

You are requested to attend a meeting of the Licensing Committee to be held in The John Meikle Room, The Deane House, Belvedere Road, Taunton on 19 November 2009 at 18:15.

Agenda

- 1 Appointment of Chairman
- 2 Appointment of Vice-Chairman
- 3 Apologies.
- 4 Minutes of the meeting of the Licensing Committee held on 28 April 2009 (attached).
- 5 Public Question Time.
- 6 Declaration of Interests
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct.
- 7 Introduction of Drivers Standards Agency Private Hire and Hackney Carriage Driver Assessments - report of Licensing Officer (attached)
Reporting Officer: Olivia Walton
- 8 Gambling Act 2005 - Revised Statement of Principles - report of Licensing Officer
Reporting Officer: Olivia Walton
- 9 Updated report on the Proposal to Allow the Removal of Requirements for a Designated Premises Supervisor and Personal Licence Holder for Community Premises - report of Licensing Officer (attached)
Reporting Officer: Olivia Walton
- 10 Report Update on the Introduction of a Simplified Process for Minor Variations to Premises Licences and Club Premises Certificates - report of the Licensing Officer (attached)
Reporting Officer: Olivia Walton

11 November 2009

Members of the public are welcome to attend the meeting and listen to the discussions.

There is time set aside at the beginning of most meetings to allow the public to ask questions.

Speaking under “Public Question Time” is limited to 4 minutes per person in an overall period of 15 minutes. The Committee Administrator will keep a close watch on the time and the Chairman will be responsible for ensuring the time permitted does not overrun. The speaker will be allowed to address the Committee once only and will not be allowed to participate further in any debate.

If a member of the public wishes to address the Committee on any matter appearing on the agenda, the Chairman will normally permit this to occur when that item is reached and before the Councillors begin to debate the item.

This is more usual at meetings of the Council’s Planning Committee and details of the “rules” which apply at these meetings can be found in the leaflet “Having Your Say on Planning Applications”. A copy can be obtained free of charge from the Planning Reception Desk at The Deane House or by contacting the telephone number or e-mail address below.

If an item on the agenda is contentious, with a large number of people attending the meeting, a representative should be nominated to present the views of a group.

These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

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Lift access to the John Meikle Room and the other Committee Rooms on the first floor of The Deane House, is available from the main ground floor entrance. Toilet facilities, with wheelchair access, are also available off the landing directly outside the Committee Rooms.



An induction loop operates to enhance sound for anyone wearing a hearing aid or using a transmitter.

For further information about the meeting, please contact Democratic Services on 01823 356382 or email d.durham@tauntondeane.gov.uk

Licensing Committee Members:-

Councillor P Watson
Councillor E Waymouth
Councillor C Guerrier
Councillor M Hill
Councillor D House
Councillor J Meikle MBE
Councillor T Murphy
Councillor A Beaven
Councillor J Allgrove
Councillor S Coles
Councillor J Court-Stenning
Councillor P Critchard
Councillor S Lees
Councillor T McMahon

Licensing Committee – 28 April 2009

Present: Councillor Mrs Allgrove (Chairman)
Councillors, Critchard, Coles, Mrs Court-Stenning, McMahon,
Meikle, Murphy, Stuart-Thorn, Watson and Woolley.

Officers: Mr J Barrahan (Chief Environmental Health Officer),
Mrs J Bradburn (Operations Manager - Public Safety),
Mrs D Durham (Democratic Services Officer), Miss A Hunt
(Licensing Officer), Mrs J Jackson (Legal Services Manager),
Miss H Mockridge (Administrative Officer – Democratic
Services) and Miss O Walton (Licensing Officer)

(The meeting commenced at 6.15 pm).

1. Apologies/Substitution

Apologies : Councillors Beaven, House and Murphy.
Substitution : Councillor Stuart-Thorn for Councillor Beaven.

2. Minutes

The minutes of the meeting held on 1 October 2008 were taken as read and were signed.

3. Declaration of Interests

Councillor Critchard declared a personal interest as one of the taxi drivers was known to him.

4. Public Question Time

The Chairman confirmed the procedure regarding Public Question Time. Mr Toon, a taxi driver asked the Committee to reconsider the rule about the replacement of specialist vehicles. He felt that they should be no older than seven years old from the date of first registration. It would impact on business as newer vehicles were too expensive to purchase.

The Chairman asked if vehicles used for mobility scooters and alike could be considered as specialist vehicles. The Principal Licensing Officer said that these could be considered on an individual basis.

5. Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook and Related Policy Issues

Considered report previously circulated, concerning the review, renewal and consolidation of a number of existing hackney carriage and private hire driver policies.

The Licensing Department had been working with the local taxi trade to review and consolidate a number of previous decisions and practices undertaken by the Council. The purpose was to draw all the recommendations, policies, practice and conditions into one document. The document would be named the "Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook" and once approved, would be the definitive source of information for those in the trade, officers and other agencies. The draft of this handbook was submitted.

Previously the Council had removed the restriction on the number of Hackney Carriages in Taunton Deane. In response to Government Policy in relation to the Disability Discrimination Act 1995, a resolution was made that all new licensed Hackney Carriages would need to be wheelchair accessible. A period of protection until 2005 was granted for the existing saloon fleet. This date had since been extended to 2012. The Department for Transport (DfT) had launched a consultation document on 'Improving Access to Taxis' which had raised the following points:-

- Disability Discrimination Act compliance could not be seen as just providing wheelchair accessible vehicles;
- There was a recognition that disability could take many forms and therefore different types of vehicle could provide the best response to this; and
- The current make up of the Taunton Deane fleet compared favourably with the national statistics in terms of proportion of wheelchair accessible vehicles.

There were currently 140 Hackney Carriages in Taunton Deane, of which 86 were wheelchair accessible. There were 54 saloon vehicles and a total of 60 of plates 1 – 63 were currently occupied.

Until there was clear direction from Government, it was proposed that the number of saloon vehicles would be set at a maximum of 65. 65 plates would be specifically allocated as saloon plates which would be allocated to existing users of such plates. Any remaining saloon plates would be allocated on a first come, first served basis.

The Council had previously agreed that any newly licensed vehicle would have to comply with a standard livery requirement. However, this had never been implemented. The imposition of any new scheme would have to include a considerable lead time of 5 years, so that any consequent vehicle change could be planned by vehicle operators.

Reported that there was no evidence to suggest that any potential benefits outweighed the considerable outlay to the trade in implementing a livery scheme.

The Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook had been developed to consolidate information in relation to the Council's approach to taxi licensing.

The Handbook would be an evolving policy document for use by all in the trade. The Handbook would be sent out with every new application and would be available on the Council's website for viewing, or downloading.

The more important issues contained in the Handbook were detailed. In addition it was intended to remove the requirement for vehicle engines to be at least 1400 cubic capacity. This would allow the trade to explore smaller engines and/or alternate fuel vehicles to address environmental concerns.

It was intended that future minor amendments to the Handbook would be made in agreement with the Principal Licensing Officer and the Chairman of the Licensing Committee. Major changes would be referred to the Licensing Committee for agreement.

Extensive consultations had been undertaken in developing the handbook with the local taxi trade. Comments from the consultation had been included in the Handbook. There appeared to be broad support for the principle and contents of the Handbook from the trade.

Consultation had also been undertaken with the Access Officer from the Taunton Deane Disability Forum. The Forum supported maintaining the fleet balance of saloons and wheelchair accessible vehicles as currently existed. The Forum reported a lack of available Wheelchair Accessible Vehicles between 8 and 9am and 3 and 4pm. However this was due to bookings related to taking children to and from school which was a problem for all styles of vehicles and customers.

The Forum had also reported more concerns about allegations relating to taxi driver behaviour in that some taxi drivers were sometimes unwilling to take wheelchair users and excuses were made or wheelchair users were allegedly blatantly ignored. This type of behaviour was contrary to existing drivers conditions and would be investigated separately.

During the discussion of this item Members made the following comments and also asked questions (Responses to questions are shown in italics).

- That the Taunton Deane Disability Forum be consulted if applicable;
- 65 saloon vehicles maintained a healthy balance with DDA compliant vehicles and should be reviewed on an annual basis;
- Two of the unallocated saloon plates should be allocated to new operators; and
- The vehicle specification referred to in the Handbook should not specify a particular make of vehicle – *These would be detailed as specialist/novelty vehicles.*

Resolved that the Executive be recommended to:-

- (1) Repeal the resolutions 4 and 5 of the Environmental Services Committee of 17 November 1998 (Minute No. 50/1998 refers) relating to vehicle livery;
- (2) Repeal the previous Executive resolutions 1 and 2 of 19 December 2001 (Minute No. 136/2001 refers) relating to wheelchair accessible vehicles;
- (3) Adopt the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook, with the policy implications that this entails, including the issue of two unallocated saloon plates to new operators;
- (4) Agree that any future changes to the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook be undertaken with prior consultation with the taxi trade through the Taunton Deane Taxi Association and Taunton Deane Disability Forum and that any future changes would be approved by the Licensing Committee at the discretion of the Chairman of the Licensing Committee; and
- (5) Adopt the following conditions contained within the Private Hire and Hackney Carriage Drivers, Vehicles and Operators Handbook, under the provisions of Part II of the Local Government (Miscellaneous Provisions) Act 1976:-
 - Standard Conditions for A Hackney Carriage/Private Hire Driver's Licence;
 - Standard Conditions for Private Hire Operators Licence;
 - Standard Conditions for a Hackney Carriage Vehicle Licence;
 - Standard Conditions for a Private Hire Vehicle Licence; and
 - Conditions for vehicle testing and Hackney Carriage and Private Hire Vehicle Test Criteria.

6. European Services Directive

Considered report previously circulated, concerning Directive 2006/123/EC of the European Parliament on services in the internal market that had been adopted on 12 December 2006 and had to be implemented by 28 December 2009.

The Directive, known as the European Services Directive, provided that the majority of licensing applications had to be capable of being downloaded and submitted together with any payment online.

The Directive aimed to break down barriers to cross border trade in services between countries in the European Union by making it easier for service

providers to offer their services to customers in other European Union countries.

It also assisted the fundamental freedoms guaranteed in Articles 43 and 49 of the Treaty establishing the European Community. In order to achieve this, the provisions of the Directive aimed to simplify administrative procedures, remove obstacles for service activities as well as enhance both mutual trust between Member States and the confidence of providers and consumers in the Internal Market.

The Directive primarily affected the application processes of the Licensing team. It excluded a number of services from its scope and these exclusions were optional in the sense that Member States could apply some of the general principles and arrangements provided in the Services Directive to some or all of the excluded services. It was therefore possible that although excluded by the Directive, the Government could choose to include them within the scope of the Act. Such exclusions included the Gambling Act 2005 and Hackney Carriage and Private Hire Vehicles and Drivers. Both were originally included within the scope of the directive, however, they were removed due to lobbying by some Member States.

Licence applications, authorisation schemes, approval regimes, regulations and administrative practices had to comply with the Directive's criteria. They had to be non-discriminatory, necessary and proportionate. The Council was therefore scrutinising the relevant policies and applications to ensure compliance.

The Department of Business, Enterprise and Regulatory Reform (BERR) had been appointed the Point of Single Contact (PSC) for Great Britain by the Government and would require deep links to the Council's website to signpost applicants and also to accept applications on the Council's behalf.

Guidance from BERR stated that enforcement costs should not be assimilated with the application fee. This was to forestall the possibility of an unsuccessful applicant seeking legal remedy due to part of his fees having been used to subsidise his successful competitors.

Considerable work was required to provide the mechanism on the Council's website and to utilise a BERR supported facility through the national "Business Link" website to allow for the full online submission of applications.

A list of the processes currently undertaken by the Licensing Team, which would need to be fully available on line were also submitted.

Discussions were taking place to explore how practicable it would be for this work to be undertaken jointly across all the Somerset Councils. For Taunton Deane and Somerset County Council, early discussions with Southwest One were taking place regarding the potential IT solutions that could be available and any cost implications.

Resolved that the report be noted.

7. Policing and Crime Bill

Considered report previously circulated, concerning the Policing and Crime Bill which had been introduced to the House of Commons on 18 December 2008 and was likely to take effect during Summer 2009.

The Policing and Crime Bill was made up of seven parts and the impact that the legislation was anticipated to have on Licensing Authorities was summarised.

The Bill sought to:-

- Place a duty on Police Authorities to have regard to public views in policing areas;
- Introduce measures to protect vulnerable groups such as prostitutes, including Sex Offender Prevention Orders and Foreign Travel Orders;
- Introduce provisions to prevent low level crime and disorder by introducing mandatory licensing conditions relating to alcohol, amending Police powers to deal with children drinking alcohol in public, increasing penalties for those who sold to children and those who refused to stop drinking in public;
- Implement the main recommendations of Asset Recovery Action Plan (2007) and strengthen arrangement for recovery of assets obtained through criminal means;
- Implement the key recommendations of Independent Review of Airport Policing.

This included additional duties of Police Authorities to have regard to public views on policing in their area.

With regard to the introduction of measures to reduce the demand for prostitution, a new offence of paying for sex with someone who was controlled for gain would be introduced and courts would be given powers to make Premises Closure Orders where there was evidence of the premises being used for certain prostitution and pornography offences. The Bill would implement the recommendations from 'Tackling the demand for prostitution: A Review'. It would also amend how lap dancing was licensed so that it was treated in the same way as other sex establishments.

The Bill would amend Police powers to reduce alcohol misuse and deal with young people drinking alcohol in public. Provisions would also be introduced to raise maximum penalties for premises that sold alcohol to young people and those people who refused to stop drinking in public. It also made provisions to allow the Secretary of State to create, through Secondary

Legislation, mandatory conditions relating to alcohol to be added to premises licences that included the licensable activity of the sale of alcohol.

Additional powers for the Police, aimed at improving the recovery of criminal assets was also included.

The Bill amended and clarified a number of provisions within the Extradition Act 2003, enhanced airport security and included provisions for the Criminal Records Bureau to supply criminal convictions certificates to employers.

Two parts of the Bill had an effect on Licensing Authorities, Part 2 and Part 3, and the main changes were summarised.

A new category of 'sex establishment' called a 'sex encounter venue' would be inserted into Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982. Licensing of lap dancing and pole dancing clubs would also be introduced.

A Sex Encounter Venue would be defined as a premises where certain entertainment was provided or permitted to be provided, by or on behalf of the organiser in front of a live audience for the financial gain of the organiser or entertainer.

The Bill included a provision so that it did not matter whether those admitted to the premises paid for admission to, or membership of, the club. It also provided powers to Local Authorities to limit the number of sex establishments of a certain type in a locality as well as the number of sex establishments generally and the Local Authority could refuse an application on this basis.

Local Authorities would have the power to prescribe regulations, standard terms and conditions for sex establishment licences and the standard conditions on a sex encounter venue licence which could be different to those on other kinds of sex establishment licences.

As far as alcohol misuse was concerned, the Bill would amend the Licensing Act 2003 to create enabling powers that allowed the Secretary of State to set out in Secondary Legislation a small number of mandatory licence conditions.

These conditions would be aimed at reducing and dealing with the abuse of alcohol and would apply to all new and existing premises licences and club premises certificates which permitted the sale of alcohol. The Secretary of State would also set out a larger number of permitted conditions, which the Licensing Authority could, in consultation with Responsible Authorities apply to more than one licensed premises or club at a time.

All the conditions related to the four licensing objectives set out in the Licensing Act 2003 and the new conditions would take precedence over any existing licensing conditions. The Bill provided the enabling powers for a mandatory code of practice for alcohol retailing.

The mandatory list of conditions would be mainly prohibitive and would be set down by the Secretary of State after consultation with relevant stake-holders. The conditions were likely to be aimed at stopping promotions that encouraged people to drink more, helping consumers make an informed choice when purchasing alcohol about the amount of alcohol their drink contained and to complement the Licensing Act in tackling underage sales.

Licensing Authorities would also be given the power to impose blanket conditions on premises in a locality where there had been significant alcohol-related nuisance or disorder. This imposition could either be instigated by the Local Authority or by a Statutory Responsible Authority on application. The pool of conditions would again be set down by the Secretary of State and were likely to be aimed at the following:-

- Stopping promotions or activities aimed at encouraging people to drink more than they might otherwise;
- The training of staff to complement the Licensing Act and to ensure that problems were minimised;
- The responsible management of the premises to ensure that incidents of crime and disorder were minimised;
- To ensure the orderly dispersal of customers from premises to minimise likelihood of crime and disorder occurring; and
- Risk assessments being undertaken to minimise the likelihood of crime and disorder occurring.

A list of permitted conditions which Local Authorities could impose, the procedure for imposing and advertising them and the procedure for varying, reviewing and appealing against them would be specified by the Secretary of State in Secondary Legislation and Statutory Guidance in due course.

There were no financial resources available for Licensing Authorities to administer or enforce the Act once made. Existing premises licences and club premises certificates would not be replaced however each licence holder would receive an amendment to their licence by way of new conditions. The Council had over 400 premises licences and club premises certificates.

Resolved that the report be noted.

(The meeting ended at 7.50pm)

TAUNTON DEANE BOROUGH COUNCIL

LICENSING SUB COMMITTEE – 19 November 2009

Report of the Licensing Officer

INTRODUCTION OF DRIVERS STANDARDS AGENCY PRIVATE HIRE AND HACKNEY CARRIAGE DRIVER ASSESSMENTS

1 PURPOSE OF REPORT

- 1.1 To consider amending the councils existing policy for private hire and hackney carriage driver applications by introducing a requirement for all new applicants to obtain a pass certificate from the Driving Standards Agency (DSA) as part of the application process.

2 BACKGROUND

- 2.1 Section 59(1) of the Local Government (Miscellaneous Provisions) Act 1976 provides that the council must not grant a licence to drive a hackney carriage or private hire vehicle

(a) unless satisfied that the applicant is a fit and proper person to hold a drivers licence or

(b) to any person who has not, for at least 12 months prior to the date of application, been authorised to drive a motor vehicle or is not so authorised at the date of the application.

- 2.2 When determining whether the applicant is a fit and proper person criminal convictions are not the only relevant or necessary criteria. Section 57(1) of the Local Government (Miscellaneous Provisions) Act 1976 allows a district council to require an applicant “to submit to the local authority such information as they may reasonably consider necessary to enable them to determine whether the licence should be granted and whether conditions should be attached to any such licence”. This may include undertaking driving tests.

- 2.3 All applicants are subject to a Criminal Records Bureau check disclosing any previous convictions, which may include driving offences. Any offences disclosed, including driving offences, are taken into consideration before a licence is granted. At present no suitable driving test is considered by the licensing officers as they are not qualified or trained to conduct such a test.

- 2.4 Recently the area has seen a large increase in the number of foreign drivers taking up employment as hackney carriage and private hire drivers. Some of these drivers have qualified in their native country, but have not passed a test in the UK. The licensing service receives a number of complaints about hackney carriage and

private hire drivers. The introduction of the DSA drivers test and assessment (**SEE APPENDIX A**) will be a positive step towards addressing some of the concerns raised by these changes.

- 2.5 This will not be retrospective on existing drivers unless this is a sanction imposed following a taxi sub committee.
- 2.6 Hackney Carriage and Private hire drivers are the only group of professional drivers in the country who are not required to pass a further national standard driving test before being allowed to carry passengers for hire and reward. There is a DSA testing station in Taunton, however for drivers who operate wheelchair accessible vehicles the wheelchair assessment is only carried out at test centres in Yeovil or Exeter.
- 2.7 The DSA Hackney Carriage and Private Hire Assessment Test is specifically designed to test the skills required to drive a taxi safely and includes assessment of awareness and anticipation, effective planning relating to road traffic conditions, correct use of speed, passenger safety and comfort, a wheelchair exercise, taxi manoeuvres and a special taxi related exercise. The assessment lasts for forty minutes. The current cost of the standard test is £76.34, the wheelchair assessment test is £89.07. If applications only take the standard test they are able to top this up with the wheelchair assessment at a later date at the cost of £25.00. Applicants arranging and pay for the test directly with the DSA, there are no cost implications for the authority.
- 2.8 The proposed changes to driver qualifying criteria are primarily intended to ensure the highest standards of safety and efficiency for the travelling public. It has become progressively more important, because of the increasing traffic volumes on the road and the influx of foreign drivers taking up employment in the area that drivers of hackney carriages and private hire vehicles within the Taunton Deane Borough Council area demonstrate the level of competencies that must be reached by the DSA test to assist with ensuring the safety of passengers and others on the road.

The test offers the following benefits.

1. National Standard throughout the country
2. Increased credibility of drivers competence
3. Provides positive customer protection
4. Provides a quality audited service to the community
5. Acceptable to all Local Authorities
6. Drivers do not have to take a separate driver compliance test if they move to another authority.
7. 25% discount is offered on taxi insurance with Swinton or TFT insurers, (which can be up to as much as £600)

It is proposed that the DSA testing criteria be added from 01 April 2010

Recommendation

That the Licensing Committee agrees to adopt the requirement for all new private hire and hackney carriage drivers, and not existing drivers, to attain a pass in the Driving Standards Agency Standard Taxi Test and Assessment before their application is considered by the Council.

The Licensing Committee may also want to consider that taxi drivers who receive points on their driving licence throughout the period of their licence, or are brought before the Licensing Committee must be made to take the Standard Taxi Test and Assessment before continue to drive again.

That this new policy should come into effect on 01 April 2010

Contact Officer: Olivia Walton 01823 356343 x2411

TAUNTON DEANE BOROUGH COUNCIL

LICENSING COMMITTEE – 19 November 2009

Report of the Licensing Officer

GAMBLING ACT 2005 – REVISED 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 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 renewing 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 by the Licensing Authority by 01 January 2010.

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 repealed the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. The Act removed from licensing justices all responsibility for granting gaming and betting permissions. The gaming responsibilities undertaken by the licensing justices passed to Taunton Deane Borough Council under the Gambling Act 2005.

3. LEGAL POSITION

- 3.1 The Licensing Authority must re-adopt a Statement of Principles by 01 January 2010.
- 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 created the Gambling Commission, who 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 In preparation for the implementation of the Gambling Act 2005, a draft statement of principles was developed for 31 January 2007. The draft policy document was based on advice received from LACORS (Local Authorities Co-ordinators of Regulatory Services). As Local Authorities are required to review the policy document at least every three years. The draft statement of principles is shown at Appendix 1.

4 ISSUES

- 4.1 The attached revised draft statement of principles for re-adoption in January 2010 has been developed around the Statutory Guidance to Licensing Authorities issued by the Gambling Commission.
- 4.2 The Act does not allow gaming machine applications from premises to which children have free access. **Paragraph 87** of the revised 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 has added to the workload of the Council.
- 4.4 There are approximately 100 premises requiring premises licences. This figure includes public houses, betting shops, bingo halls, tracks and amusement arcades.

5. CONSULTATION

- 5.1 The revised draft statement of principles will be subject to extensive consultations prior to re-adoption by the Council. The bodies and persons who will be consulted are detailed at **paragraphs 6 and 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. The end date for the consultation is Monday 12 October 2009.

6. RECOMMENDATION

- 6.1 It is recommended that the Committee agrees the revised 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.

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.

By fax to 01823 356564

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

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 over 100,000 (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 became the Licensing Authority under the Gambling Act 2005. This resulted 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 January 2010 to amend the existing statement and then 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 "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.

- 1.5 Our consultation will take place between 12 July 2009 and 4 October 2009 with final comments being accepted up to the 6 October 2009. 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 This version of the statement of principles will come into effect on the 31 January 2010 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 this 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. 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.

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 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 has also, as recommended by the Gambling Commission's Guidance for local authorities, adopted a risk-based inspection programme. 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 is to ensure compliance with the premises licences and other permissions that it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but 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

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 Location

11.1.1 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.

11.2 Duplication with other regulatory regimes

11.2.1 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.

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

11.3.1 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.

11.3.2 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.

11.3.3 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.

11.4 Ensuring that gambling is conducted in a fair and open way

11.4.1 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.

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

- 11.5.1 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.
- 11.5.2 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.
- 11.5.3 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.

11.6 Conditions

- 11.6.1 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.
- 11.6.2 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.
- 11.6.3 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.
- 11.6.4 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.

11.6.5 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.

11.6.6 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.

11.7 Door Supervisors

11.7.1 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).

11.7.2 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.

11.7.3 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) were 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 created 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

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 Betting machines

14.2.1 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.

14.3 Credit

14.3.1 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 14.3.1 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 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.

17.5 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."

17.6 This licensing authority 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."

17.7 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
Website: www.tauntondeane.gov.uk

29.2 Information is also available from:-

Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0120 230 6666
Website: 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
Website: www.culture.gov.uk

Gamcare: www.gamcare.org.uk

APPENDIX A

RESPONSIBLE AUTHORITIES DETAILS

RESPONSIBLE AUTHORITY	ADDRESS	TELEPHONE NUMBER
Taunton Deane Borough Council (in the capacity of Licensing Authority)	Licensing Unit The Deane House Belvedere Road Taunton TA1 1HE	01823 356343
Avon and Somerset Constabulary	Liquor Licensing Bureau PO Box 2891 Bristol BS2 2AS	0117 945 5154
Somerset Fire and Rescue Service	Chief Fire Officer The Fire Station Lisieux Way Taunton TA1 2LB	01823 273020
Taunton Deane Borough Council Environmental Protection Team	The Deane House Belvedere Road Taunton TA1 1HE	01823 356339
Somerset Local Safeguarding Children Board	Somerset Local Safeguarding Children Board County Hall Taunton TA1 4DY	01823 358098
Taunton Deane Borough Council (Planning Department)	Development Control Manager Planning Department The Deane House Belvedere Road Taunton TA1 1HE	01823 356464
Gambling Commission	Victoria Square House Victoria Square Birmingham B24BP	0121 230 6666
HM Revenue and Customs	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	✓		
Policy not to permit casinos	✓		
Fee Setting - when appropriate			✓ (to be approved by Executive Councillor)
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence		✓	
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		✓	
Applications for other permits			✓
Cancellation of licensed premises gaming machine permits			✓
Consideration of temporary use notice			✓
Decision to give a counter notice to a temporary use notice		✓	

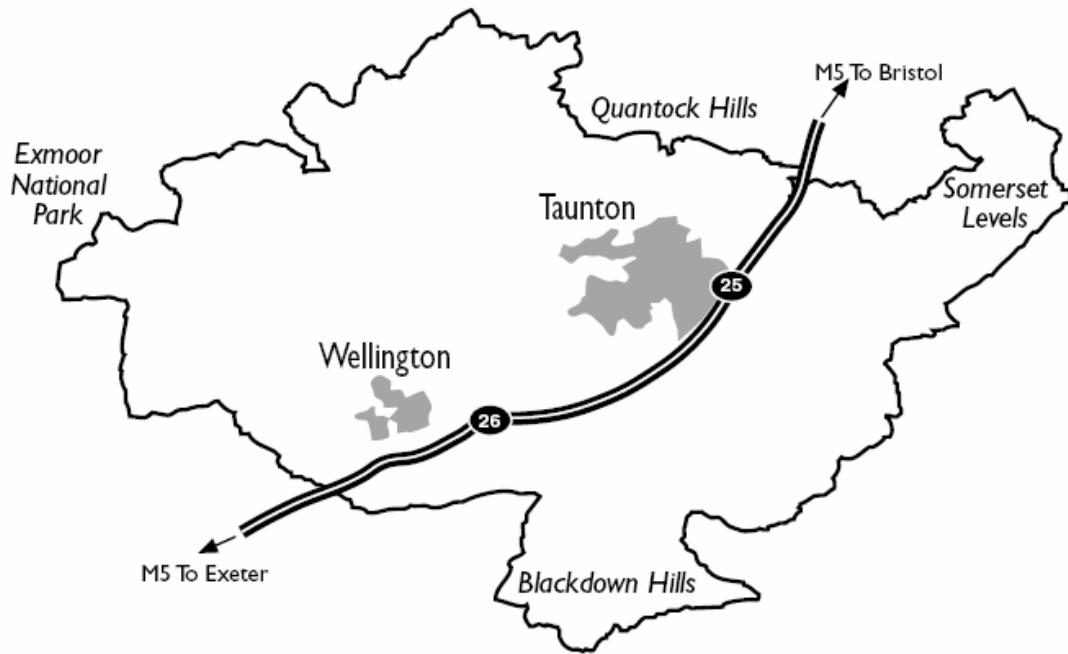
Glossary of Terms

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 (http://www.lacors.gov.uk/)																											
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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TAUNTON DEANE BOROUGH COUNCIL

LICENSING COMMITTEE – 19 November 2009

REPORT OF THE LICENSING OFFICER

UPDATED REPORT ON THE PROPOSAL TO ALLOW THE REMOVAL OF REQUIREMENTS FOR A DESIGNATED PREMISES SUPERVISOR AND PERSONAL LICENCE HOLDER FOR COMMUNITY PREMISES.

1 SUMMARY

1.1 This report introduces a new process that allows operators of community premises including village halls, church halls, chapel halls and similar community buildings, to seek to disapply the mandatory conditions that would otherwise require:

- A designated premises supervisor (DPS) to be specified for every premises licence authorising sales of alcohol; and
- Every sale of alcohol at such premises to be authorised by a personal licence holder.

2 PURPOSE OF REPORT

2.1 This report is intended to update Members on changes that allow operators of community premises to seek to disapply mandatory conditions under the Licensing Act 2003.

3 BACKGROUND

3.1 Under the Licensing Act 2003 sales of alcohol must be made or supervised by a personal licence holder and there must be a designated premises supervisor, holding a personal licence in respect of the premises. There may be more than one personal licence holder on the premises; however there is only the requirement for one designated premises supervisor for the premises.

3.2 The sale of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than is the case for the other licensable activities. For this reason, individuals engaged in selling or authorising the sale of alcohol require a personal licence. Not every person retailing alcohol at licensed premises needs to hold a personal licence, but every sale or supply of alcohol must be at least authorised by such a licence holder.

- 3.3 Following consultation, the Government has acted to remove barriers regulating community premises seeking a licence to for all of their activities, while still retaining an adequate level of public protection in relation to the sale of alcohol. This means that, since August 2009, operators of community premises can make application for the usual mandatory conditions set out in the Licensing Act 2003 to be disapplied.
- 3.4 Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises.

The licensing authority has to be satisfied that the arrangements for the management of the premises by the committee or board are sufficient to ensure the adequate supervision of the sale of alcohol.

- 3.5 If an application is successful, the effect will be that the Committee or Board will be responsible for the supervision and authorisation of all alcohol sales under the licence.

There will be no requirement for a Designated Premises Supervisor or for alcohol sales to be authorised by an individual personal licence holder.

4 PROCESS OF REMOVING THE REQUIREMENT FOR A DPS AND PERSONAL LICENCE AND MANAGEMENT OF THE PREMISES

- 4.1 If the management committee of a community premises is applying for authorisation to sell alcohol for the first time, it will complete the application form in the new format.
- 4.2 No extra payment is required beyond the existing fee for a new application or a variation.
- 4.3 Where a community premises already has a premises licence to sell alcohol, but wishes to take advantage of the scheme to disapply the usual mandatory conditions, it will submit the new form together with a fee of £23.
- 4.4 The application form requires applicants to set out how the premises is managed, its committee structure and how the effective supervision of alcohol sales is to be ensured in different situations (e.g. when the hall is hired to private parties) and how responsibility for this is to be determined in individual cases.
- 4.5 The application form requires that the community premises submit copies of any constitution or other management documents with their applications and that they provide the names of their key officers e.g. the Chair, Secretary, Treasurer.

- 4.6 Where the management arrangements are less clear, licensing authorities may ask for further details to confirm that the management board or committee is properly constituted and accountable before taking a decision on whether to grant the application (subject to the views of the police). Operators of community premises are encouraged to check with the licensing authority before making an application.
- 4.7 The management committee should notify the licensing authority if there are key changes in the committee's composition e.g. to the Chair, Secretary, Treasurer and to submit a copy to the Chief Officer of Police.

Failure to do so may form the basis of an application to review the premises licence, or be taken into account as part of the consideration of such an application.

5 RESPONSIBILITY

- 5.1 As the premises licence holder, the management committee will collectively be responsible for ensuring compliance with licence conditions and be liable in law. However, there would not necessarily be an individual member always present at the premises during the time that it is licensed for alcohol sales.
- 5.2 While overall responsibility will lie with the management committee, where the premises are hired out, the hirer may be clearly identified as having responsibility for matters falling within his or her control. In this respect, it is similar to the arrangements for a third party holding an event under a Temporary Event Notice. Where hirers are provided with a written summary of their responsibilities under the Licensing Act 2003 in relation to the sale of alcohol, the management committee is likely to be deemed to have taken adequate steps to avoid liability for prosecution if a licensing offence is committed.
- 5.3 Where private hire for events which include the sale of alcohol is permitted by the licence, it will be necessary to have an effective hiring agreement. Licensing authorities will consider arrangements for the use of hiring agreements in the light of recommendations for best practice made by organisations such as ACRE and Community Matters. Model hire agreements are available from these bodies.

6 POLICE VIEWS

- 6.1 An additional safeguard is that in exceptional circumstances the Chief Officer of Police for the area in which the community premises is situated can object to a request for disapplication on the grounds of crime and disorder, and any responsible authority and/or interested party can seek reinstatement of the mandatory conditions through a review of the licence.

- 6.2 The police will consider any history of incidents at an establishment in light of the actual or proposed management arrangements, including the use of appropriate hire agreements. If the Chief Officer of Police issues a notice seeking the refusal of disapplication, the licensing authority must hold a hearing in order to reach a decision on whether to grant the application.

7 APPEALS

- 7.1 Where the Chief Officer of Police has made relevant representations against disapplication he may, by Notice, appeal a decision of the licensing authority to allow disapplication

Similarly, the operators of a community premises can appeal a decision by the licensing authority to refuse disapplication following a hearing triggered by relevant representations or by police Notice. In the case of a review of the licence in which the mandatory conditions are reinstated, the licence holder may appeal against the decision. If disapplication is retained on review, the applicant for the review or any person who made relevant representations may appeal against the decision.

8 RECOMMENDATION

- 8.1 The committee is requested to note the contents of the report.

Contact Officer
Olivia Walton x 2411

TAUNTON DEANE BOROUGH COUNCIL

LICENSING COMMITTEE – 19 November 2009

REPORT OF THE LICENSING OFFICER

REPORT UPDATE ON THE INTRODUCTION OF A SIMPLIFIED PROCESS FOR MINOR VARIATIONS TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES

1 SUMMARY

- 1.1 The Licensing Act 2003 was amended in August to allow a simplified process for minor variations to premises licences and club premises certificates.

2 PURPOSE OF REPORT

- 2.1 This report is intended to update the Members on the changes that have been made.

3 BACKGROUND

- 3.1 The purpose of the minor variation process is to save time, money and regulatory resources by allowing small variations that will not adversely affect the promotion of the licensing objectives to be made to premises licences and club premises certificates through a simplified and less costly procedure.
- 3.2 Under the new process, the applicant is not required to advertise the variation in a newspaper or copy it to Responsible Authorities, but must display details on a white notice at the premises for a period of ten working days.
- 3.3 In determining an application the licensing authority must consult such of the Responsible Authorities, as it considers appropriate and take into account any relevant representations made concerning the application by Responsible Authorities or by an interested party. Representations from interested parties must be made, in writing, within ten working days. Relevant representations must be concerned only with a likely adverse effect of an application on the promotion of the licensing objectives.
- 3.4 The licensing objectives are:
- a) the protection children from harm
 - b) the prevention of public nuisance
 - c) the prevention of crime and disorder

d) the preservation of public safety

- 3.5 The Licensing authority must grant an application if it considers that none of the variations proposed in the application could have an adverse effect on the promotion of any of the licensing objectives. In any other case the authority must reject the application.
- 3.6 There is no right to a hearing in this process, but the licensing authority must take representations into account in arriving at a decision.
- 3.7 If the licensing authority grants an application under the minor variation provisions it must notify the applicant in writing specifying:
- a) the variations which are to have effect; and
 - b) the time when they are to have effect.
- 3.8 If an application is refused, the authority must notify the applicant in writing, giving the reasons for the refusal. The application must be determined within fifteen working of receipt, otherwise the application is rejected and the authority must return the application fee.

Minor variations will generally fall into four categories:

- a) minor changes to the structure or layout of a premises;
- b) small adjustments to licensing hours;
- c) the removal of outdated, irrelevant or unenforceable conditions or the addition of volunteered conditions;
- d) the addition of certain licensable activities.

In all cases, the overall test is whether the proposed variation could impact adversely on any of the four licensing objectives.

- 3.9 Many small variations to layout will have no adverse impact on the licensing objectives and so can be subject of a minor variation application. However, changes to layout must be made using the full variation process if they could potentially have an adverse impact on the promotion of the licensing objectives, for example by:
- a) increasing the capacity for drinking on the premises;
 - b) affecting access between the public part of the premises and the rest of the premises or the street or public way, e.g. block emergency exits or routes to emergency exits;
 - c) impeding the effective operation of a noise reduction measure such as an acoustic lobby.

- 3.10 The Licensing authority will consider the combined effect of a series of applications for successive small layout changes (for example, as part of a rolling refurbishment of premises), which in themselves may not be significant, but which cumulatively may impact adversely on the licensing objectives.
- 3.11 The addition of live or recorded music to a licence may impact on the public nuisance objective, but this will depend on many factors. The Licensing authority will consider factors such as proximity to residential areas and any noise reduction conditions volunteered by the applicant. It is very much the Government's intention that applications to vary a licence for live music should benefit from the minor variations process unless there is likely to be an adverse impact on the licensing objectives.
- 3.12 In considering applications to add licensable activities the Licensing authority will normally consider the following factors:
- a) the nature of the licensable activity;
 - b) proximity of the premises to residential areas;
 - c) any licence conditions volunteered by the applicant to reduce the impact of the activity;
 - d) whether alcohol is sold at the premises when the licensable activity is taking place;
 - e) whether it will continue to be sold during any extended period.
 - f) the track record of the premises – whether positive or negative. For example, any complaints or enforcement action related to the licensing objectives or, conversely, any evidence of good practice in carrying on the licensable activity.
 - g) the proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.
- 3.13 Some proposed variations may be seen positively to benefit the promotion of the licensing objectives, an example being a public house licensee applying to stay open an extra hour after the sale of alcohol has ended in order to sell hot drink and food.
- 3.14 Examples of changes that would normally be regarded as minor variations include applications to:
- a) reduce licensing hours
 - b) move (without increasing) the licensed hours for alcohol sales at times between 07.00 and 23.00

c) remove a licensable activity

3.15 Examples of full variations include applications to:

a) extend licensing hours for alcohol sales at times between the hours of 23.00 and 07.00.

b) increase the amount of time on any day during which alcohol may be sold or supplied

c) add the sale alcohol to a licence

d) extend the period for which a premises licence has effect;

e) vary substantially the premises to which a premises licence or club premises certificate relates;

f) specify (in a premises licence) or change an individual as the Designated Premises Supervisor (DPS);

g) disapply conditions requiring the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence at community premises.

3.16 Applications to vary the time during which other licensable activities take place may fall into either category and will be considered on a case-by-case basis, always with reference to any likely impact on the licensing objectives.

In arriving at a decision, the Licensing authority will normally consider the following factors:

a) the nature of the licensable activity;

b) the extent of additional hours sought and whether it will involve later opening or opening at times between 23.00 and 07.00;

c) proximity of the premises to residential areas;

d) any licence conditions already in place to mitigate the impact of the activity;

e) any additional conditions volunteered by the applicant;

f) arrangements for dispersal, i.e. when people leave the premises is there potential for noise and disturbance?

g) whether the proposed extension applies only on the weekend or also during weekdays;

h) whether there will be new admittances during that period;

- i) track record of the establishment whether positive or negative.
- j) whether the premises is already open during the extended period for other licensable activities;
- k) proximity and density of public houses, nightclubs, etc. if customers from these premises are likely to be attracted to the proposed licensable activity in large numbers. For example, people visiting a takeaway after leaving a public house.

- 3.17 The licensing authority cannot impose its own conditions on the licence through the minor variations process. If the Licensing Officer considers that the proposed variation would impact adversely on the licensing objectives unless conditions are imposed, the application must be refused.
- 3.18 Applicants may volunteer conditions as part of the minor variation process. These conditions may arise from their own risk assessment of the variation, or from informal discussions with Responsible Authorities or the Licensing authority.
- 3.19 Licence or club certificate conditions will normally have been volunteered or imposed to mitigate any possible adverse impact on the licensing objectives. In most cases therefore, any application to remove or change the wording of a condition will be treated as a full variation.
- 3.20 Premises may change over time and the circumstances that originally led to the condition being attached or volunteered may no longer apply. For example, there may be no need for door supervision if a bar has been converted into a restaurant.

4 RECOMMENDATION

- 4.1 The committee is requested to note the contents of the report

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