

# 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- 2.1 The Gambling Act 2005 repealed the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976.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](mailto:licensing@tauntondeane.gov.uk)  
Website: [www.tauntondeane.gov.uk](http://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](mailto: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](mailto:Enquires@culture.gov.uk)  
Website: [www.culture.gov.uk](http://www.culture.gov.uk)

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

# APPENDIX A

## RESPONSIBLE AUTHORITIES DETAILS

<b>RESPONSIBLE AUTHORITY</b>	<b>ADDRESS</b>	<b>TELEPHONE NUMBER</b>
<b>Taunton Deane Borough Council (in the capacity of Licensing Authority)</b>	Licensing The Deane House Belvedere Road Taunton TA1 1HE	01823 356343
<b>Avon and Somerset Constabulary</b>	Liquor Licensing Bureau Avon and Somerset Constabulary PO BOX 2781 BRISTOL BS2 2AS	0117 945 5154
<b>Somerset Fire and Rescue Service</b>	Chief Fire Officer Somerset Command Chiltern House 15-17 Silver Street Taunton TA1 3DH	01823 273020
<b>Taunton Deane Borough Council Environmental Protection Team</b>	The Deane House Belvedere Road Taunton TA1 1HE	01823 356339
<b>Somerset Local Safeguarding Children Board</b>	Somerset Local Safeguarding Children Board County Hall Taunton TA1 4DY	01823 358098
<b>Taunton Deane Borough Council (Planning Department)</b>	Development Control Manager Planning Department The Deane House Belvedere Road Taunton TA1 1HE	01823 356464
<b>Gambling Commission</b>	Victoria Square House Victoria Square Birmingham B2 4BP	0121 230 6500
<b>HM Revenue and Customs</b>	Michael Paul House Corporation Street Taunton TA1 4BZ	0845 010 9000

# APPENDIX B

## TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE OR SUB-COMMITTEE	OFFICERS
Three year licensing policy	✓		
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

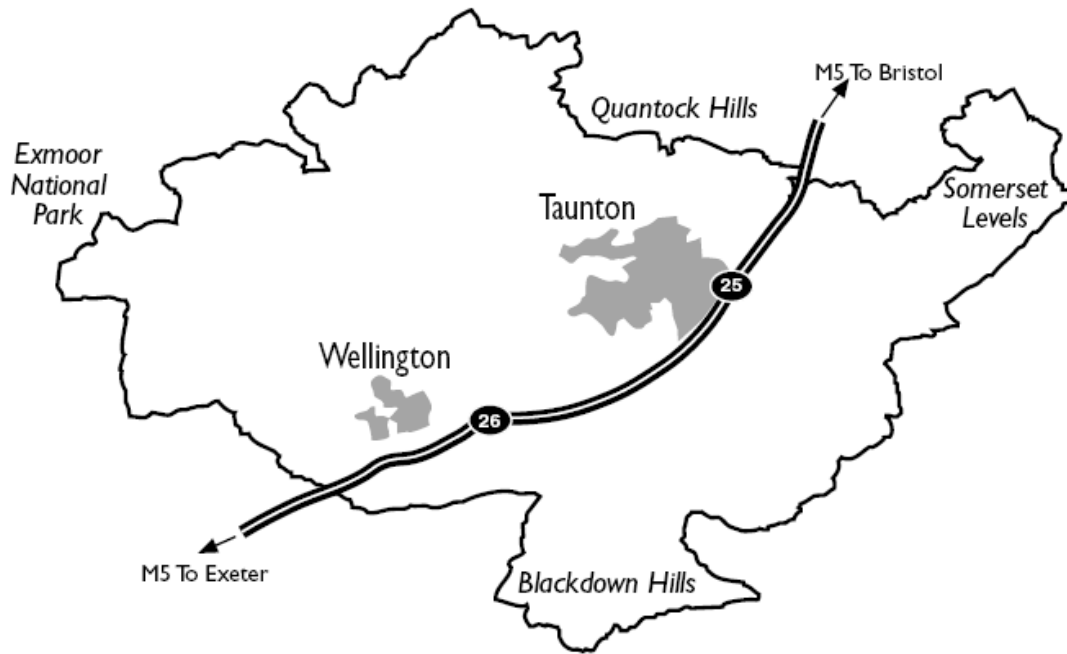
Within this Statement of Policy, the following words and terms are defined as stated:

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 &amp; non-money prize (other than coin pusher or penny falls machines)</p> <p>D combined money &amp; 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 ( <a href="http://www.lacors.gov.uk/">http://www.lacors.gov.uk/</a> )
Licensing Authority	Taunton Deane Borough Council
Mandatory Condition:	A specified condition provided by regulations to be attached to a licence
Notifications:	Notification of temporary and occasional use notices
Premises:	Any place, including a vehicle, vessel or moveable structure
Regulations:	Regulations made under the Gambling Act 2005

# APPENDIX D

## MAP OF TAUNTON DEANE



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