental Protection Team within Environmental Health as a Responsible Authority frequently raised concerns in relation to noise arising from a premises. This resulted in officers recommending a suitable condition to limit the potential impact of this noise. Depending on the specific circumstances, one of three different conditions may have been proposed, some incorporating a drawn circle on a plan and some not.

Whilst the reasons for choice of noise condition may have been technically sound, feedback from discussions with applicants and interested parties suggested that this approach was confusing, hard to understand and appeared inconsistent. The Secretary of State's guidance on the Licensing Act 2003 does not recommend the use of standard conditions and encourages licensing authorities to judge each case on its own merits. Therefore it would not be desirable to create a "standard" noise condition. However, where noise conditions are recommended as part of future applications, they should be accompanied by a suitable explanation as to why that specific condition has been used.

### **2. Last Time of Entry/Re-entry**

For many town centre, high volume, alcohol led venues, a condition was imposed that resulted in no entry or re-entry to the premises after 00.30 hours. This condition was imposed following representations from the Police as a part of their approach to reducing crime and disorder. This is achieved by this condition reducing the movement of large numbers of people from venue to venue late at night, having potentially consumed large volumes of alcohol and therefore leading to disorder.

This specific issue resulted in the main concern in the two Magistrates Court Appeal hearings described above. This issue is not specifically dealt with in the Council's Licensing Policy, however on review it may be worthy of inclusion.

### 3. Extending Opening Hours

Paragraph 4.2.5 of the Council's Licensing Policy states:-

*"So as to avoid the need for repeated service of temporary event notices, the Council encourages applicants for premises licences/club premises certificates to include in their operating schedules provision for the following:*

*(1) Extending their operating hours by up to three hours beyond the normal terminal hour on 24 occasions per calendar year.*

*(2) Early opening on special occasions such as sporting events being played outside normal operating hours to a maximum of 12 occasions in a calendar year, with opening to be no more than 30 minutes prior to the start of such an event."*

Some applications not only took advantage of standard extended hours for late operation to, for example, 3am but then also took advantage of point (1) above and applied for operation extended by a further 3 hours on 24 occasions.

It was not the intention that this provision be used in this way but that this provision would be used by premises that were operating traditional pub hours and could open until 2am, for example, on a limited number of occasions as they were previously able to do by applying for a licence extensions. Again this section of the policy may require review.

## 9. FUTURE ISSUES

9.1 There are a number of issues that are currently being addressed by the Licensing Unit now that the transitional work is completed.

### 1. Enforcement

The Council was previously responsible for around 100 licensed premises comprised of public entertainment, theatres, cinemas and late night refreshment, it is now responsible for over 400 premises, all featuring bespoke conditions. This will require an effective enforcement approach to operating premises. The Licensing Unit has a good record of enforcement, and incorporates a contractual out of office hours commitment from key officers. This capacity is particularly useful to monitor late night venues during their operating times. Visits are already being made to monitor compliance with new conditions, with many visits being undertaken jointly with the Police.

However the primary avenue for concerns from interested parties or responsible authorities to be raised is by one of these parties seeking a review of a licence. Where a review is requested a report will be presented to a specifically convened Licensing Sub Committee on the subsequent investigation undertaken by the Licensing Unit. The Sub Committee is able to amend the licence and associated conditions or

withdraw the licence completely if appropriate. To date there have not been any requests for reviews of licences.

## **2. Public Register**

The Licensing Act 2003 and subordinate Regulations contain extensive requirements for public registers of relevant information. Officers are currently working to provide the information prescribed, that will be available mostly through the Council's website.

## **3. Collection Of Annual Charge For Premises Licences**

A premises licence can be granted for unspecified time frame, that is to say the licence may remain in force without the need for it to be renewed. There is however an annual charge, which is meant to cover the costs of the licensing process. The only method of collecting the annual charge if payment is not forthcoming is by way of a Sundry Debt. The Licence continues to remain in force even if the annual charge is not paid.

## **10. GOVERNMENT SCRUTINY PANEL**

- 10.1 Taunton Deane Borough Council has been asked to be one of only ten local authorities in England and Wales, that will act as Scrutiny Councils to the Government on the progression and effectiveness of the licensing reforms. This initiative will run for the first six months of 2006 and is being led by the Department for Culture, Media and Sport, but will also include the Home Office and Office of the Deputy Prime Minister (ODPM).
- 10.2 The nominated officers for Taunton Deane Borough Council are James Barrah and Jim Hunter who will be working with a policy officer from DCMS to provide a view from local government and seek to make suggestions for amendment of the Licensing Act Guidance and implementation.

The full list of participating council's is a follows:-

- |              |                 |
|--------------|-----------------|
| - Birmingham | - Havering      |
| - Blackpool  | - Manchester    |
| - Brighton   | - Newcastle     |
| - Bristol    | - Nottingham    |
| - Cardiff    | - Taunton Deane |

- 10.3 This initiative is a unique opportunity for a small borough council to influence national policy. It also allows views from all levels of the organisation to be fed back to Government.

## **11 ONGOING ACTIVITY**

- 11.1 The Licensing Committee and more especially its Sub Committees can expect to be involved in deciding any new applications for a premises licences, (where relevant representations are received), along with contentious temporary event notices and in carrying out reviews of premises licences where relevant representations have been received. There will also be the need to determine other licensing matters, such as taxi fares and other contentious licensing matters. We will review the Members training requirements in connection with all these matters

## **12. RECOMMENDATIONS**

- It is recommended that the Committee notes the report and progress made to date with implementation of the Licensing Act 2003 and the licensing reforms.
- The Committee may wish to consider and debate the areas for future work and review identified in the report, and raise any issues that they have experienced during the process so far. It is considered particularly important to raise issues that may warrant an amendment to the Council's Licensing Policy.

### Contact Officers:-

- James Barra, Chief environmental Health Officer. Extension 2460
- Jim Hunter, Licensing Manager. Extension 2462
- Ian Taylor, Chief Solicitor. Extension 2303

## Appendix 2

### Licensing Update : Total applications received to 23/06/06

L1A Personal Licence Application 110  
L1T Personal Licence Transitional Application 440  
L2A Premises Licence Application 76  
L2C Club Premises Certificate Application 4  
L2M Application to Transfer Premises Licence 25  
L2S Application to Vary Premises DPS 77  
L2T Premises Licence Transitional Application 318  
L2U Club Premises Certificate Transitional Application 28  
L2V Application to Vary Premises Licence 15  
L3N Temporary Event Notice 172  
TOTAL: 1265

New Applications received for period 17.06.06 – 23.06.06

#### Application to Vary Premises DPS

<u>Rec'd</u>	<u>Name &amp; Address</u>
21/06/06	Co-operative Pioneer, Longforth Road, Wellington
20/06/06	The Coal Orchard, 30 Bridge Street, Taunton

#### Temporary Event Notice

<u>Rec'd</u>	<u>Name &amp; Address</u>
21/06/06	The Chapel Gallery, South Street, Wiveliscombe, Taunton
22/06/06	The Chapel Gallery, South Street, Wiveliscombe, Taunton
20/06/06	Cotford St Luke Primary School, Bethall Mead, Cotford St Luke
22/06/06	Little Yarford Farmhouse, Yarford, Kingston St Mary, Taunton
20/06/06	Old Rectory Cottage, Oake, Taunton
19/06/06	Orchard Farm, Hillcommon, Taunton
21/06/06	Queens College, Trull Road, Taunton
19/06/06	Taunton School, Staplegrove Road, Taunton
21/06/06	Thurlbear First School, Thurlbear, Taunton
20/06/06	Pontispool Farm, Norton Fitzwarren, Taunton
21/06/06	Wiveliscombe Rugby Football Club, The Recreation Ground, West Road, Wiveliscombe