

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 21 November 2012 at 18:15.

Agenda

- 1 Appointment of Chairman
- 2 Apologies.
- 3 Minutes of the meeting of the Licensing Committee held on 26 June 2012 (attached).
- 4 Public Question Time.
- 5 Declaration of Interests
To receive declarations of personal or prejudicial interests, in accordance with the Code of Conduct (attached).
- 6 General Licensing Update Report. Report of the Licesning Officer (attached).
Reporting Officer: Olivia Denis
- 7 Report on Re-adoption of Policy Licensing Act 2003. Report of the Licensing Officer (attached).
Reporting Officer: Olivia Denis
- 8 Report on The Gambling Act 2005. Report of the Licensing Officer (attached).
Reporting Officer: Olivia Denis
- 9 Report on New Street Trading Policy. Report of the Licensing Officer (attached).
Reporting Officer: Olivia Denis

Tonya Meers
Legal and Democratic Services Manager

12 November 2012

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.

Full Council, Executive, Committees and Task and Finish Review agendas, reports and minutes are available on our website: www.tauntondeane.gov.uk



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 the Corporate Support Unit on 01823 356414 or email r.bryant@tauntondeane.gov.uk

Licensing Committee Members:-

Councillor J Allgrove
Councillor A Beaven
Councillor S Brooks
Councillor S Coles
Councillor K Durdan
Councillor M Hill
Councillor J Hunt
Councillor L James
Councillor R Lees
Councillor S Lees
Councillor J Meikle, MBE
Councillor B Nottrodt
Councillor J Reed
Councillor B Swaine
Councillor E Waymouth

Licensing Committee – 26 June 2012

Present: Councillor Mrs Allgrove (Chairman)
Councillor Coles (Vice-Chairman)
Councillors Beaven, Miss Durdan, Mrs Hill, Hunt, Ms James, R Lees, Mrs Lees,
Meikle, Nottrodt, Mrs Reed, Swaine and Mrs Waymouth

Officers: Olivia Walton (Licensing Officer), Ian Carter (Licensing Manager), John
Rendell (Licensing Officer), Judith Jackson (Legal Services Manager) and
Emma Hill (Corporate Support Officer)

Also present: Councillor A Wedderkopp
Councillors Davies, Grierson, Hadley, Lillis, May, Saunders and Westcott
from West Somerset District Council
Mr. M. Davis from A1/Ace Taxis

(The meeting commenced at 6.15 pm)

1. Appointment of Chairman

Resolved that Councillor Mrs Allgrove be appointed Chairman of the Licensing Committee for the remainder of the Municipal Year.

2. Appointment of Vice-Chairman

Resolved that Councillor Coles be appointed Vice-Chairman of the Licensing Committee for the remainder of the Municipal Year.

3. Apology

Councillors Brooks

4. Minutes

The minutes of the meeting of the Licensing Committee held on 7 March 2012 were taken as read and were signed.

5. Public Question Time

Mr Mike Davis from A1/ACE stated that the trade was becoming increasingly frustrated with the failure of the Licensing Department to recognise the legitimate concerns of the Taxi trade. These were: -

- The decline in accepted standards of drivers;
- The profiteering by the Council through unsubstantiated charges; and
- The continuing limitation of competition with regard to MOT's

For two years, the trade had sought to meet and discuss these issues with the Licensing Manager. The frustrations as to the way the trade had been treated had been highlighted in writing and to this Committee.

The Licensing Manager would only discuss issues at the Taxi Forum, which was time limited and was not a minuted or accountable meeting.

It was with regret that action was now going to have to be pursued that would ultimately cost the Council time and money, as well as potentially adverse publicity.

The Chairman thanked Mr Davis for his comments which would be noted.

6. Declarations of Interest

The Chairman (Councillor Mrs Allgrove) declared a personal interest as the Vice-Chairman of the Somerset Association of Local Councils. Councillor Mrs Waymouth declared a personal interest as a Member of Somerset County Council. Councillor Mrs Hill declared a personal interest as an employee of Somerset County Council. Councillor R Lees declared a personal interest as a regular user of taxis. Councillor B Nottrodt declared a personal interest as a director of Southwest One.

7. Proposed Hackney Carriage and Private Hire Vehicle Meter Testing Regime.

Considered report previously circulated, concerning the New Hackney Carriage and Private Hire Vehicle Meter Testing Regime within Taunton Deane.

Discussions with the Taunton Taxi trade surrounding the need to carry out meter tests on licensed Hackney Carriages/Private Hire Vehicles had prompted a review of the current regime.

Currently before a new Hackney Carriage or Private Hire Vehicle Licence could be issued or renewed, a mutually convenient time between a Licensing Officer and the vehicle proprietor had to be found to allow for the testing of the taxi meter. At the moment there were two different methods of testing the calibration of taxi meters, details of which were reported.

It was the opinion of the Licensing Officers that when they pre-arranged meter tests the meters were more likely to be correct at this point. It was therefore proposed that a programme of random unannounced checks on the calibration of meters should be introduced instead.

Currently, there was no charge for a meter to be tested upon renewal of a Hackney Carriage/Private Hire Vehicle Licence. Charges were applied only for the testing of a meter on a grant application or if the owner changed the meter tariff during the period of the licence prior to renewal.

The cessation of the meter test would reduce the financial burden upon the taxi trade and reduce the time taken to issue a new licence.

It was recommended that if the proposed changes were approved, a fee for undertaking a meter test would only be charged if a meter was found to be incorrect through the proposed compliance checks.

Resolved that: -

- 1) The removal of the requirement for meter tests to be undertaken at renewal and/or on the grant of a vehicle licence as a matter of course be approved; and
- 2) The implementation of a new procedure where random meter tests were carried out through the year to ensure meters were correct be also approved.

8. Licensing Update Report

Considered report previously circulated, concerning the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters.

Although there had been an increase in Premises Licenses and Temporary Event Notices in recent months, there had been little change in the number of Club Premises Certificates within Taunton Deane. There has been a downward trend in the number of Personal Licenses.

It was further reported that there had been no significant change or increase in the number of Gambling Act 2005 permits. The number of Permits, Registrations and Licences held in Taunton Deane remained low.

The licensed Taxi fleet within Taunton Deane had shown a small increase in renewals in the early part of 2012, where as the number of Private Hire Operations had remained static.

The sixth Taxi Forum was held on 19 June 2012. Membership of the Forum was made up of representatives from licensed drivers and operators, Licensing Officers and Members of the Licensing Committee.

Enquiries into positions available in the High Street for Street Trading remained high but the number of new Consents had decreased in the early part of 2012.

Reported that the number of Animal Welfare licences held within Taunton Deane had remained the same. Details of the total number that had been issued were reported.

The total number of licences, consents, registrations and permits issued at the end of the last quarter showed an increase in the number of House to House Collections and Street Collections in Taunton Deane.

The Licensing Team, together with Councillor Miss Durdan, had carried out monitoring over the Jubilee Bank Holiday Weekend at Taunton Racecourse for the Cosmo Festival, Somerset County Cricket Club for Elton John and also included visits to Taunton Taxi Ranks, late night refreshment premises in Taunton and Wellington and street trading in Taunton.

During the discussion of this item, Members made comments and statements and asked questions which included: - (Responses are shown in italics)

- The Chairman thanked the Licensing Team and Councillor Miss Durdan for their work at the Cosmos Festival. Committee Members were pleased with how the event had gone.

Although the number of complaints had increased between the first and second years, the department had put in place a set of conditions as well as a de-brief after the festival, which had helped largely to improve the situation every year. The main concern of local residents was the level of the bass.

- What was the feedback in relation to the noise levels this year from the Cosmos Festival?

The feedback in relation to the noise levels was very positive. Also there were no reported problems relating to Taxis.

- What sort of notification system did we have regarding the owning of dangerous animals?

The notification surrounding dangerous animals was covered by the licence issued in connection with the trade of the animal not in relation to the ownership. The Council relied on the relationship it had with existing licensees for information surrounding any illegal trade in the breeding and sale of dangerous animals.

Resolved that the report be noted.

(The meeting ended at 7:05 pm)

Declarations of Interest

Licensing Committee

- Members of Somerset County Council – Councillors Brooks and Mrs Waymouth
- Employee of Somerset County Council – Councillor Mrs Hill

Taunton Deane Borough Council

Licensing Committee – 21 November 2012

Licensing Update Report

Report of the Licensing Officer

(This matter is the responsibility of Executive Councillor Ken Hayward)

1. Executive Summary

This report provides an update on the activities of the Licensing Service under the Licensing Act 2003, Gambling Act 2005 and Taxi Legislation together with other general licensing matters.

2. Background

- 2.1 This report is produced to keep the Council's statutory committee up to date with current arrangements and statistics relating to the Licensing Service.

3. Report

3.1 Licensing Act 2003

Application numbers remain high for the period from May to October 2012. The greatest increase was for Temporary Event Notices issued during May, 54 Temporary Event Notices were issued compared to 38 issued in May 2011. We suspect this was due to the Olympics and the Queens Diamond Jubilee. The total numbers of licences issued and notices given up to the end of October 2012 are set out in **Appendix 1**.

3.2 Licensing Act 2003 Policy

The Licensing Act 2003 Policy has been updated and a draft copy was sent out for consultation, which concluded on 01 November 2012. A separate report has been prepared to act as an update to the Committee.

3.3 Gambling Act 2005

There was little change in the numbers of Permits, Registrations and Licences held with Taunton Deane. The total numbers of permits, registrations, notices and licences given up to the end of October 2012 are set out in **Appendix 2**.

3.4 Gambling Act 2005 Policy

The Gambling Act 2005 policy has been updated and a draft copy was sent out for consultation, which ended on 01 November 2012. .

A separate report has been prepared to act as an update to the Committee.

3.5 Taxis

There was a slight increase in the number of applications including renewals for Hackney Carriage/Private Hire Drivers in August 2012 when compared with the same period last year. Applications for Hackney Carriage Vehicles, Private Hire Vehicles and Private Hire Operators have remained mostly the same. The total numbers of Licences issued and applications received up to the end of October 2012 are set out in **Appendix 3**.

3.6 Taxi Forum

The 5th Taxi Forum was arranged for 16 October 2012, but was subsequently cancelled due to no new queries being raised for discussion by the trade.

A further Taxi Forum has been arranged for 26 November 2012.

Membership of the Forum is made up of representatives from licensed drivers, operators, the Licensing team and members of the Licensing Committee.

3.7 Street Trading & Pavement Cafes

There has been an increase in the number of street trading consents issued in 2012, with the increase occurring in the summer months. The total number of permits and licences issued up to the end of October 2012 are set out in **Appendix 4**.

3.8 Street Trading Policy

A new policy for Street Trading has been created and was made available on the Taunton Deane Borough Council website for comment from 08 September - 01 November 2012. Members of the trade with street trading consent and/or pavement cafe permits were notified of the creation of the S115e policy and guidance and offered the chance to make representation. One representation was received from an internal Council department and was included in the Policy. A separate report has been prepared to act as an update to the Committee.

3.9 Animal Welfare Licensing

There has been little change in the number of Licences held within the Borough. The total numbers of licences consents and permits issued up to the end of October 2012 are set out in **Appendix 5**.

3.10 Other Licensing

There has been a lower number of permits issued for House to House and Street Collections compared with the same period last year, but a higher number of registrations for skin piercing in the Borough. Permits and Licences issued for Caravan Sites, Motor Salvage Operators, Scrap Metal Dealer Registrations and Sex Shop Licences have remained similar to the same period in 2011. The total numbers of licences, registrations and permits issued up to the end of October 2012 are set out in **Appendix 6**.

4 **Finance Comments**

None

5 Legal Comments

The legal implications are set out within the report.

6 Links to Corporate Aims

As an update report there are no links to specific corporate aims. However if the Licensing function were not carried out in an efficient manner, complaints or legal challenges may be brought that could undermine the work being done to support the Council's Corporate Strategy.

7 Environmental and Community Safety Implications

None identified.

8 Equalities Impact

Not required.

9 Risk Management

No risk identified.

10 Partnership Implications (if any)

None identified.

11 Recommendations

That the report be noted.

Contact:

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Licences Issued and Notices Given

Premises Licences	403
Club Premises Certificates	29
Personal Licences	1075
Temporary Event Notices	2181

Applications Received and Notices Given

	May		June		July		August		September		October	
	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012
Grant of a Premises Licence	2	0	2	3	3	1	1	2	4	2	3	1
Variation of a Premises Licence	1	0	0	0	0	1	0	1	2	0	0	1
Transfer of a Premises Licence	1	4	2	4	8	0	4	2	5	5	0	2
Change of Designated Premises Supervisor	5	7	5	6	8	10	6	6	8	8	8	14
Minor Variations	0	1	1	1	3	1	1	0	0	2	1	3
Grant of a Personal Licence	8	14	7	4	12	11	9	7	15	5	5	14
Temporary Event Notices given	38	54	45	46	23	29	35	42	23	23	25	28

Licences Issued and Notices Given

Club Machine Permit	7
Licensed Premises Gaming Machine Permits	7
Occasional Use Notices	19
Premises Licences	17
Prize Gaming Permits	0
Society Lotteries	192
Temporary Use Notices	0
Unlicensed Family Entertainment Centres	0
Notification of 2 or less Gaming Machines	61

Applications Received and Notices Given

	May		June		July		August		September		October	
	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012
Applications for a Permit	0	0	0	0	0	0	0	0	0	0	0	0
Application for a Licence	0	1	0	0	0	0	1	0	0	0	0	0
Notification of Intent to have Gaming Machines	0	1	0	2	3	0	0	0	1	1	0	0
Occasional Use Notice	0	0	0	0	0	0	0	0	0	0	0	0
Lottery registration	1	1	0	0	1	1	0	0	0	0	1	0

Taxis

Licences Issued

Hackney Carriages	166
Private Hire Vehicles	31
Hackney Carriage & Private Hire Drivers	236
Private Hire Operators	28

Applications Received

Hackney Carriage Licence (including renewals, transfers and vehicle changes)
 Hackney Carriage & Private Hire Drivers Licence (including renewals)
 Private Hire Vehicle Licence
 Private Hire Operator Licence

May		June		July		August		September		October	
2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012
21	14	10	15	12	11	18	14	13	20	13	23
13	13	11	7	11	16	15	27	24	11	18	15
2	1	3	2	1	1	3	3	2	2	3	4
3	3	3	8	1	2	4	2	1	0	1	0

Other Licensing

APPENDIX 6

Licences, Registrations and Permits Issued

Caravan Site Licences	42
House to House Collection Permit	98
Motor Salvage Operator	6
Scrap Metal Dealer Registration	19
Sex Shop Licences	2
Skin Piercing Registrations	194
Street Collection Permits	258

Applications Received

	May		June		July		August		September		October	
	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012	2011	2012
Caravan Site Licences	0	0	0	0	0	0	0	0	0	0	0	0
House to House Collection Permit	4	1	2	0	2	0	3	6	3	5	1	3
Motor Salvage Operator	2	0	0	0	0	1	0	0	0	0	0	0
Scrap Metal Dealer Registration	1	0	1	1	0	0	0	1	1	0	0	0
Sex Shop Licences	0	0	1	0	0	0	0	0	0	0	0	0
Skin Piercing Registrations	4	0	0	0	0	5	0	3	2	1	0	5
Street Collection Permits	11	2	2	2	3	2	7	5	7	1	6	4

Taunton Deane Borough Council

Licensing Committee – 21 November 2012

Licensing Act 2003 – Licensing Policy Adoption

Report of the Licensing Officer

(This matter is the responsibility of Executive Councillor Ken Hayward)

1.0 Executive Summary

The purpose of this report is to update the Councillors of the changes to the Licensing Act 2003 and update the Policy.

Members are requested to consider the attached draft policy and recommend its approval to full Council at its meeting on 11 December 2012.

2.0 Background

2.1 Under the Licensing Act 2003 the Council is required to adopt and publish a Statement of Licensing Policy. The published Policy then provides the framework for all decisions on applications relating to the Licensing Act 2003 and the way the Authority carries out its functions in relation to the legislation.

2.2 The Licensing Act 2003 further requires that the Policy must be reviewed at least every five years although if a need is identified it can be reviewed earlier. It is proposed to amend the Council's current policy to reflect changes in the law brought in thorough the Police Reform & Social Responsibility Act 2011.

3.0 Report

3.1 Since the last adoption of the policy in 2010 changes to the Licensing Act have been introduced and the guidance issued under section 182 has been updated. As a result a number of changes have been proposed to reflect current legislation and guidance.

3.2 The District Council's draft Licensing Policy, with the changes highlighted was made available for consultation between the 8th September and the 1st November 2012.

3.3 Consultees were given the choice of downloading a copy of the draft Policy from the District Council's website or requesting a printed copy. No comments were received that required changes to be made to the draft policy.

3.4 The fully updated draft policy is attached at **Appendix A** to this report with all proposed changes are highlighted.

4.0 Finance Comments

4.1 There are no financial considerations contained in this report.

5.0 Legal Comments

5.1 The legal implications are set out within the report.

6.0 Links to Corporate Aims

6.1 There are no direct links to the corporate aims.

7.0 Environmental and Community Safety Implications

7.1 None

8.0 Equalities Impact

8.1 Not required

9.0 Risk Management

9.1 If the Policy is not properly adopted by the District Council the Authority will be liable to legal challenge which if successful could entail heavy costs being awarded against the Council.

10.0 Partnership Implications (if any)

10.1 None

11.0 Recommendations

11.1 That Members recommend that the Taunton Deane Licensing Act 2003 Policy be adopted by the Council at its meeting on 11 December 2012.

Contact:

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Licensing Act 2003

Statement of Licensing Policy

2013 - 2018

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Adoption & Contact Details

This Statement of Licensing Policy will be considered by the Licensing Committee on 21 November 2012 and by the Executive Board on 5 December 2012 and will be recommended to the full Council for adoption.

The full Council of Taunton Deane on 11 December 2012 adopted this Statement of Licensing Policy for the period 2012 – 2015.

This Statement of Licensing Policy became operative from 7 January 2013.

For further information regarding this document please contact:
The Licensing Team, Taunton Deane Borough Council, The Deane House, Belvedere Road, Taunton, Somerset. TA1 1HE. Tel: 01823 356343 Fax: 01823 351801 Email licensing@tauntondeane.gov.uk

1.0 Introduction

1.1 Background

1.1.1 Taunton Deane Borough Council (the Council) is the Licensing Authority under the Licensing Act 2003 (the Act). It is empowered to administer the following in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment within the Borough:

- premises licences including provisional statements, variations, transfers, interim authorities and reviews
- club premises certificates
- temporary events notices
- personal licences

1.1.2 Unless otherwise stated this licensing policy will not depart from the Secretary of State's Guidance. Therefore to reduce repetition if matters are detailed in the Guidance they may not be included in this policy.

1.2 Aim

The Act requires the Licensing Authority to carry out its various licensing functions so as to promote the four licensing objectives.

The aim of this Licensing Policy is to set out how the Licensing Authority seeks to promote the four licensing objectives, which are:

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

These four objectives will be the paramount considerations when determining a course of action in relation to the Licensing Authority's licensing functions. Each objective will be given equal importance.

1.3 Purpose

The main purpose of this policy is to provide clarity to applicants, interested parties and responsible authorities on how the Licensing Authority will determine applications to supply alcohol, provide regulated entertainment and operate late night refreshment.

1.4 Consultation

1.4.1 Before determining its policy for any five year period, the Licensing Authority will consult the following:

- the Chief Officer of Police
- the Fire Authority
- persons/bodies representative of local holders of premises licences
- persons/bodies representative of local holders of club premises certificates
- persons/bodies representative of local holders of personal licences
- persons/bodies representative of businesses and residents in the Borough

1.4.2 The Licensing Authority may consult beyond the statutory requirements, and seek comments from additional bodies, groups or individuals.

1.5 Fundamental Principles

1.5.1 This Policy sets out the Licensing Authority's general approach to the making of licensing decisions and is consistent with the provisions of the Act. Nothing in the Policy will undermine the right of any individual to apply for permissions and to have any such application considered on its individual merits. Similarly, nothing in the policy will override the right of any person to make representations on an application or to seek a review of a licence or certificate where provisions have been made to do so in the Act.

1.5.2 The Licensing Authority may only impose conditions on a premises licence if they are consistent with the operating schedule or after receiving relevant representations. Any conditions attached to the licence must relate to the promotion of the Licensing Objectives.

1.5.3 The Licensing Authority acknowledges that the Government believes that in some circumstances flexible hours for the sale of alcohol can help to ensure that the concentrations of customers leaving premises simultaneously are avoided.

1.5.4 It is necessary to consider national guidance in the context of local circumstances. Where licensed premises are surrounded by housing, unrestricted extensions of hours could extend the time of such disturbance to later in the night. The Guidance acknowledges that tighter control may be justified in residential areas and the Licensing Authority considers that this is particularly relevant to parts of its administrative area, always having regard to the individual merits of any application.

1.5.5 In general terms the Licensing Authority will closely scrutinise applications for premises licences showing a late terminal hour so as to be satisfied that they will have no adverse impact on the licensing objectives.

1.5.6 Once people are beyond the control of the individual, club or business holding the relevant authorisation licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour. Licensing law will always be part of a holistic approach to the management of the evening and night-time economy in this Borough.

2.0 General Principles

In all applications relating to premises, the Legislation requires applicants to specify methods by which they will promote the four licensing objectives in their operating schedules. The operating schedule should include reference to the measures the applicant intends to use to promote the licensing objectives.

2.1 Revisions to Policy.

2.1.1 The Licensing Authority have a duty to review their Licensing Policy and have therefore consulted with Responsible Authorities and other stakeholders since the implementation of the legislation in order to identify topics that may need to be added or removed from the Licensing Policy.

2.1.2 Areas of change have been necessitated through the implementation of the Police Reform and Social Responsibility Act 2011.

2.1.3 Applicants for a premises licence are advised to include in their Operating Schedule, (where applicable) specifically how they prevent sales of alcohol to persons under 18, minimise glass

related injuries and or assaults, prevent noise from licensed premises becoming a nuisance and manage customers outside their premises who are smoking.

2.1.4 Crime Statistics locally have indicated that a last time of entry condition has assisted in the promotion of the licensing objectives. It is therefore expected that applicants for late licensed premises will be expected to provide detailed reasons in their operating schedules for seeking to allow any new entry to the premises after 1am."

2.2 Children and cinemas

2.2.1 The Act requires applicants for premises licences and club premises certificates to copy details of their applications to a body which:

- a) represents those who, in relation to any such area, are responsible for, or interested in, matters relating to the protection of children from harm, and
- b) is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters.

2.2.2 The Licensing Authority's policy is that the "Responsible Authority" in relation to the protection of children from harm will be Somerset County Council's Children's Social Care at County Hall, Taunton, TA1 4DY.

2.2.3 The Licensing Authority will expect licensees of premises giving film exhibitions to include, in their operating schedules, arrangements for restricting children from viewing age restricted films. Such premises will be subject to a mandatory condition requiring that access will be restricted to only those who meet the required age limit in accordance with any certificate granted by the British Board of Film Classification, (BBFC) or in specific cases where such certificates have not been granted, the Licensing Authority.

2.2.4 The Licensing Authority does not intend to adopt its own system of film classification but reserves the right to amend the classification imposed by the British Board of Film Classification.

2.2.5 If the Licensing Authority attaches an age-restriction to any film that differs from the BBFC classification or attaches one to an unclassified film, the information about the Licensing Authority's classification will be published on the Council's website at www.tauntondeane.gov.uk.

2.3 Licensing Hours

2.3.1 With regard to licensing hours the Licensing Authority will consider each application on its individual merits.

2.3.2 Applications for premises licences with a terminal hour later than 12 midnight where the sale or supply of alcohol for consumption on the premises is the main Activity or where the sale or supply of alcohol is accompanied by musical entertainment, will be subject to close scrutiny by the Responsible Authorities to ensure that there will be no adverse impact on the licensing objectives. Specifically, the applicant should ensure that the operating schedule for such a premises demonstrates how the licensing objectives will be met. Applicants are strongly recommended to seek the advice of both the Council's Licensing Officers and the Police in this regard.

2.3.3 This is a general policy and does not automatically mean that all applications will result in licences being granted until midnight or that no applications will be granted with a closing hour after midnight.

- 2.3.4 In considering these issues the Licensing Authority will give careful consideration to the nature of the venue proposed. For example, the Council is keen to promote establishments at which the service and consumption of alcohol is not the primary Activity. These may include restaurants, theatres, cinemas, comedy clubs, galleries, museums, and similar venues. The Licensing Authority's experience is that such venues are liable to give rise to fewer public concerns and so applications for such premises to operate past midnight are more likely to be successful.
- 2.3.5 The Licensing Authority will pay special regard to the proximity of residential uses to the proposed premises, the parking areas and routes taken by customers when arriving at and leaving the premises. Consideration will be given to the imposition of stricter noise control conditions, if representations are received in areas with a concentration of residential property.
- 2.3.6 The Licensing Authority will expect premises to be cleared of patrons within a reasonable time of the terminal hour set for the premises. Applicants should state in their operating schedule the time they require to clear the premises. In normal circumstances, this will not exceed 30 minutes from the last sale of alcohol. Where the applicant can show that an extended period would assist in the promotion of the licensing objectives, the Council will consider permitting longer than 30 minutes.
- 2.3.7 Shops, stores and supermarkets will generally be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there are good reasons for restricting those hours. An example would be where the Police make representations that the premises are a focus of disorder and disturbance.

2.4 Maximum Capacities

- 2.4.1 The type of entertainment offered on licensed premises and the closing hour of premises permitted to provide alcohol to the public often have a direct link to crime and disorder, public nuisance and public safety issues.
- 2.4.2 The Licensing Authority believes that some of the problems that may occur in late night licensed premises may be controlled by good management practices. However, controlling the numbers of customers allowed into the premises will also assist in promoting the following three licensing objectives:
- the prevention of crime and disorder
 - public safety
 - the prevention of public nuisance

2.5 Late Night Refreshment

The Licensing Authority will expect applicants for licences, in respect of late night refreshment premises, to detail in their operating schedules how they intend to promote the licensing objectives and in particular how they intend to address queue management, litter and noise disturbance.

3.0 Licensing Approach

3.1 Partnership Working

- 3.1.1 The Council recognises that Licensing functions are not the only means of promoting the licensing objectives. Delivery must involve working in partnership with Planning, Environmental Health, the Police, the Fire Authority, the Safer Somerset Group, the Town Centre Manager, Pubwatch, local businesses and residents, Somerset County Council, transport operators and those involved with child protection.

3.1.2 The Council recognises that co-operation and partnership remain the best means of promoting the licensing objectives.

3.2 Integrating Strategies

3.2.1 There are many stakeholders involved in the leisure industry and many are involved in the promotion of the licensing objectives. A number of stakeholders' plans and strategies deal with matters related to the licensing function. Where this is the case the Council will aim, as far as possible, to coordinate them.

3.2.2 Cultural Strategy – The Council will monitor the impact of any decisions on the provision of regulated entertainment. The aim is not to deter live music, but to ensure that the licensing objectives are promoted. The Council will monitor the effect of licensing on the provision of regulated entertainment, particularly live music and dancing, to ensure that any licensing conditions that impose any restrictions, on such events, are proportionate and reasonable.

3.2.3 Equality & Diversity – The Council is required by legislation to have due regard to the need to eliminate unlawful discrimination and to promote equality of opportunity and good relations between people. The impact of these issues on the Licensing Policy will be monitored and amendments will be made as necessary.

3.2.4 Enforcement Policy – All licensing enforcement will be conducted in accordance with the Regulators Compliance Code and the Environmental Health Enforcement Procedures.

3.3 Avoiding Duplication

3.3.1 The Licensing Authority recognises the need to avoid, so far as possible, duplication with other regulatory regimes such as health and safety at work, fire safety, building control and planning. Conditions will not be imposed if the matters concerned are already provided for in other legislation. However, other legislation may not always cover the unique circumstances that arise in connection with licensable Activities and in such cases tailored conditions may be necessary but only if relevant representations are received.

3.3.2 Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether or not to grant a licence but only if relevant representations are received.

3.4 Conditions

3.4.1 Conditions may only be attached if relevant representations are received, any such conditions attached to licences and certificates will be tailored to the individual style and characteristics of the premises and events concerned.

3.4.2 However, where it is considered necessary to promote one or more of the licensing objectives the Licensing Authority will consider attaching conditions, if relevant representations are received, drawn from the Pool of Model Conditions set out in the Secretary of State's Guidance. This list is not exhaustive and additional conditions may be attached to any licence or authorisation, if a representation is received.

3.5 Enforcement

3.5.1 The Council when planning and carrying out enforcement Activities will always have regard to the principles in the Regulators' Compliance Code.

3.5.2 The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance

with their operating schedules, in compliance with the specific requirements of the Act and any licence conditions. It will also be important to monitor the Borough for unlicensed Activities that require a licence.

- 3.5.3 The Licensing Authority has established protocols with Avon and Somerset Constabulary, Somerset County Council Trading Standards and Devon and Somerset Fire Authority on enforcement issues to ensure an efficient deployment of Police and Council officers.

3.6 Live Music, Dancing and Theatre

- 3.6.1 The Council recognises the need to encourage and promote a broad range of entertainment, particularly live music, dancing and theatre for the wider cultural benefit of the community and, in particular, for children and young people.
- 3.6.2 When considering applications for such events and the imposition of any conditions if representations are received on licences or certificates, the Licensing Authority will carefully balance the need to promote the licensing objectives against these wider cultural benefits.

4.0 Administrative Issues

4.1 Temporary Event Notices

4.1.1 The Act requires that a Temporary Event Notice must be given to the Licensing Authority, Avon and Somerset Police and the Council's Environmental Health Service a minimum of 10 clear working days' before the event or in the case of a Late Temporary Event Notice not less than 5 clear working days before the beginning of the event.

4.1.2 The Licensing Authority however recommends that Notices are given at least 28 days before the planned event to allow enough time for the organiser to liaise with the fire authority, the police and the relevant Council officers to ensure that the event passes off safely with minimum disturbance to local residents.

4.2 Applicants for Personal Licences

The Licensing Authority places particular emphasis on the role of premises supervisors and licensees and, where the Police object, on the grounds of prevention of crime and disorder there will be a presumption against issuing a personal licence to any applicant with an unspent conviction for a relevant offence. If the applicant can demonstrate exceptional and compelling reasons for disregarding the conviction, this will be taken into consideration.

4.3 Large Scale Events

Large Scale events of a temporary or more permanent nature will generally require detailed planning and more consultation with responsible Authorities and possibly representatives of other organisation concerned with safety. For such events it is therefore recommended that applicants contact the Licensing Team at the earliest opportunity to discuss their proposals.

4.4 Reviews of Licence or Club Premises Certificate

4.4.1 The Licensing Act details that; where a premises licence or club premises certificate has effect, an interested party or a Responsible Authority may apply to the relevant Licensing Authority for a review of the licence. The relevant Licensing Authority may, at any time, reject any ground for review specified in an application under this section if it is satisfied that the ground is not relevant to one or more of the licensing objectives, or in the case of an application made by a

person other than a Responsible Authority, that the ground is frivolous or vexatious, or the ground is a repetition.

4.4.2 The Licensing Authority can, on review of licence or certificate, revoke the licence or certificate, suspend the licence or certificate, remove the DPS, reduce hours or licensable Activity or add conditions to the licence or certificate.

4.4.3 The Licensing Authority recommends that Persons or Bodies considering seeking a review should discuss the matter with the Licensing Team to discuss possible alternatives and to ascertain the correct procedure.

4.5 Administration, Exercise and Delegation of Functions

4.5.1 The Council has a Licensing Committee, consisting of 15 elected members, to carry out its licensing functions and to make licensing decisions, except those functions relating to the making of a statement of licensing policy.

4.5.2 In the interests of speed, efficiency and cost-effectiveness the Committee will delegate certain decisions and functions to sub-committees and officers.

4.5.3 For example, where there are no relevant representations on an application for the grant of a premises licence or club premises certificate or Police objection to an application for a personal licence or to an Activity taking place under the authority of a temporary event notice, these matters should be dealt with by officers.

4.5.4 The following table sets out the agreed delegation of decisions and functions to the Licensing Committee, Sub-Committees and officers.

4.5.5 This scheme of delegation does not prevent the referral of matters to a higher authority if considered appropriate in the circumstances of any particular case.

MATTER TO BE DEALT WITH	SUB-COMMITTEE	OFFICERS
Application for personal licence	If an objection is made	If no objection is made
Application for personal licence, with unspent convictions	All cases	
Application for premises licence/club premises certificate	If a representation is made	If no representation is made
Application for provisional statement	If a representation is made	If no representation is made
Application to vary premises licence/club premises certificate	If a representation is made	If no representation is made
Application to vary designated premises supervisor	If a police objection is made	All other cases
Request to be removed as designated premises supervisor		All cases
Application for transfer of premises licence	If a police objection is made	All other cases

Application for interim authority	If a police objection is made	All other cases
Application to review premises licence/club premises certificate	All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc		All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	All cases	
Determination of a police objection to a temporary event notice	All cases	

5.0 The Licensing Authority as a Responsible Authority

- 5.1 There is no requirement under the Act for responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. The Council will therefore determine when it considers it appropriate to Act in its capacity as a Responsible Authority based on the individual circumstances of each situation and in accordance with its duties under section 4 of the 2003 Act.
- 5.2 The Licensing Authority would not normally expect to Act as a Responsible Authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the Licensing Authority in their own right, and the Licensing Authority considers it reasonable to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take Action and the Licensing Authority is aware of relevant grounds to make a representation, it may choose to Act in its capacity as Responsible Authority.
- 5.3 The Licensing Authority will normally expect that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other Responsible Authority.
- 5.4 The 2003 Act enables licensing authorities to Act as responsible authorities as a means of early intervention; where it considers it appropriate the Council may do without having to wait for representations from other responsible authorities.
- 5.6 In cases where the Licensing Authority is also acting as Responsible Authority in relation to the same process, it is important to achieve a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of Licensing Authority and Responsible Authority) to different officials within the authority.

5.7 In these cases, the Licensing Authority where possible will allocate the different responsibilities to different licensing officers or other officers within the local authority to ensure a proper separation of responsibilities. The officer advising the licensing committee (i.e. the authority acting in its capacity as the Licensing Authority) will be a different individual to the officer who is acting for the Responsible Authority. The officer acting for the Responsible Authority should not be involved in the licensing decision process and should not discuss the merits of the case with those involved in making the determination by the Licensing Authority.

5.8 Communication between these officers in relation to the case should remain professional and consistent with communication with other responsible authorities. Representations, subject to limited exceptions, will be made in writing.

6.0 Suspension of licences following non payment of fees

6.1 In order to provide a strong incentive for businesses to pay their fees in a timely manner and save the Council the time and cost of pursuing non payment, the Licensing Authority will use its powers under the Act to suspend licences due to non payment of fees.

7.0 Further Information

7.1 Further information about the Licensing Act 2003 and this statement of Licensing Policy can be obtained from:

The licensing Team,
Taunton Deane Borough Council, The Deane House, Belvedere Road, TAUNTON. TA1 1HE
Tel: 01823 356343 Fax: 01823 351801
Email: licensing@tauntondeane.gov.uk
Website: www.tauntondeane.gov.uk

7.2 Information is also available from the Department for Media Culture and Sport

2- 4 Cockspur Street, London SW1Y 5DH.
Tel: 020 7211 6200
Email: enquiries@culture.gov.uk
Website: www.culture.gov.uk

APPENDIX A

GLOSSARY OF TERMINOLOGY

Club Premises Certificate	means a certificate granted to a qualifying club under the Act in respect of premises occupied, and habitually used for the purposes of a club. Alcohol must not be supplied other than to members by or on behalf of the club.
Entertainment facilities	are defined as facilities for enabling persons to take part in entertainment for the purpose of being entertained. The descriptions of entertainment are making music, dancing, and entertainment of a similar description to that falling within those mentioned above. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation).
Hot food or hot drink	<p>food or drink supplied on or from any premises is “hot” for the purposes of Schedule 2 to the Act if the food or drink, or any part of it:</p> <p>(i) before it is supplied, is heated on the premises or elsewhere for the purpose of enabling it to be consumed at a temperature above the ambient air temperature and, at the time of supply, is above that temperature,</p> <p>or</p> <p>(ii) after it is supplied, may be heated on the premises for the purpose of enabling it to be consumed at a temperature above the ambient air temperature.</p>
Interested Party	<p>is defined as:</p> <p>(i) a person</p> <p>(ii) a body representing persons</p> <p>(iii) a person involved in a business</p> <p>(iv) a body representing persons involved in such businesses.</p> <p>(v) a member of the relevant Licensing Authority.</p>
Licensable Activities and qualifying club Activities	<p>are defined in the Licensing Act as:</p> <p>(i) the sale by retail of alcohol</p> <p>(ii) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club</p> <p>(iii) the provision of regulated entertainment</p> <p>(iv) the provision of late night refreshment - for those purposes the following licensable Activities are also qualifying club Activities:</p> <p>(i) the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club for consumption on the premises where the supply takes place</p> <p>(ii) the sale by retail of alcohol by or on behalf of a club to a guest of a member of the club for consumption on the premises where the sale takes place</p> <p>(iii) the provision of regulated entertainment where that provision is by or on behalf of a club for members of the club or members of</p>

	the club and their guests.
Operating Schedule	<p>means a document that must be prepared by or on behalf of an applicant for a premises licence or club premises certificate containing a statement including the following matters:</p> <ul style="list-style-type: none"> • the relevant licensable Activities • the times at which licensable Activities are to take place and any other times the premises are to be open to the public • information about the Designated Premises Supervisor • whether any alcohol sales are on and/or off sales • the steps being taken to promote the licensing objectives.
Personal Licence	authorises an individual to supply or authorise the supply of alcohol in accordance with a premises licence.
Premises Licence	authorises the premises to be used for one or more licensable Activity.
Provision of late night refreshment	<p>is defined as the provision of hot food or hot drink to members of the public, or a section of the public on or from any premises, whether for consumption on or off the premises between 11 pm and 5 am</p> <p>or</p> <p>at any time between those hours when members of the public, or a section of the public, are admitted to any premises, a person supplies, or holds himself willing to supply, hot food or hot drink to any persons, or to persons of a particular description, on or from those premises, whether for consumption on or off the premises.</p>
Regulated Entertainment	<p>is defined as:</p> <ul style="list-style-type: none"> (a) a performance of a play (b) an exhibition of film (c) an indoor sporting event (d) a boxing or wrestling entertainment (e) a performance of live music (f) any playing of recorded music (g) a performance of dance (h) entertainment of a similar description to that falling within paragraph (e), (f) or (g) where the entertainment takes place in the present of an audience and is provided for the purpose, or for purposes which include the purpose, of entertaining that audience. Any reference to an audience includes a reference to spectators. This definition is subject to Part 3 of Schedule 1 to the Licensing Act 2003 (interpretation). (i) Entertainment Facilities. This definition is subject to Part 1 of Schedule 1 to the Licensing Act 2003 (interpretation).

Responsible Authority	<p>is defined as:</p> <p>(i) Chief Officer of Police for any Police area in which the premises are situated</p> <p>(ii) the Fire Authority for any area in which the premises are situated</p> <p>(iii) the enforcing authority within the meaning given by section 18 of the Health and Safety at Work etc Act 1974 for any area in which the premises are situated</p> <p>(iv) the local planning authority within the meaning given by the Town and Country Planning Act 1990 (c.8) for any area in which the premises are situated</p> <p>(v) the local authority by which statutory functions are exercisable in any area in which the premises are situated in relation to minimising or preventing the risk of pollution of the environment or of harm to human health</p> <p>(vi) a body which:</p> <p>(a) represents those who, in relation to any such area, are responsible for, or interested in matters relating to the protection of children from harm, and</p> <p>(b) is recognised by the Licensing Authority for that area for the purposes of this section as being competent to advise it on such matters</p> <p>(vii) any Licensing Authority (other than the relevant Licensing Authority) in whose area part of the premises is situated</p> <p>(viii) in relation to a vessel:</p> <p>(a) a navigation authority (within the meaning of section 221(1) of the Water Resources Act 1991 (c.57)) having functions in relation to the waters where the vessel is usually moored or berthed or any waters where it is or is proposed to be, navigated at a time when it is used for licensable Activities</p> <p>(b) the Environment Agency</p> <p>(c) the British Waterways Board, or</p> <p>(d) the Secretary of State</p> <p>(e) the Local Licensing Authority</p> <p>(f) Local Health Bodies for the responsible area to include a Primary Care Trust</p> <p>(g) a person prescribed for the purpose of this subsection.</p>
Temporary Event	<p>is defined as the use of premises for one or more of the licensable Activities during a period not exceeding 168 hours usually where a premises licence covering the licensable Activity is not in place.</p>
Temporary Event Notice	<p>a document giving notice to the Licensing Authority of intention to hold a temporary event.</p>

Taunton Deane Borough Council

Licensing Committee – 21 November 2012

Gambling Act 2005 – Policy Adoption

Report of the Licensing Officer

(This matter is the responsibility of Executive Councillor Ken Hayward)

1. Executive 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 2013.

This report introduces the draft statement of principles for consideration.

Members are requested to consider the attached draft policy and recommend its approval to full Council at its meeting on 11 December 2012.

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 2013.
- 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 Gambling Act requires that Local Authorities review their policy document at least every three years. The draft statement of principles is shown at Appendix 1.

3.4 The attached revised draft statement of principles for re-adoption in January 2013 has been developed around the Statutory Guidance to Licensing Authorities issued by the Gambling Commission.

4.0 Proposed Changes

4.1 The main changes to the Policy are factual updates concerning removal of historic information regarding the original adoption of the Statement of Principles, changes in responsibility through central government arrangements and the changes to stakes and prizes for gaming machines.

4.2 The proposed changes are highlighted within the draft statement of principles attached at Appendix 1.

5.0 Consultation

5.1 The revised draft statement of principles has been subject to consultation with those parties set out within paragraphs 1.6 and 1.7. The consultation closed on 1 November 2012 and drew no representations from any parties.

6.0 Finance Comments

6.1 There are no financial considerations contained in this report.

7.0 Legal Comments

7.1 The legal implications are set out within the report.

8.0 Links to Corporate Aims

8.1 There are no direct links to the corporate aims.

9.0 Environmental and Community Safety Implications

9.1 None

10.0 Equalities Impact

101 Not required

11.0 Risk Management

11.1 If the Policy is not properly adopted by the District Council the Authority will be liable to legal challenge which if successful could entail heavy costs being awarded against the Council.

12.0 Partnership Implications

12.1 None

13.0 Recommendations

13.1 That Members recommend approval of the revised draft statement of principles under the Gambling Act 2005 to full Council at its meeting on 11 December 2012.

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Gambling Act 2005

DRAFT
Statement
of Principles

**Taunton Deane Borough Council
Statement of Principles
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PART A - OVERVIEW

1. Introduction

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

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

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

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

- 1.5 The consultation took place between 12 July 2006 and 4 October 2006 with final comments being accepted up to the 6 October 2006. The Council followed the Cabinet Office Guidance on consultations by the public sector prior to adoption of the final Statement of Principles.

- 1.6 The Act required 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 were 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 was also consultation with other local government related services and local businesses who are holders of a premises licence.
- 1.8 The list of persons consulted was deliberately wide. This enabled the Licensing Authority to undertake a comprehensive consultation exercise with anyone who may have been affected by or otherwise have an interest in the licensing policy statement.
- 1.9 The formal Statement of Principles adopted by the Council is available on Taunton Deane Borough Council's website and in Taunton Deane libraries.
- 1.10 The statement of principles came into effect on the 31 January 2007 and will be reviewed as necessary, and at least every three years from the date of adoption.

2. Licensing Objectives

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

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

3. Declaration

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

4. General Principles

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

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

5. Responsible Authorities

- 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

- 6.1 The licensing authority will apply the following principles in determining an interested party:
1. Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities at 8.14 and 8.15. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
 2. The Gambling Commission has recommended that the licensing authority states that interested parties include trade associations and trade unions, and residents' and tenants' associations (Gambling Commission Guidance for local authorities 8.17). This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 i.e. lives sufficiently close to the premises to be likely to be affected by the activities being applied for.
 3. Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons requesting the representation is sufficient.

- 6.2 If individuals wish to approach councillors to ask them to represent their views, then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing unit whose details are given at the end of this document.

7. Exchange of Information

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

8. Enforcement

- 8.1 This licensing authority's proposed principles are that it will be guided by the Gambling Commission's Guidance for local authorities and it will endeavour to be:
1. **Proportionate:** regulators should only intervene when necessary and remedies should be appropriate to the risk posed, and costs identified and minimised;
 2. **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
 3. **Consistent:** rules and standards must be joined up and implemented fairly;
 4. **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
 5. **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 8.2 This licensing authority will also, as recommended by the Gambling Commission's Guidance for local authorities, adopt a risk-based inspection programme. Whilst the Gambling Commission's Guidance suggests that the criteria the authority will utilise in this respect are included in this statement, this has not been possible. At the time of writing, the Gambling Commission has not published its risk criteria, and regulations such as mandatory/default conditions, and Codes of Practice have not been published. LACORS is working with the Gambling Commission to produce a risk model for premises licences and this authority will consider that model once it is made available.
- 8.3 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.
- 8.4 This licensing authority will keep itself informed of developments as regards the work of the BRDO (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, Devon & 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 Licensing.

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

PART B

PREMISES LICENCES

11. General Principles

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

This licensing authority takes note of the Gambling Commission’s Guidance for local authorities which states that:

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

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

11.1 Transitional Arrangements

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

11.2 Location

11.2.1 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. As per the Gambling Commission’s Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific

policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. Any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant to show how potential concerns can be overcome.

11.3 Duplication with other regulatory regimes

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

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

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

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

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

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

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

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

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

- 11.6.1 The Gambling Commission's Guidance for local authorities states that this objective means preventing children from taking part in gambling (as well as a restriction of advertising so that gambling products are not aimed at or are particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances/machines, segregation of areas, etc.
- 11.6.2 This licensing authority will also make itself aware of Codes of Practice issued by the Gambling Commission regarding this licensing objective, in relation to specific premises such as casinos.
- 11.6.3 As regards the term "vulnerable persons" the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis. Should a practical definition prove possible in future, this policy statement will be updated.

11.7 Conditions

- 11.7.1 Any conditions attached to licences will be proportionate and will be:
1. Relevant to the need to make the proposed building suitable as a gambling facility;
 2. Directly related to the premises and the type of licence applied for;
 3. Fairly and reasonably related to the scale and type of premises; and
 4. Reasonable in all other respects.
- 11.7.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas, etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to ways in which the licensing objectives can be met effectively.
- 11.7.3 This licensing authority will also consider specific measures which may be required for buildings subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 11.7.4 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
1. All such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 2. Only adults are admitted to the area where these machines are located;
 3. Access to the area where the machines are located is supervised;
 4. The area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 5. At the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

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

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

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

11.8 Door Supervisors

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

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

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

12. Adult Gaming Centres

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

- 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 Licence considerations/conditions

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

14.3 Betting machines

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

14.4 Credit

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

15. Bingo premises

1. This licensing authority notes that the Gambling Commission's Guidance states:

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

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.

17. Tracks

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

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

17.3 This licensing authority will expect applicants to offer their own measures to meet the licensing objectives. However, appropriate measures/licence conditions may cover issues such as:

1. Proof of age schemes
2. CCTV
3. Supervision of entrances/machine areas
4. Physical separation of areas
5. Location of entry
6. Notices/signage
7. Specific opening hours
8. Self-barring schemes
9. Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

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

17.5 This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of betting machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

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

18. Travelling Fairs

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

19. Provisional Statements

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

19.3 The Gambling Commission's Guidance states that "A licensing authority should not take into account irrelevant matters..... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

PART C

Permits/Temporary & Occasional Use Notices

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

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

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

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

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

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

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 are 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
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: 0121 230 6500
Fax: 0121 233 1096
Email: info@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 The Deane House Belvedere Road Taunton TA1 1HE	01823 356343
Avon and Somerset Constabulary	Liquor Licensing Bureau Avon and Somerset Constabulary PO BOX 2781 BRISTOL BS2 2AS	0117 945 5154
Somerset Fire and Rescue Service	Chief Fire Officer Somerset Command Chiltern House 15-17 Silver Street Taunton TA1 3DH	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 B2 4BP	0121 230 6500
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

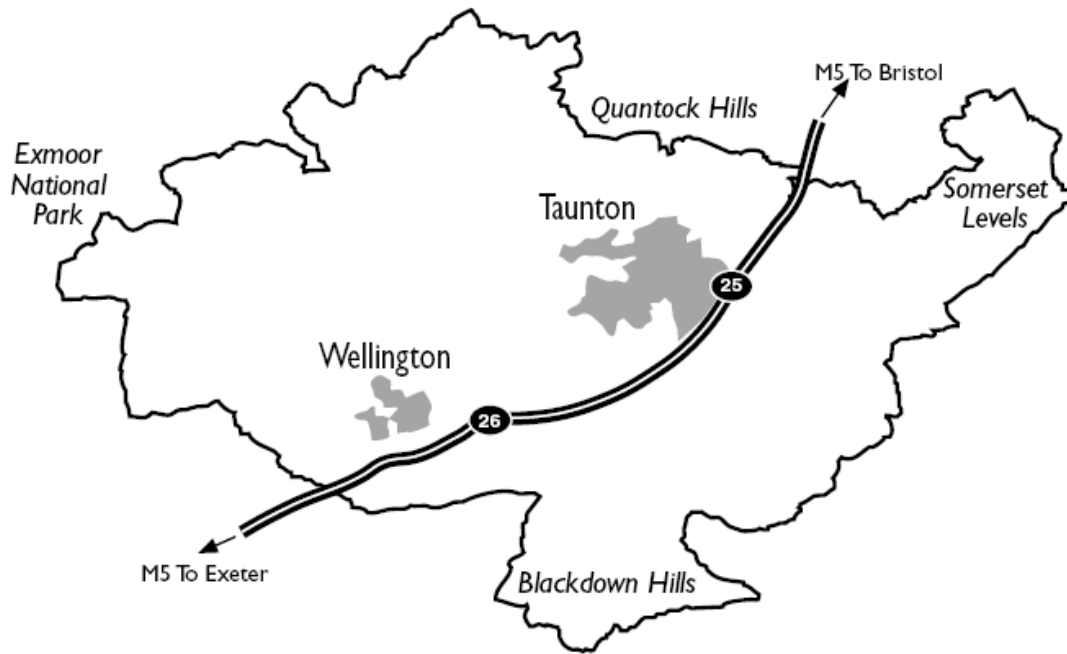
Within this Statement of Policy, the following words and terms are defined as stated:

Act:	The Gambling Act 2005
Betting Machine	A machine which has been designed or adapted for use to bet on future real events, 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
DCMS	Department of Culture, Media and Sport
Default Condition:	A specified condition provided by regulations to be attached to a licence, unless excl
Gaming Machine	<p>Category</p> <p>A</p> <p>B1</p> <p>B2</p> <p>B3</p> <p>B3A</p> <p>B4</p> <p>C</p> <p>D non money prize (other than crane grab machine)</p> <p>D non money prize (crane grab machine)</p> <p>D money prize</p> <p>D combined money & non-money prize (other than coin pusher or penny falls machines)</p> <p>D combined money & non-money prize (coin pusher of penny falls machine)</p>

Guidance	Guidance issued to Licensing Authorities by the Gambling Commission (April 2006) a
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 – 21 November 2012

Street Trading & Section 115E Permissions Policy

Report of the Licensing Officer

(This matter is the responsibility of Executive Councillor Ken Hayward)

1. Executive Summary

This report sets out the proposed street trading and section 115E permissions policy for consideration.

Members are requested to consider the attached draft policy and recommend its approval to full Council at its meeting on 11 December 2012.

2. Background

- 2.1 The purpose of this report is to update the Councillors on the proposed implementation of a Street Trading and Section 115e Permissions Policy and Guidance document.

3 Report

- 3.1 Taunton Deane Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. The Council has further designated all of its administrative area as Consent Streets.
- 3.2 The Council's aim in controlling street trading is to create an environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice, and seeks to enhance the character, and ambience of local environments.
- 3.3 The Council also issues permissions under section 115E of the Highways Act 1980 on behalf of the County Council with regard to pavement cafes and promotional spaces.
- 3.4 To set a base line for acceptable standards with regard to determining applications for and the enforcement of street trading and section 115E permissions it is proposed to introduce a Policy & Guidance document. This document is also intended to assist persons who wish to apply for consents or permissions.
- 3.5 The proposed policy and guidance will be applied to all existing and proposed street trading activities, pavement cafes and promotional spaces in its area to ensure consistency of decision making. However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.

- 3.6 A copy of the proposed policy and guidance document is attached at Appendix 1.
- 3.7 It is intended that this policy will be the subject of periodic monitoring and review and will be applied in a manner which is consistent with the Council's equalities and diversity policies.

Consultation

- 3.8 The proposed policy was made available for viewing and comments on the Council's website between 8 September and 1 November 2012. A letter inviting comments was also sent to all current consent holders.
- 3.9 No representations were received from the current Street Traders operating in the Taunton Deane borough.
- 3.10 Comments were received from Debbie Arscott, Community Leisure Officer and the policy has been updated to reflect these as set out below.
- 3.11 French Weir Park, Victoria Park and Hamilton Gault Park have been added to the list of open spaces where street trading may take place.
- 3.12 The department that issues the Permits to use Vivary Park has been corrected to read 'Taunton Deane Borough Council DLO (Open Spaces)'.
3.13 Somerset Square, Goodland Gardens, Castle Green, and Longrun Meadow have been included within the list of the Council's parks and open spaces where a permit is required.

4.0 Finance Comments

- 4.1 Section 9 of the Act allows the Council to determine such fees as it considers reasonable and provides opportunity for any additional costs for operating the revised street trading scheme to be recovered from the fees levied.

5.0 Legal Comments

- 5.1 The legal implications are set out within the report.

6.0 Links to Corporate Aims

- 6.1 Protect and improve the quality of our natural and built environment'
Ensuring the vitality and viability of all our town centres is maintained and enhanced, improving both the range and quality of the offering, therefore reducing the need to shop outside the area.

7.0 Environmental and Community Safety Implications

- 7.1 None identified.

8.0 Equalities Impact

8.1 No detriment to any of the recognised equality strands has been identified.

9.0 Risk Management

9.1 No risk identified.

10.0 Partnership Implications (if any)

10.1 Taunton Town Centre Team, Economic Development, Somerset County Highways.

11.0 Recommendations

11.1 It is recommended that the proposed Street Trading Policy and Guidance document be adopted.

Contact:

Olivia Denis, Licensing Officer

Tel: 01823 356343

E-mail: o.denis@tauntondeane.gov.uk

TAUNTON DEANE BOROUGH COUNCIL



LOCAL GOVERNMENT (MISCELLANEOUS PROVISIONS) ACT 1982
STREET TRADING

SECTION 115E PERMISSIONS, HIGHWAYS ACT 1980
PROMOTIONAL SPACES AND PAVEMENT CAFES

DRAFT STREET TRADING/S115E PERMISSIONS POLICY & GUIDANCE

Version 3.0 - November 2012

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INTRODUCTION

This policy has been developed to assist persons applying for Street Trading Consents and s115e Permissions in Taunton Deane. It was adopted by the Council on 11 December 2012 and sets out the Council's principles, aims and standards for the administration and supervision of street trading and s115e activities within Taunton Deane.

Taunton Deane Borough Council has adopted Schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982 with regards to street trading within its area. Taunton Deane Borough Council issues S115E of the Highways Act 1980 on behalf of Somerset County Council Highways Authority.

The Council has further designated all of its administrative area as Consent Streets for street trading, pavement cafes and promotional spaces purposes.

Taunton Deane Borough Council will apply these guidelines to street trading activities and pavement cafes and promotional spaces in its area to ensure consistency of decision making.

However each application or contravention will be considered on its merits so that individual circumstances, where appropriate, are taken into consideration.

Taunton Deane Borough Council's street trading policy's aim is to create a street trading environment which complements premises based trading, is sensitive to the needs and amenities of residents, provides diversity of consumer choice, and seeks to enhance the character, and ambience of local environments.

The policy recognises the importance of street trading to the area and that it can add to the vibrancy and vitality whilst not necessarily adding to nuisance and crime and disorder.

This policy will be the subject of periodic monitoring and review and will be applied in a manner which is consistent with the Council's equalities and diversity policies.

DEFINITIONS OF TERMS USED IN THIS POLICY

Within the terms of the definitions apply:

The Council	Means the Taunton Deane Borough Council
Street Trading	Means the selling or exposing or offering for sale of any article (including a living thing) in any street
S115E Permission	Means permission to place an obstruction on the Highway
Street	Includes: (a) Any road, footway, beach or other area to which the public have access without payment. (b) A service area as defined in section 329 of the Highways Act 1980, and also includes any part of a street.
Consent Street	Means a street in which street trading is prohibited without the consent of Taunton Deane Borough Council.
Consent	Means consent to trade on a street by Taunton Deane Borough Council.
Consent Holder	Means the person or company to whom the consent to trade on a street has been granted by Taunton Deane Borough Council
Authorised Officer	Means an officer employed by Taunton Deane Borough Council and authorised by the Council to act in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1982.

LOCAL GOVERNMENT (MISCELLEOUS PROVISIONS) ACT 1982

SCHEDULE 4
STREET TRADING

'Consent Street' means a street in which street trading is prohibited without the consent of the district Council.

The Council will not grant a Street Trading Consent to persons under the age of 17 years.

The following are not street trading for the purpose of this schedule

- a) Trading by a person acting as a pedlar under the authority of a pedlars certificate granted under the Pedlars Act 1871;
- b) anything done in a market or fair the right to hold which is acquired by virtue of a grant (including presumed grant) or acquired or established by virtue of an enactment or order;
- c) trading in a trunk road picnic area provided by the Secretary of State under Section 112 of the Highways Act 1980
- d) trading as a news vendor
- e) trading which-
is carried on at premise used as a petrol filling station; or
is carried on at premise used as a shop or in a street adjoining premise so used and as part of the business of the shop;
- f) selling things or offering or exposing them for sale, as a roundsman
- g) the use for trading under part VIIA of the Highways Act 1980 of an object or structure placed on, in or over a highway;
the operation of facilities for recreation or refreshment under Part VIIA of the highways Act 1980
- h) the doing of anything authorised by regulations made under section 5 of the Police Factories etc (Miscellaneous Provisions) Act 1916

Mobile Trading

The Council has reached a decision to allow holders of mobile trading consents to trade on any public highways within the administrative area of Taunton Deane Borough Council. You can not trade on public open space/Council owned land/privately owned land without the consent of the appropriate land owner.

SECTION 115E – Pavement Cafes & Promotional Spaces
HIGHWAYS ACT 1980

Subject to subsections (2) to (4) below, a council may grant a person permission—

- a) to do on, in or over a highway to which this Part of this Act applies anything which the council could do on, in or over such a highway under section 115B(1) to (3) or 115C above; or
 - b) to use objects or structures on, in or over a highway to which this Part of this Act applies—
 - (i) for a purpose which will result in the production of income;
 - (ii) for the purpose of providing a centre for advice or information;
 - (iii) or for the purpose of advertising.
- 2) A council may not grant a person permission under subsection (1) (a) above to place an object or structure on, in or over a highway to which this Part of this Act applies—
- (a) for a purpose which will result in the production of income; or
 - (b) for the purpose of providing a centre for advice or information, unless they have first obtained the consent of the frontages with an interest—
 - (i) to the placing of the object or structure;
 - (ii) to the purpose for which it would be placed; and
 - (iii) to the proposed grant of permission.
- 3) A council may not grant a person permission to do anything which the council could only do under section 115C above unless they have first obtained the consent of the frontages with an interest.
- 4) A council may not grant a person permission—
- (a) to carry out works on, in or over a walkway;
 - (b) to place an object or structure on, in or over a walkway; or
 - (c) to provide, maintain or operate facilities for recreation or refreshment or both on a walkway, unless they have first obtained walkway consent.

Application forms for promotional spaces and pavement cafe permissions can be downloaded from the Taunton Deane Borough Council website.

CONDITIONS AND ENFORCEMENT

Standard conditions may be attached to each street trading consent or S115E permission detailing the holder's responsibilities to maintain public safety, avoid nuisance and generally preserve the amenity of the locality. A copy of these conditions can be requested from Taunton Deane Borough Council Licensing Department or viewed on the Taunton Deane Borough Council Website www.tauntondeane.gov.uk/streettrading

Specific conditions may also be attached such as the days and hours when trading/operation is permitted, the goods which may be sold, the design and layout of any stall or street furniture provided and the size of the pitch.

Failure to comply with conditions, non-payment of fees or non-attendance at the site without good reason may lead to revocation or non-renewal of a consent or permission.

Persons trading without a street trading consent or s115E permission and who are not exempt will be the subject of enforcement action. This will include any person who holds a certificate granted under the Pedlar's Act 1871, but who fails to operate in accordance with the Act.

The issue of absent traders will be addressed by conditions upon the licence or the consent, for example conditions which:

- require personal attendance of the holder without the option for someone else to run the business on his behalf;
- require the holder to provide notification of his nominated assistant;
- require the holder to provide notice of non-attendance to the Licensing Department (not required for periods of less than 20 working days for Annual leave);
- allow the Licensing Department to revoke the consent after 20 working days non attendance where no notification of absence has been submitted.

OCCASIONAL CONSENTS & PERMISSIONS

Special Events

Highlights in the Taunton event calendar include the annual Family Fun Day in June, Taunton Marathon, Summer Westival, Taunton Flower Show in August, Taunton Carnival and Christmas Lights celebrations.

Visiting Markets include the weekly Vale of Taunton Farmers' Market all throughout the year and the monthly Blackdown Hills Craft Market from March - December.

Traders wishing to partake in any of the above events must contact Taunton Deane Borough Council Licensing Department for further information.

Christmas Trading

Whilst we welcome occasional trading, the same process will be followed for applications as permanent consents.

We recommend that applications for the busy Christmas period are submitted 3 months prior to the beginning of the Christmas trading period in Taunton which begins with the Christmas event in mid November.

Busking

If you want to busk in any of the consented streets in Taunton Deane you will require permission from the Taunton Town Centre Team they can be contacted on 01823 324 050. If you wish to sale items as you busk you will also require street trading consent, which can only be obtained through Taunton Deane Borough Council Licensing Department.

S115E – Promotional Space Permissions

There are currently two pre-approved promotional space in Taunton Town Centre. You must book and apply for permission before using the promotional space. In order that we can offer these spaces to charities for free there is a daily charge for business/non charitable use. You can apply to promote your business/charity/organisation anywhere in the pre-consented areas, however your application will require going through the consultation period if it is not already in one of the pre-approved promotional areas.

You can contact the Licensing Department prior to submitting an application to use a promotional space to check the space is available. The licensing team are unable to reserve spaces, however they will be able to inform you if it is currently available. Your application for promotional space must be received 14-days prior to the date of use to ensure the permission can be decided in good time.

CONSENTED AREAS APPROVED FOR STREET TRADING & S115E PERMISSIONS

Site Assessment for consents

The Council will not identify suitable 'pitches' for street trading but will maintain a map showing the location of existing sites that have permission to street trade.

List of existing sites that have permission

Street Trading Consents - Taunton

High Street
Fore Street
Somerset Square
Goodland Gardens
Longrun Meadow

Parks

Vivary Park
French Weir Park
Victoria Park
Hamilton Gault Park

S115E Permission – Pavement Cafes

High Street
Fore Street
Somerset Square

S115e Permission – Promotional Space

Fore Street
High Street

Nature of Goods and Trading Hours

The nature of goods which may be sold from any pitch will be specified in the consultation process.

The Council would not normally grant a new consent for the sale of goods or services which conflict with those provided by nearby traders.

General street trading hours are not set, therefore in the case of hot food takeaways and fresh produce sellers trading hours will be determined on a pitch-by-pitch basis.

The design and appearance of the stall, barrow, van or cart etc. to be used must be approved by the Council.

Consents will normally be issued for seven days per week, unless there are limiting factors on the use of a pitch on particular days. The permissions granted will identify the permitted days and times of trade.

DESCRIPTION OF EXSISTING CONSENTED AREAS

Taunton is Somerset's principle town. An historic market town set on the banks of the River Tone, it has a bustling and diverse shopping area, a thriving cultural scene, and excellent educational and health services. Surrounded by some of South West England's most beautiful rural and coastal landscapes, Taunton has excellent transport links to London, the Midlands, Bristol, Exeter and beyond.

High Street

Taunton town centre offers an exciting range of shops, cafes and other leisure facilities and boasts an array of pavement cafes, promotional spaces and street trading in a semi-pedestrianised location.

Many major stores can be found on its bustling main shopping streets and in the newly-refurbished retail centre, Orchard. It also boasts a wide variety of independent shops particularly in Bath Place and the Coal Orchard area - and a very popular Vale of Taunton Farmer's market, located in the High Street every Thursday. The town centre hosts a range of events and entertainment year round.

Project Taunton is planning major improvements to both the main shopping area and Coal Orchard, making the town the wider catchment's retail destination of choice.

Currently there are 2 permanent street traders in this area offering fresh cut flowers and hot sausages.

There are 8 pavement cafes

Vehicle access is required in this area and a red route for emergency vehicles must be maintained at all times.

A fixed electrical supply is available in this area

Fore Street*

Positioned at the rear of the Market House this area contains 3 permanent street traders offering food items such as juices, ice creams and fruit and veg.

The main approved promotional space is situated at the West End of the Market House.

A fixed electrical supply is available in this area.

*Due to the volume of currently consented hot and cold food vendors applications for further food sellers may not be considered for this area.

Vivary Park*

Is a public open space. The Sherford Stream, a tributary of the River Tone flows through the 7.5 hectares (19 acres) park, which is located near the centre of the town. It contains two main wide open spaces, as well as a High Ropes Course, Golf Course, and war memorial dating from 1922, a miniature golf course, tennis courts, two children's playground, a model railway track which was added in 1979, and an 18-hole, 4620-yards, par-63 golf course. The park includes trees, rose beds and herbaceous borders with around 56,000 spring and summer bedding plants being used each year. The rose garden includes the Royal National Rose Society Provincial Trial Ground.

Cultural Quarter

The Cultural Quarter within Taunton's town centre runs along the south bank of the River Tone. Extending from Priory Bridge and including Somerset's famous County Cricket Ground the Cultural Quarter links the town centre with the Firepool commercial development and Tangier. With attractive landscaping, riverside walkways and new facilities, the Cultural Quarter is also home to Taunton's Brewhouse Theatre & Arts Centre.

Somerset Square*

Somerset Square is the newly landscaped public space which is situated between Pegasus Court and Coal Orchard. The area has been created to provide a suitable setting for the Cricket Club's redevelopment and the Brewhouse Theatre & Arts Centre which now benefits from a fabulous outlook with outdoor eating and performance areas.

A weekly farmers market takes place each Saturday.

Electric is available in this area.

Goodland Gardens*

Goodland Gardens, on the site of the town's original fulling mill built in 1219, is the largest public space in Taunton's town centre. Centrally located between the river and Taunton's Grade I listed Mediaeval Castle, the Gardens link Coal Orchard, Bridge/North Streets, Castle Green and Tangier.

Laid out in 1971, the public space takes its name from the Goodland family who played a major role in the water-borne coal trade and were involved in the work of the Tone Conservators who annually inspected the river to ensure that it was navigable.

Currently there is no electric available in this area.

Castle Green*

The impressive plans to reinstate Taunton's, historic Castle Green as a civic space for markets, events and relaxation is now underway. Funds for the project have been granted by central Government for specific projects associated with the Town Centre regeneration and growth.

Meanwhile the Museum of Somerset accommodated in Taunton's 12th Century Castle (sited on the northern side of Castle Green) has recently opened its doors to the public following a superb £6million refit.

Tangier

Tangier is an area to the south of the town centre skirting the river from the bus station to French Weir Park. This prime location, with many brown-field areas in public ownership is perfect for small scale commercial mixed use development – and a regional house builder has already acquired outline consent to build 200 new homes.

A new major road scheme, The Third Way, linking the A38 (Wellington Road) to Bridge Street and two Park & Ride schemes will ease the flow of traffic to this area significantly, making it a very desirable part of town in which to work and live.

Longrun Meadow*

Longrun Meadow is public amenity land, to the south of Taunton town centre, bounded on its northern perimeter by the River Tone. It offers 65 acres of meadow, cycle and footpaths, an open oak barn for gatherings, shelter or what-you-will and a unique living willow 'cathedral' in a quieter area.

A Friends of Longrun Meadow group, with an interest in community events, outdoor recreation and wildlife, 'caretake' the space.

*Permits to use these area are must be obtained from Taunton Deane Borough Council DLO (Open Spaces) department before Street Trading Consent or s115e permissions will be granted.

CONSULTATION ON APPLICATIONS

Before a Street Trading Consent or s115e permission is granted or renewed the Council will consult with various persons and organisations which may include the following:

- Somerset County Council Highways Authority
- Avon and Somerset Constabulary
- Taunton Deane Borough Council Environmental Health
- Taunton Town Centre Team (for street trading in Town Centre)
- Taunton Deane Borough Council Economic Development Team
- Devon and Somerset Fire Service

If the proposed street trading site is on private land we will require a letter from the land owner giving permission for it to be used for street trading with the application.

The consultation period with the above organisations and persons will be a maximum of 28 days from the date of a complete application being made to the Council.

If an objection is received from any of the above consultees, the Council will attempt to mediate between the parties. If no agreement can be reached the Council would normally refuse to grant the application.

SITE SAFETY ASSESMENT

Street Trading Consents or s115e permissions from static locations will **not** be granted where:

- a) A significant effect on road safety would arise either from the siting of the trading activity itself, or from customers visiting or leaving the site, or
- b) Where there are concerns over the recorded level of personal injury accidents in the locality where the street trading activity will be sited, or
- c) There is a conflict with Traffic Orders such as waiting restrictions, or
- d) The site or pitch obstructs either pedestrian or vehicular access, or traffic flows, or places pedestrians in danger when in use for street trading purposes, or
- e) The trading unit obstructs the safe passage of users of the footway or carriageway, or
- f) The pitch interferes with sight lines for any road users such as at road junctions, or pedestrian crossing facilities, or
- g) The site does not allow the Consent or Licence Holder, staff and customers to park in a safe manner, or
- h) The street trading activity is carried out after dusk and the site is not adequately lit to allow safe access and egress from the site for both customers and staff.

ADDITIONAL REQUIREMENTS

Planning Permission

The issue of any street trading consent or s115e permission in relation to any particular land does NOT constitute the grant of any permission under the Town & Country Planning Act 1990 or any other legislation for the use of the land for that purpose.

Use of the land for trading may, therefore, amount to a material change of use for which planning permission is required notwithstanding that a street trading consent may have been granted.

You should contact the Council's Development Management on 01823 358695 and seek advice as to whether an application for planning permission needs to be made in respect of the proposed use of the land. Planning enforcement action could be taken in situations where planning permission is required but not obtained.

Licensing Act 2003

Under the Licensing Act 2003 a premise licence is required for the following;

- persons selling hot food between the hours of 2300 and 0500 hours
- Selling of alcohol on/off the premise
- regulated entertainment to include; live/recorded music, plays, films, dancing, facilities for
- making music and dancing.

This requirement is in addition to the requirement to hold a Street Trading Consent or s115e permission.

These notes are intended to cover the Street Trading consents and s115e permissions only, and separate application and consultation arrangements are required under the Licensing Act 2003.

Please contact the Licensing Team on 01823 356 343 to obtain further information and advice.

Permits for trading on Taunton Deane Borough Council owned land

Permits for consent must be obtained for any Taunton Deane Borough Council Open Space. Consents for Street Trading/s115e will not be issued without a permit for use being granted and submitted with the application.

REFUSAL OF APPLICATINS

Where the Council refuses an application the applicant will be informed in writing of the reasons for not granting the application.

There is no right of appeal to the Magistrates Court against decisions of the Council in relation to Street Trading Consents under the Local Government (Miscellaneous Provisions) Act 1982.

Where a deposit has been made with an application, 50% of the deposit will be refunded to the applicant in the case of an application not being granted.

FEES

Fees are payable for each unit/site consent and/or s115e permission

If the fee is more than £1,000 annual then 1/12th of the fee must be paid on application. If the fee is under £1,000 annual then the full fee must be made on application.

Fees over £1,000 after application fee can be made by direct debit over the course of the consent/permit period.

Markets must supply the Licensing Department with a monthly list of traders, an invoice will be sent every 3 months based on those numbers for payment.

Street Trading Consents for which fees are not payable

The following Street Trading activities have been deemed by Taunton Deane Borough Council to not require the payment of fees to the Council:

- a) Fetes or community events held for charitable purposes.
- b) Non-Commercial Car Boot Sales (i.e. events organised by organisations that will not involve private gain for an individual or company)
- c) Sales of articles by residential occupiers within the curtilage of their properties, or on land contiguous with it.
- d) Trading Concessions granted by the council on their land (a Street Trading Consent will still be required).
- e) Annual Somerset Carnival procession when in the Borough of Taunton Deane.

Farmers Market/or similar

Farmers Market will be subject to the street trading scheme but at a reduce fee

A full list of fees for trading in Taunton Deane Borough Authority split into Zone 1 and Zone 2 is available on the Taunton Deane Borough Council website
www.tauntondeane.gov.uk/streettrading

CONSENT/PERMISSION LICENSED PERIOD AND RE-APPLICATION

Street trading consents and s115e Permissions are issued for a maximum period of 12 months.

New consents may be issued for a three month trial period to determine if necessary the viability and impact of trading.

Consents for shorter periods may be issued on request but subject to the payment of the appropriate fee determined by the Council.

Should the holder of a consent or permission wish to continue to benefit from it an application to renew the consent or permission must have been submitted to and approved by the Council prior to the expiry of the existing authorisation.

The Council will endeavour to send out a reminder 2 months prior to the consent/permission expiring however the responsibility to ensure applications for renewal are submitted on time lies with the consent or permission holder.

Please remember that applications for renewal will be subject to a consultation period of a maximum of 28 days and deadlines for submission of renewal application should be calculated appropriately.