

**To: The Members of the Licensing Committee
(Councillors Jones, Davey, N Dirveiks,
Hanratty, Henney, Ingram, Jarvis, Jenns,
Lewis, Morson, B Moss, Singh, E Stanley,
Watkins and A Wright)**

For the information of other Members of the Council

This document can be made available in large print and electronic accessible formats if requested.

For general enquiries please contact Jenny Price, Democratic Services Officer, on 01827 719450 or via e-mail jennyprice@northwarks.gov.uk.

For enquiries about specific reports please contact the officer named in the reports.

LICENSING COMMITTEE AGENDA

27 JULY 2015

The Licensing Committee will meet in the Council Chamber, The Council House, South Street, Atherstone, Warwickshire on Monday 27 July 2015 at 6.30pm.

AGENDA

PART I - PUBLIC BUSINESS

- 1 Evacuation Procedure**
- 2 Apologies for Absence**
- 3 Disclosable Pecuniary and Non-Pecuniary Interests**

- 4 **Minutes of the meeting of the Committee held on 26 January 2015**
– copy herewith to be approved as a correct record and signed by the Chairman.

5 **Public Participation**

Up to twenty minutes will be set aside for members of the public to ask questions or to put their view to elected Members. Participants are restricted to five minutes each. If you wish to speak at the meeting please contact Jenny Price on 01827 719450 or email democraticservices@northwarks.gov.uk

PART A ITEMS FOR DISCUSSION AND DECISION (WHITE PAPER)

- 6 **Budgetary Control Report 2015 / 2016 - Period Ended 30 June 2015** - Report of the Assistant Director (Finance and Human Resources)

Summary

The report covers revenue expenditure and income for the period from 1 April 2015 to 30 June 2015. The 2015/2016 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Committee.

The Contact Officer for this report is Nigel Lane (719371).

- 7 **Licensing Act 2003 – Review Of Licensing Policy** - Report of the Assistant Chief Executive and Solicitor to the Council

Summary

This report asks the Committee to consider recommending to Council the adoption of a revised licensing policy in respect of the Licensing Act 2003.

The Contact Officer for this report is Stephen Whiles (719326).

- 8 **Gambling Act 2005 – Review Of Gambling Licensing Statement Of Principles** - Report of the Assistant Chief Executive and Solicitor to the Council

Summary

The report asks the Committee to consider putting the draft Statement Of Principles made under the Gambling Act 2005 out to consultation and to receive a further report following the consultation period and then to recommend to Full Council that the final draft policy is adopted as Council policy.

The Contact Officer for this report is Stephen Whiles (719326).

- 9 **The Deregulation Act 2015 and Local Government (Miscellaneous Provisions) Act 1976 – Variation In Fees – Taxi and Private Hire Licensing** - Report of the Assistant Chief Executive and Solicitor to the Council

Summary

The report asks the Committee to consider varying the fees charged by the Council for the issue of Hackney Carriage and Private Hire driver and vehicle licences and Private Hire Operator licences following the changes made by the Deregulation Act 2015.

The Contact Officer for this report is Stephen Whiles (719326).

JERRY HUTCHINSON
Chief Executive

NORTH WARWICKSHIRE BOROUGH COUNCIL

MINUTES OF THE LICENSING COMMITTEE

26 January 2015

Present: Councillor Ferro in the Chair

Councillors Butcher, Freer, Humphreys, Lewis, B Moss, M Moss, Payne, Sherratt, Smith and Wykes

Apologies for absence were received from Councillors Davis (Substitute Councillor Humphreys), A Stanley (Substitute Councillor B Moss) and Y Stanley.

7 **Disclosable Pecuniary and Non-Pecuniary Interests**

None were declared at the meeting.

8 **Minutes**

The minutes of the meeting of the Committee held on 6 October 2014, copies having been previously circulated, were approved as a correct record and signed by the Chairman.

9 **Public Participation**

Kevin Rowland, representing Star Cars and Coaches, spoke in support of the proposal under Minute No 10 to introduce a condition that applicants for a Hackney Carriage or Private Hire Drivers Licence hold a suitable qualification.

10 **Local Government (Miscellaneous Provisions) Act 1976 – Hackney Carriage and Private Hire Drivers' Qualifications**

The Assistant Chief Executive and Solicitor to the Council asked the Committee to consider making it a condition of applicants holding a Hackney Carriage or Private Hire Drivers Licence and that the applicant should hold a suitable qualification.

Consideration was given to objections received from Phil Wagstaff of Triple A Taxis, Atherstone, Angela Reading of Coleshill Cars Ltd and support from Kevin Rowland representing Star Cars and Coaches.

Recommended:

That the Council adopt as policy that all new applicants for Hackney Carriage or Private Hire Drivers Licences must have passed, as a minimum, the DVSA standard taxi driving test or a higher qualification to at least QCF Level 2.

11 Service Plan for the Licensing Section

The Assistant Chief Executive and Solicitor to the Council sought the Committee's approval of the 2015/16 Service Plan for the Licensing Section.

Resolved:

That the Service Plan as set out in the Appendix to the report of the Assistant Chief Executive and Solicitor to the Council, be agreed.

12 General Fund Fees and Charges 2015/2016

The Committee was asked to consider the fees and charges for 2014/15 and the proposed fees and charges for 2015/16.

Resolved:

That the schedule of fees and charges for 2015/16, as set out in the report be accepted.

13 General Fund Revenue Estimates 2015/16

The revised budget for 2014/15 and an estimate of expenditure for 2015/16, together with forward commitments for 2016/17, 2017/18 and 2018/19 were presented to the Committee.

Resolved:

a The revised budget for 2014/15, be accepted; and

Recommendation to Executive Board:

b That the Estimates of Expenditure for 2015/16, as submitted in the report of the Deputy Chief Executive be included in the budget to be brought before the meeting of the Board on 10 February 2015.

14 Licensing Act 2003 – Review of the Licensing Policy

The Committee was asked to consider consulting on a policy in respect of exercising the Council's functions as licensing authority under the Licensing Act 2003.

Recommended:

That the draft Licensing Policy in respect of the Licensing Act 2003 (Appendix A) be put out to consultation and a further

report be put before the Committee following the consultation and that a finalised draft policy be put before Full Council with a recommendation for adoption as Council policy.

Chairman

Agenda Item No 6

Licensing Committee

27 July 2015

Report of the Assistant Director (Finance and Human Resources)

Budgetary Control Report 2015/16 Period Ended 30 June 2015

1 Summary

- 1.1 The report covers revenue expenditure and income for the period from 1 April 2015 to 30 June 2015. The 2015/2016 budget and the actual position for the period, compared with the estimate at that date, are given, together with an estimate of the out-turn position for services reporting to this Committee.

Recommendation to the Committee

That the report be noted.

2 Consultation

- 2.1 Councilors Jones and Lewis have been sent an advanced copy of this report for comment. Any comments received will be reported verbally to the Committee.

3 Report

3.1 Introduction

- 3.1.1 Under the Service Reporting Code of Practice (SeRCOP), services should be charged with the total cost of providing the service, which not only includes costs and income directly incurred, but also support costs relating to such areas as finance, office accommodation, telephone costs and IT services.

4 Overall Position

- 4.1 Net expenditure for services that report to the Licensing Committee as at 30 June 2015 is £6,082 compared with a profiled budgetary position of £6,265; an under spend of £183. Appendix A to this report provides details of the profiled and actual position for each service reporting to this Board, together with the variance for the period.

- 4.2 Where possible, the budget to date figure has been calculated with some allowance for seasonal variations, in order to give a better comparison with actual figures. Reasons for the variations are given, where appropriate, in more detail below.

Licensing Authority

- 4.3 The current underspend of £2,852 is due to additional temporary event licenses and additional Income from Premises Renewal Licenses.

Licenses and Registration

- 4.4 Income from Riding Licenses, Animal Boarding Licenses, Pet Shop Licenses and Street Trading Licenses are all behind profile, some may be due to timing of renewals.

5 Risks to the Budget

- 5.1 The key risk to the budgetary position of the Council from services under the control of this Committee is:
- Fee income – The levels of some licenses, especially those related to alcohol licensing, street trading, pet shops and other commercial enterprises are at risk from a continuing and prolonged downturn in the economy.

6 Estimated Out-turn

- 6.1 Members have requested that Budgetary Control Reports provide details on the likely out-turn position for each of the services reporting to this Board. The anticipated out-turn for this Board for 2015/16 is (£1,750), the same as the original budget.
- 6.2 The figures provided above are based on information available at this time of the year and are the best available estimates for this board, and may change as the financial year progresses. Members will be updated in future reports of any changes to the forecast out turn.

7 Report Implications

7.1 Finance and Value for Money Implications

- 7.1.1 The Council's budgeted contribution from General Fund balances for the 2015/2016 financial year is £594,090. Income and Expenditure will continue to be closely managed and any issues that arise will be reported to this committee for comment.

7.2 Environment and Sustainability Implications

- 7.2.1 The Council has to ensure that it adopts and implements robust and comprehensive budgetary monitoring and control, to ensure not only the availability of services within the current financial year, but in future years.

The Contact Officer for this report is Nigel Lane (719371).

North Warwickshire Borough Council

Licensing Committee

Budgetary Control Report 2015/2016 as at 30 June 2015

Description	Approved Budget 2015/2016	Profiled Budget at 30 June 2015	Actual at 30 June 2015	Variance	Comments
Licensing Authority	2,000	6,055	3,203	(2,852)	Para 4.3
Licences and Registration	3,940	985	3,035	2,050	Para 4.4
Hackney Carriages & Private Hire Vehicles	(820)	(205)	385	590	
Gambling Act Authority	(6,870)	(570)	(540)	30	
Total Expenditure	(1,750)	6,265	6,082	(183)	

Agenda Item No 7

Licensing Committee

27 July 2015

**Report of the
Assistant Chief Executive and
Solicitor to the Council**

**Licensing Act 2003 – Review Of
Licensing Policy**

1 Summary

- 1.1 This report asks the Committee to consider recommending to Council the adoption of a revised licensing policy in respect of the Licensing Act 2003.

Recommendation to the Council

That, subject to the inclusion of the amendments set out in Appendix B, the licensing policy in respect of the Licensing Act 2003 (Appendix A) be adopted as Council policy.

2 Consultation

- 2.1 The Licensing Committee considered the draft policy at its meeting of 26 January 2015 and agreed that the draft policy should be put out for consultation. Some minor amendments have been suggested and these are set out in Appendix B. A wide range of stakeholders have been consulted and any further comments received will be reported verbally at the meeting.

3 Report

- 3.1 Section 5 of the 2003 Act requires a licensing authority to prepare and publish a statement of its licensing policy at least every five years. During the five year period, the policy must be kept under review and the licensing authority may make any revisions to it as it consider appropriate. If the licensing authority determines and publishes its policy in this way, a new five-year period commences on the date it is published.

- 3.2 The Council's current policy is valid until 5 January 2016 and if agreed it is intended that this revised policy will be published in November to come into force on that day and will remain in force for five years until 4 January 2021 subject to review as necessary. This policy has been reviewed in conjunction with the other Warwickshire District Councils and Coventry City Council who will all be adopting similar policies at approximately the same time.

- 3.3 The draft policy is attached (Appendix A) and Members are asked to consider making a recommendation to Council that the draft policy (subject to the

inclusion of the amendments set out in Appendix B) be adopted as Council policy.

4 Report Implications

4.1 Finance and Value for Money Implications

4.1.1 There are no finance or value for money implications contained in the report

4.2 Safer Communities Implications

4.2.1 Having an effective licensing policy will assist the Council in meeting the licensing objectives of the Licensing Act 2005, namely

- The prevention of crime and disorder
- Public safety
- Prevention of public nuisance
- Protection of children from harm

4.3 Legal and Human Rights Implications

4.3.1 There are no material legal implications arising from the adoption of the new policy provided the relevant statutory procedures are followed. The Council would be acting illegally if it did not adopt a policy under the act.

4.4 Environment and Sustainability Implications

4.4.1 There are no adverse environmental implications in the report. The policy will help maintain the quality of the environment by setting out the Council's expectations of licence holders in terms of promoting the licensing objectives.

4.5 Health, Wellbeing and Leisure Implications

4.5.1 Proper regulation of the retail sale of alcohol, regulated entertainment and late night refreshment advances leisure opportunities and promotes culture and tourism whilst protecting health and wellbeing.

4.6 Human Resources Implications

4.6.1 There are no human resource implications contained within the report.

4.7 Risk Management Implications

4.7.1 The Council would be acting illegally if it not have a licensing policy under the Act and it is more likely that it could face legal challenges over its decisions.

4.8 Equalities Implications

4.8.1 There are no negative impacts of opportunity for any known group.

4.9 Links to Council's Priorities

- 4.9.1 - Enhancing community involvement and access to services
- Protecting and improving our environment
- Working with our partners to tackle crime, the fear of crime and anti-social behaviour

The Contact Officer for this report is Stephen Whiles (719326).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date



North Warwickshire
Borough Council

STATEMENT OF LICENSING POLICY

(Required by section 5 of the Licensing Act 2003)

This statement covers the period 5th January 2016 – 4th January 2021, and will be kept under review and revised/amended if considered appropriate, following consultation.

IMPORTANT NOTE

In producing this Statement Of Licensing Policy the Licensing Authority is aware that the Government may amend the Licensing Act 2003, subordinate legislation and statutory guidance

Any such amendments made in the future may not be incorporated into this policy document and readers of this document are advised to check the Home Office/Gov.uk website to ensure they have the latest information

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- 1. Responsible authorities List

STATEMENT OF LICENSING POLICY

1 INTRODUCTION

1.1 North Warwickshire Borough Council ('the Council') has a duty under the terms of the Licensing Act 2003 ('the Act') to carry out its functions as the Licensing Authority with a view to promoting the following licensing objectives:

- **The prevention of crime and disorder**
- **Public safety**
- **The prevention of public nuisance**
- **The protection of children from harm**

1.2 The promotion of these objectives is the paramount consideration when determining an application and any conditions attached to an authorisation.

1.3 With a population of just 62,300, North Warwickshire Borough Council is one of the smaller district councils. The Borough covers an area of 28,418 hectares (110 square miles), comprising the market towns of Atherstone, Coleshill and Polesworth and a number of smaller villages. North Warwickshire's mainly rural area is in contrast to its urban neighbours – Birmingham, Solihull and Tamworth to the west, Nuneaton and Hinckley to the east, and Coventry to the south. The North Warwickshire Sustainable Communities Strategy describes the area as a community of communities.

1.4 This statement of licensing policy relates to all those licensing activities identified as falling within the provisions of the act, namely:

- **The sale by retail of alcohol**
- **The supply of alcohol by clubs**
- **The provision of regulated entertainment**
- **The provision of late night refreshment**

For the purposes of this document any reference to an 'authorisation' means a Premises Licence, Club Premises Certificate, Temporary Event Notice (TEN) and where appropriate to the context a Personal Licence.

1.5 The Council recognises that the licensing function is only one means of promoting delivery of the above objectives and should not therefore be seen as a means for solving all problems within the community. The Council will therefore continue to work with the Responsible Authorities, the North Warwickshire Community Safety Partnership, local businesses and local people to promote the common objectives as outlined. In addition the Council recognises its duty under s.17 of the Crime and Disorder Act 1998 with regard to the prevention of crime and disorder.

- 1.6 This policy statement has been prepared in accordance with the provisions of the Act and the guidance issued under s.182 of the Act. The policy statement is valid for a period of 5 years from 5th January 2016. This policy statement will be subject to review and further consultation prior to any substantial changes
- 1.7 A list of contact details for the Responsible Authorities authorised under the act is attached to this policy statement as Appendix 1
- 1.8 The Council has recognised Warwickshire County Council as the local body competent to advise it on the protection of children from harm and has designated it as a responsible authority for the purposes of s.13 of the Act.
- 1.9 The Licensing Authority will, when acting as a responsible authority, act in accordance with the guidance issued under s.182 of the Act wherever possible. In particular, it will not normally intervene in applications where the issues are within the remit of another responsible authority and will ensure an appropriate separation of responsibilities between the officer administering an application and an officer acting as a responsible authority.

2 CONSULTATION

- 2.1 Before publishing this policy statement the Council has consulted and given proper consideration to the views of the following in line with the statutory guidance
 - The Responsible Authorities
 - Representatives of current licence and certificate holders
 - Representatives of local businesses
 - Representatives of local residents.

3 FUNDAMENTAL RIGHTS

- 3.1 Under the terms of the Act any person may apply for a variety of authorisations and have each application considered on its individual merits. Equally, any person has a right to make relevant representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 3.2 Applicants and those making relevant representations in respect of applications to the Council have a right of appeal to Warwickshire Magistrates' Court against the decisions of the Council

4 LICENSING CONDITIONS

- 4.1 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Act. 'Premises' includes open spaces. Conditions attached to various authorisations will be focused on matters that are within the control of the individual licensees and others in possession of relevant authorisations. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those

premises. If there is an incident or other dispute, the Council will primarily focus on the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in other normal activities in the area concerned.

- 4.2 The Council cannot impose conditions unless it has received a relevant representation.
- 4.3 When considering any conditions, the Council acknowledges that licensing law should not be seen as the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual club or business holding the licence, certificate or authorisation concerned. Nonetheless, it is a key aspect of general control and licensing law will always be part of a holistic approach to the management of the evening and night time economy. For example, applicants should note that stricter conditions to control noise are likely to be imposed in the case of premises situated in largely residential areas.
- 4.4 The Council will not implement standard licensing conditions on licences or other relevant types of authorisation across the board. Therefore, the Council will attach conditions to relevant authorisations which are tailored to the individual style and characteristics of the premises and events concerned and that are appropriate to promote the licensing objectives in the light of any representations received.

5 OPERATING HOURS

- 5.1 The Council welcomes the opportunities afforded to the local economy by the Act and will strive to balance this with the rights of local residents and others who might be adversely affected by licensable activities based on the principles laid down in this document.
- 5.2 When dealing with licensing hours, each application will be dealt with on its individual merits. The Council recognises that longer licensing hours with regard to the sale of alcohol can assist to avoid concentrations of customers leaving premises simultaneously thereby reducing the friction at late night fast food outlets, taxi ranks and other forms of transport which can lead to disorder and disturbance. The Council does not wish to unduly inhibit the development of thriving and safe evening and night time local economies which are important for investment and employment locally and in the main welcomed by residents and visitors to the Borough.
- 5.3 The Council will not set fixed trading hours within designated areas. However, an earlier terminal hour and stricter conditions with regard to noise control than those contained within an application, may be appropriate in residential areas where relevant representations are received and such measures are deemed appropriate to uphold the licensing objectives
- 5.4 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 relevant representations giving good reasons based on the licensing objectives for restricting those hours.

6 LATE NIGHT LEVY AND EARLY MORNING RESTRICTION ORDERS

- 6.1 The Council, having not been presented with any evidence to the contrary, does not consider that the application of a Late Night Levy or Early Morning Restriction Order are appropriate for the Council's area at the present time. The Council will keep these matters under review and accordingly reserves the right, should the need arise, to introduce these measures during the life of this statement of licensing policy.

7 CUMULATIVE IMPACT

- 7.1 For the purposes of this document 'cumulative impact' means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Cumulative impact is a proper matter for the Council to consider in developing its licensing policy. This should not be confused with 'need' which concerns the commercial demand for another particular type of premises. The Government's guidance states that 'need' is not a matter for the Licensing Authority but is a matter for the Planning Authority and the free market.
- 7.2 The Council, not having been presented with any evidence to the contrary, does not consider any area within the Borough to currently have a particular concentration of licensed premises causing a cumulative impact on one or more of the licensing objectives. The Council will keep this matter under review and accordingly reserves the right, should the need arise, to introduce a special policy concerning cumulative impact during the life of this statement of licensing policy.
- 7.3 The absence of a special policy does not prevent any Responsible Authority or any other party from making representations on a new application for the grant of a licence on the grounds that the premises will give rise to negative cumulative impact on one or more of the licensing objectives. The Act allows for such consideration but the individual merits of each application must always be considered.

8 PROMOTION OF THE LICENSING OBJECTIVES

Prevention of Crime and Disorder

- 8.1 Licensed premises, especially those offering late night/early morning entertainment or alcohol and refreshment for large numbers of people, can sometimes be associated with elevated levels of crime and disorder.
- 8.2 The Council expects individual licence/certificate holders, new applicants and temporary event organisers, to regularly review their arrangements in addressing crime and disorder issues pertinent to their particular licensable activities, location and/or premises. Information and advice can be obtained from the Police, business network groups and other sources. The Council also encourages local residents and other businesses to discuss issues of concern directly with individual businesses, or, to contact the Police if they believe that particular licensed premises are failing to promote this objective.
- 8.3 The Council will, through its Community Safety Partnership devise and help deliver strategies to tackle the misuse of alcohol, which has been identified as being a precursor to crime and anti-social behaviour. The Council expects existing licence/certificate holders, new applicants and the organisers of temporary events, to be able to demonstrate the measures they use, or propose to adopt, to prevent and actively discourage the sale/supply of alcohol to children and to individuals who are already drunk.
- 8.4 The risk assessment approach remains fundamental in the operation of all licensed premises. Licence/certificate holders and applicants are strongly recommended to work closely with the Police in particular, in bringing into effect appropriate control measures to overcome established and potential problems. A combination of short and longer term strategies may need to be deployed by holders of authorisations to sustain and promote the prevention of crime and disorder.
- 8.5 The Council will expect new applicants, existing license/certificate holders and organisers of temporary events to adopt recognised good practice in whatever area of operations they are engaged. The Council regards the Police as the primary source of advice in relation to preventing crime and disorder and will normally expect Police advice/recommendations to be followed unless there are good reasons for not doing so.
- 8.6 Queues at late night take-aways can be a source of disorder and applicants for premises licences for this type of premises are expected to address this in their operating schedule.
- 8.7 The Council has specific duties under s.17 of the Crime and Disorder Act 1998 that underpins any control strategy that is employed. The Council will continue to work in partnership with the Police in addressing crime and disorder issues.

- 8.8 The objective of preventing crime and disorder will include the Council taking appropriate decisions and/or imposing appropriate conditions, upon a representation being received containing evidence that a licensed premises has a music policy which might incite violence, crime or disorder or the threat of such against minority groups.
- 8.9 The Council is of the view that generally, in order to promote the licensing objectives, all licensed premises within the Borough are encouraged to be members of the relevant local Pubwatch Scheme, or any similar scheme, where one exists.
- 8.10 The Council and Police have a zero tolerance of drug use in licensed premises but recognise that drug use is not something that is relevant to all licensed premises. However, it is recognised that special conditions may need to be imposed for certain venues to reduce the likelihood of drugs being sold and consumed and to create a safer environment for those who may have taken them.
- 8.11 Once away from licensed premises a minority of consumers may behave badly and unlawfully. There are other mechanisms both within and outside the licensing regime that are available for addressing such issues. The Council will address a number of these issues through the Community Safety Partnership in line with the strategic objectives for crime and disorder reduction and drug and alcohol misuse within the Borough.
- 8.12 In relation to premises seeking or holding a premises licence and where alcohol will be sold under the terms of that licence, the Council expects that (a) any Designated Premises Supervisor (DPS) will have been given sufficient management authority and be able to exercise effective day-to-day control of the premises and (b) authority to make alcohol sales when given by the DPS or any other Personal Licence holder should be clearly evidenced in writing. This is to ensure that premises selling alcohol are properly managed in accordance with the Act and that premises operate in a way that promotes the prevention of crime and disorder. This will also benefit operators themselves through being able to demonstrate a commitment to the proper management of premises, particularly if enforcement action becomes necessary.

Promotion of Public Safety

- 8.13 Public safety is not defined within the act, but the Government guidance advises that it is concerned with the physical safety of people using the premises and not with public health, which is covered by other legislation
- 8.14 Applicants and event organisers will be expected to assess not only the physical environment of the premises or site but also operational practices, in order to protect the safety of members of the public visiting the premises or site, those who are employed in the business, those who are engaged in running an event or anyone else that could be affected by site activities. This assessment would normally take place within a risk assessment framework.

- 8.15 Holders of premises licences and club certificates, or those organising temporary events, should interpret 'public safety' widely to include freedom from danger or harm.
- 8.16 For licensed or certificated premises and for temporary events, public safety must be kept under review and where changes to operational practices/events occur, or the customer profile changes, a review of risk assessments must be undertaken.
- 8.17 Fire safety is governed by the Regulatory Reform (Fire Safety) Order 2005 and is not something with which the Council will normally become involved.

Prevention of Public Nuisance

- 8.18 The Council remains sensitive to the expectations and needs of different parts of the community in respect of leisure and cultural pursuits, and will view applications accordingly. The impact of those activities on people who have to live, work and sleep within the local vicinity of a licensed premises or event will also be considered. If the impact of licensed activities is disproportionate and unreasonable or markedly reduces the amenity value of the area to local people, then the Council will take account of this when exercising its functions.
- 8.19 The Council considers that the potential for public nuisance can be prevented or much reduced by good design and planning during new or ancillary construction works, by the provision of good facilities and effective management. This will require appropriate advice at the planning and development stages of new projects. Applicants should consider carefully the suitability of the premises for the type of activity to be undertaken, particularly in terms of ventilation, noise breakout and noise/vibration transmission to adjoining premises.
- 8.20 Licence holders already in receipt of complaints should seek an early remedy to any confirmed problem. The organisers of temporary events should seek to preempt potential nuisance, especially if complaints have previously arisen at the same venue.
- 8.21 The Council expects holders of authorisations to use risk their assessment and operating schedules to review and, if need be, to make necessary improvements to the premises or to operational practices, in order to prevent public or statutory nuisance.
- 8.22 Any condition imposed by the Council to promote the prevention of public nuisance will focus on measures within the direct control of the holder of an authorisation or the designated premises supervisor.

Protection of Children from Harm

- 8.23 The Act details a number of legal requirements designed to protect children in licensed premises. The Council is concerned to ensure that holders of authorisations, including organisers of temporary events, create safe environments (in terms of physical, moral and psychological welfare) for children who may be on

the premises. Children should be unable to access alcohol or drugs and be subject to an appropriate level of care and supervision at all times.

- 8.24 The Act prohibits children under the age of 16 years old and unaccompanied by an adult, to be present in licensed premises (including premises operating under a TEN) being used primarily or exclusively for consumption of alcohol.
- 8.25 The admission of children to any premises will otherwise normally be left to the discretion of the individual licensee/event organiser, as the Act does not prohibit children from accessing licensed premises. Where children are accompanied and supervised by a responsible adult, additional measures should not normally be necessary. The Council supports the view that children should enjoy access to a range of licensed premises, but cannot impose conditions requiring the admission of children to any premises. The Council will judge the merits of each application before deciding whether or not to impose conditions restricting access by children.
- 8.26 In premises where alcohol is sold or supplied it is a mandatory condition that premises licence holders will operate a 'Proof of Age' scheme. The Council supports the Challenge 25 scheme and where this is not proposed within the operating schedule, alternative and similarly rigorous controls should be detailed.
- 8.27 The Council expects that customers should be confronted by clear and visible signs on the premises that underage drinking constitutes an offence in law and that they may well be required to produce proof of their age to a member of staff. Organisers of temporary events should apply similar safeguards in their undertakings.
- 8.28 Venue operators seeking premises licences and club premises certificates can volunteer prohibitions and restrictions in their operating schedules because their own risk assessments have determined that the presence of children is undesirable or inappropriate. These will become conditions attached to the licence or certificate where no relevant representations are received by the Council.
- 8.29 The Council regards Warwickshire County Council as being the primary source of advice and information on children's welfare and would normally expect any advice/recommendations from the County Council to be followed unless there are good reasons for not doing so. The Council will attach appropriate conditions where these appear necessary to protect children from moral, psychological or physical harm.
- 8.30 In order to prevent children from seeing films incompatible with their age, licence holders who exhibit films will be expected to impose and enforce viewing restrictions in accordance with the recommendations of the British Board of Film Classification.
- 8.31 It is expected that authorisation holders will ensure that, whenever children are in the vicinity of a film or exhibition that is being shown/staged in a multi- purpose premises, sufficient ushers/stewards (minimum 18 years old) will be in attendance

at the entrance the viewing rooms at all times to ensure children cannot enter or view the film or exhibition.

8.32 Children have access to a range of regulated public entertainment venues and may be present as members of a viewing audience or as performers in their own right. The Council expects authorisation holders including those organising temporary events, to make proper provision for child safety and welfare during such events. Notwithstanding public safety issues, supervisory arrangements must be reflected within operating schedules. Suitable monitoring strategies should also be in place to ensure that supervisory levels are appropriate.

8.33 Where a large number of children are likely to be present on any licensed premises, for example, a children's show or pantomime, the Council may require that there is an adequate number of adult staff at places of entertainment to control access and egress of children and to protect them from harm. Children present at events as entertainers will be expected to have a nominated adult responsible for each child performer.

9 MANDATORY LICENSING CONDITIONS

9.1 The Government has introduced a range of mandatory conditions aimed at establishing minimum standards for the way alcohol is sold. The conditions apply to all alcohol retailers.

10 OTHER CONSIDERATIONS

Relationship with Planning

10.1 The planning and licensing regimes involve consideration of different (albeit related) matters. The Council's Licensing Committee and Sub – Committees are not bound by decisions made by the Council's Planning Committee and vice versa.

10.2 The grant of any application or variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control approval where appropriate.

10.3 There are also circumstances when as a condition of planning permission; a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Premises operating in breach of their planning consent would be liable to enforcement action under planning law.

10.4 The Local Planning Authority may also make representations against a licensing application in its capacity as a Responsible Authority, where such representations relate to one or more of the licensing objectives.

Applications

- 10.5 An applicant may apply under the terms of the Act for a variety of authorisations and any such application will be considered on its individual merits. Any person may make representations on an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.
- 10.6 The Council expects each and every applicant for a premises licence, club premises certificate or variation to address how they intend to promote the licensing objectives. Where no information is given by the applicant, there may be circumstances where the Council consider the application to be in-complete and the application returned without further processing.
- 10.7 In determining a licence application the Council will take each application on its merits. Licence conditions will only be imposed following a hearing and in order to promote the licensing objectives and will only relate to matters within the control of the applicant. Licence conditions will not normally be imposed where other regulatory provisions are in force (e.g. planning, health and safety at work, fire safety and building control legislation) so as to avoid confusion and duplication, except where they can be exceptionally justified to promote the licensing objectives.
- 10.8 The Council will impose only such conditions as are proportionate towards promoting the licensing objectives and which do not impose unnecessary burdens and which are appropriate to the individual size, style and characteristics of the premises and events concerned.
- 10.9 In considering applications, the council will primarily focus on the direct impact of activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The Council recognises that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and, therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 10.10 Conditions include any limitations or restrictions attached to a licence, certificate or other authorisation and essentially are the steps or actions the holder of the authorisation will be required to take or refrain from taking at all times when licensable activities are taking place at the premises in question.

Live Music Act

- 10.11 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of live music. The Act removed live music from the scope of licensing authority control subject to certain criteria. However control may be added or reinstated at a review hearing, where the way live music has been provided has undermined the licensing objectives.

11 Best Practice Schemes

- 11.1 The Council supports best practice schemes for licensed premises. Premises in an area covered by a scheme are encouraged to become members of the scheme.

12 INTEGRATING STRATEGIES AND THE AVOIDANCE OF DUPLICATION

- 12.1 By consulting widely prior to this policy statement, the Council has taken full account of local policies covering crime prevention, anti-social behaviour, culture, transport, planning and tourism as part of an integrated strategy for the Council, Police and other agencies. Many of these strategies may not be directly related to the promotion of the licensing objectives, but indirectly impact upon them.

- 12.2 There are a number of wider issues which may need to be given due consideration when dealing with applications. The Council's Licensing Committee can request reports, where it thinks it is appropriate on the following areas:-

- The needs of the local tourist economy, to ensure that these are reflected in their considerations;
- The employment situation and the need for new investment and employment where appropriate; and
- The general impact of alcohol related crime and disorder.

Crime Prevention Strategies

- 12.3 Crime prevention and drug and alcohol misuse policies and the input of the North Warwickshire Community Safety Partnership (NWCSP) will be reflected in licence conditions as far as possible.

- 12.4 The NWCSP is committed to making North Warwickshire a safe place in which to live work and visit. It is the role of the NWCSP to strategically plan, commission and oversee services that tackle crime and disorder and address drug and alcohol misuse.

Duplication

- 12.5 When considering any application the Council will avoid duplication with other regulatory regimes as far as possible. Therefore the Council will not attach conditions to a licence in relation to a matter covered by another regulatory regime unless going beyond such a regime is considered appropriate for the promotion of the licensing objectives in the particular circumstances.

Promotion of Equality

- 12.6 The Council in carrying out its functions under the Act is obliged to have 'due regard' to the need to eliminate unlawful discrimination, harassment and victimisation, to advance equality of opportunity and to foster good relations between persons with different protected characteristics. The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and

sexual orientation. The Government guidance advises that conditions should not be attached to authorisations which would duplicate existing statutory requirements. The Council therefore takes this opportunity to remind operators of premises of their duties towards disabled persons (including performers) on their premises under the Building Regulations and the Equalities Act 2010. This includes a duty that any person who provides a service to the public must make reasonable adjustments to any physical feature that makes it impossible or unreasonably difficult for a disabled person to access a service, or to provide the services by a reasonable alternative means.

13 ENFORCEMENT

- 13.1 The Council has an established working relationship with the Police and other responsible authorities on enforcement issues through the North Warwickshire Multi Agency Licensing Enforcement Meeting. This provides a more efficient deployment of resources targeting high risk premises and activities.
- 13.1 This enforcement regime follows the Government's Regulators' Code in that it follows the basic principles of openness, helpfulness, proportionality and consistency. The Council has a separate enforcement policy in respect of licensing.
- 13.2 Licensed premises are visited by the Responsible Authorities and the Licensing Authority to carry out targeted inspections to check that the premises licence/certificate is being complied with, to check compliance with other legislation and/or deal with complaints that have been received.
- 13.3 On some occasions a multi-agency group (representing a number of Responsible Authorities) will visit premises. The officers will check the premises/activities relevant to their particular role.
- 13.4 There are several enforcement options that will be used as appropriate and in line with the Council's licensing enforcement policy. These options include:
- Verbal advice – this covers minor complaints/infringements where advice is seen as the most appropriate way to deal with the issue.
 - Written warning – this is a step-up from verbal advice and holders of authorisations are given a letter recording the warning given and containing the details of any necessary remedial action.
 - Action planning – this plan will be written down and given to the holder of the authorisation and designated premises Supervisor. It explains what actions are required, within a timescale, for compliance with the licensing objectives, specific legislation or conditions. It will be regularly reviewed and if compliance has been achieved it will be terminated. If areas of non-compliance remain a more formal enforcement option further up the scale may be selected in order to achieve compliance.
 - Review – any person may call a review of a licensed premises where there is evidence that the licensing objectives are not being promoted. The holder of

the authorisation will have to attend a review hearing in front of the Licensing Sub Committee who may decide, based on the evidence submitted to them, to take no action, to remove the DPS, to revoke, suspend, or amend the licence or apply additional conditions.

- Prosecution – Under the Licensing Act 2003 certain offences can be prosecuted by the Licensing Authority/Director Of public Prosecutions/Weights and Measures Authority (Trading Standards). In addition, Responsible Authorities have a wide range of powers to institute. Prosecution under other specific legislation.
- Closure – several of the Responsible Authorities have the power to close licensed premises if they deem it necessary. The licensing Authority also has powers to request closure through the Magistrates court for continuing unauthorised alcohol sales.

14 ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

Licensing Committee

- 14.1 The powers given to the Council by the Act may be carried out by the Licensing Committee, by a sub-committee of the Licensing Committee or by one or more Council Officers acting under delegated authority
- 14.2 It is considered that many of the decisions and functions will be purely administrative in nature. In the interests of speed, efficiency and cost effectiveness, the Licensing Committee may delegate these functions to sub-committees, or in appropriate cases to Officers supporting the licensing function.
- 14.3 Where under the provisions of the Act there are no relevant representations about an application, these matters will be dealt with by Officers. Should there be relevant representations then an oral hearing will usually take place before a licensing sub-committee except where all parties agree to proceed in writing. A licence/certificate review will normally take place before a licensing sub-committee. The following table sets out the delegation of functions:

Matters To Be Dealt With	Full Committee	Sub Committee	Officers
Application For Personal Licence		If a Police objection	If no objection made
Application For Personal Licence With Unspent Convictions		All cases	
Application For Premises Licence/Club Premises Certificate		If relevant representations made	If no relevant representations made

Application For Provisional Statement		If relevant representations made	If no relevant representations made
Application to vary premises licence/club premises certificate		If relevant representations made	If no relevant representations made
Application To Vary Designated Premises Supervisor		If a Police objection	All other cases
Request To Be Removed As Designated Premises Supervisor			All cases
Application For Transfer Of Premises Licence		If a Police objection	All other cases
Application For interim Authorities		If a Police objection	All other cases
Application To review Premises Licence/Club Premises Certificate		All cases	
Decision On Whether A Complaint Is Irrelevant, Frivolous, Vexatious etc.			All cases
Decision To Object When Local Authority Is A Consultee And Not The Relevant Authority Considering The Application		All cases	
Determination Of A Police/Environmental Health Objection To A Temporary Event Notice		All cases	
Removal Of The Requirement For A Designated Premises Supervisor At Community Premises		If a Police objection	All other cases
Decision whether To			All cases

Consult Responsible On Application	Other Authorities Minor Variation			
Determination Of Variation Application				All cases

14.4 Application forms And Process

All application forms will be in the prescribed format. The operating schedule will form part of the completed application form for a premises licence and a club premises certificate. The applicant will have to detail the steps that will be taken to promote the licensing objectives. Applicants should carry out a risk assessment before they apply for a licence.

14.5 Applicants are encouraged to fully consult the police and other statutory services well in advance of carrying out their risk assessments and submitting their applications. Application forms and guidance leaflets will be available from the Council, including contact names for each of the responsible authorities. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.

14.6 Where national guidance permits, on line applications will be accepted providing the necessary documentary attachments are uploaded into the application and the appropriate fee paid.

14.7 Applicants are encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies and local crime, alcohol, drug and disorder strategies in order to take these into account, where appropriate, when formulating their operating schedule.

15 COMMENTS ON THIS POLICY

15.1 The statement of licensing policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

North Warwickshire Borough Council, Licensing, Council Offices, South Street, Atherstone CV9 1DE

Telephone: 01827 715341

Fax: 01827 719399

Email: licensing@northwarks.gov.uk

Website: www.northwarks.gov.uk

APPENDIX 1 - LIST OF RESPONSIBLE AUTHORITIES

North Warwickshire Borough Council (Planning)

Head of Development Control

North Warwickshire Borough Council

The Council House

South Street

Atherstone

CV9 1DE

☐ 01827 715341

☐ planningcontrol@northwarks.gov.uk

North Warwickshire Borough Council (Licensing)

North Warwickshire Borough Council

The Council House

South Street

Atherstone

CV9 1DE

Licensing Officer

☐ 01827 719482

☐ licensing@northwarks.gov.uk

National Health Service/Public Health

Public Health Department (Licensing)

NHS Warwickshire/Warwickshire County Council

PO BOX 43

Shire Hall

Warwick

CV34 4SX

☐ phadmin@warwickshire.gov.uk

Police

Harm Reduction Hub (Police)

Licensing Administrator

Warwickshire Justice Centre

Vicarage Street

Nuneaton

CV11 4DW

Licensing Unit

☐ 02476 483018

☐ liquor.licensing@warwickshire.pnn.police.uk

Fire Authority

County Fire Officer

Warwickshire Fire and Rescue Service

Fire Station

Warwick Street

Leamington Spa

CV32 5LH

☐ 01926 410800

☐ firesafety@warwickshire.gov.uk

Warwickshire County Council (Protection of Children)

Strategic Commissioning

People Group

Building 2, Saltisford Office Park

Ansell Way

Warwick

CV34 4UL

☐ 01926 731139

☐ mactenders@warwickshire.gov.uk

Warwickshire County Council (Trading Standards)

Head of Trading Standards

Trading Standards Service

Old Budbrooke Road

Warwick

CV35 7DP

☐ 01926 414040

tslicensing@warwickshire.gov.uk

North Warwickshire Borough Council (Health and Safety Team)

Environmental Health Division

North Warwickshire Borough Council

The Council House

South Street

Atherstone

CV9 1DE

Senior Environmental Health Officer

☐ 01827 719304

☐ healthandsafety@northwarks.gov.uk

North Warwickshire Borough Council (Noise and Nuisance)

Environmental Health Division

North Warwickshire Borough Council

The Council House

South Street

Atherstone

CV9 1DE

Senior Pollution Control Officer

☐ 01827 719330

☐ environmentalhealth@northwarks.gov.uk

Additions to the policy suggested by Public Health Warwickshire during the consultation period

Add the following paragraphs:

Public Health as a Responsible Authority

1.10 There is not a specific licensing objective related directly to health within the current legislation. When making a representation, the Director of Public Health will be required to relate such representations and available data to the other licensing objectives. This may include under age drinking, prevention of accidents, injuries and other immediate harms that can result from alcohol consumption, such as unconsciousness, alcohol poisoning and attendance at A & E.

1.11 Health bodies hold valuable information which may not be recorded by other agencies, including analysis of data on attendance at emergency departments and the use of ambulance services following alcohol related incidents. Sometimes it may be possible to link ambulance callouts and attendance to irresponsible practices at specific premises. Anonymised data can be collated about incidents relating to specific premises and presented to Licensing Sub-Committees when representations are made.

Amend the second sentence of 8.2 to read:

The Council also encourages local residents and other businesses, where appropriate, to discuss issues of concern directly with individual businesses, or, to contact the Police or the Licensing Authority if they believe that particular licensed premises are failing to promote this objective.

Add the following sentence to the end of 10.5

Representations should be made directly to the Licensing Authority by writing to North Warwickshire Borough Council, South Street, Atherstone CV9 1DE or licensing@northwarks.gov.uk

Add the following bullet point to 12.2:

The general impact of alcohol related harms to health.

Agenda Item No 8

Licensing Committee

27 July 2015

**Report of the
Assistant Chief Executive and
Solicitor to the Council**

**Gambling Act 2005 – Review Of
Gambling Licensing Statement Of
Principles**

1 Summary

- 1.1 The report asks the Committee to consider putting the draft Statement Of Principles made under the Gambling Act 2005 out to consultation and to receive a further report following the consultation period and then to recommend to Full Council that the final draft policy is adopted as Council policy.

Recommendation to the Committee

That the draft Gambling Licensing Statement Of Principles (Appendix A) be put out to consultation and a further report be brought before the Committee following the consultation and that a finalised draft policy be put before Council with a recommendation for adoption as Council policy.

2 Consultation

- 2.1 To allow a full period of consultation, it is proposed that all Councillors and other stakeholders (listed in the policy) will be sent a copy of the policy for comment. Any comments received will be reported at the next meeting of the Licensing Committee. Councillors Jones and Lewis have been sent an advanced copy of this report for comment. Any comments received will be reported verbally at the meeting.

3 Report

- 3.1 Section 349 of the Gambling Act 2005 (the Act) requires all licensing authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act.
- 3.2 The Licensing Authority Statement of Policy lasts for a maximum of three years at which time it must be reviewed and after consultation the revised statement must be published.
- 3.3 This Authority published its first policy statement in January 2007. This was reviewed and further policies published in January 2010 and January 2013. It is proposed, subject to Members approval, to publish this policy on 2 January 2016, coming into effect on 31 January 2016

3.4 This policy has been reviewed in conjunction with the other Warwickshire District Councils and Coventry City Council who will all be adopting similar policies at approximately the same time. The new policy does not differ from the previous one to any material extent, only minor updating having been carried out.

... 3.5 A draft policy is attached (Appendix A) and Members are asked to consider consulting stakeholders on this policy and to consider any comments received at a further meeting following the consultation where a final draft policy may be agreed for approval by Council as Council policy.

4 Report Implications

4.1 Finance and Value for Money Implications

4.1.1 There are no finance or value for money implications contained in the report

4.2 Safer Communities Implications

4.2.1 Having an effective gambling policy will assist the Council in meeting the licensing objectives of the Gambling Act 2005, namely;

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

4.3 Legal and Human Rights Implications

4.3.1 There are no material legal implications arising from the adoption of the new policy provided the relevant statutory procedures are followed. The Council would be acting illegally if it did not adopt a policy under the Act.

4.4 Environment and Sustainability Implications

4.4.1 There are no adverse environmental implications in the report. The policy will help maintain the quality of the environment by setting out the Council's expectations of licence holders in terms of promoting the licensing objectives.

4.5 Health, Wellbeing and Leisure Implications

4.5.1 Proper regulation of gambling advances leisure opportunities whilst protecting health and wellbeing.

4.6 Human Resources Implications

4.6.1 There are no human resource implications contained within the report.

4.7 Risk Management Implications

4.7.1 There is a risk that if the Council does not adopt this policy it is more likely that it could face legal challenges over its decisions.

4.8 Equalities Implications

4.8.1 There are no negative impacts of opportunity for any known group.

4.9 Links to Council's Priorities

- 4.9.1
- Enhancing community involvement and access to services
 - Protecting and improving our environment
 - Working with our partners to tackle crime, the fear of crime and anti-social behaviour

The Contact Officer for this report is Stephen Whiles (719326).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date



North Warwickshire
Borough Council

Gambling Act 2005

**DRAFT
Gambling
Policy
2016/2019**

GAMBLING ACT 2005
GAMBLING POLICY
STATEMENT OF PRINCIPLES

1. Introduction

1.1 North Warwickshire Borough Council, as the Licensing Authority (referred to in this Statement as the Authority), makes this Statement of Principles in pursuance of its powers and duties under Section 349 of the Gambling Act 2005 (referred to in this Statement as “the Act”) and sets out the Authority’s approach in dealing with its responsibilities under the Act.

1.2 North Warwickshire Borough is a largely rural area surrounded by large urban areas such as Birmingham, Coventry and Nuneaton. It covers 128 hectares with a population of 62,000 people. There are four main centres of population – the towns of Atherstone and Coleshill and the large villages of Polesworth and Kingsbury and smaller settlements in nineteen parishes.

1.3 List of Consultees

The Authority has consulted the following on the content of this Statement of Principles:-

- Responsible Authorities
- Holders of existing licences, permits and registrations
- Councillors and Parish Councils
- Representatives of businesses
- Representatives of persons carrying on gambling businesses in North Warwickshire
- Local bodies representing consumers and tourism
- Local bodies representing vulnerable persons
- Departments within the Council with an interest in the licensing of gambling

1.4 In preparing this statement, the Authority has had regard to the provisions of the Act, the Guidance issued by the Gambling Commission, Regulations made by the Secretary of State and responses to its consultations.

2. Gambling Act 2005

2.1 The Act specifies licensing objectives which are central to the regulatory regime, these are:-

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

2.2 In carrying out the licensing function under the Act the Authority will aim to permit the use of premises for gambling as long as it is considered to be :-

- **in accordance with any relevant Codes of Practice issued by the Gambling Commission;**

- **in accordance with any relevant Guidance issued by the Gambling Commission;**
- **in accordance with this Statement of Principles; and**
- **reasonably consistent with the licensing objectives.**

2.3 The Act provides for 3 categories of licence :

- operating licences;
- personal licences; and
- premises licences

2.4 The Authority will be responsible for issuing premises licences. The Gambling Commission will be responsible for issuing operating and personal licences.

2.5 This statement will come into force on 31st January 2016 and will have effect until 30th January 2019 being kept under review and revised or amended as required following consultation.

3. Authorised Activities

3.1 'Gambling' is defined in the Act as either gaming, betting, or taking part in a lottery.

- gaming means playing a game of chance for a prize;
- betting means making or accepting a bet on the outcome of a race, competition, or any other event, the likelihood of anything occurring or not occurring; or whether anything is true or not;
- a lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance.

3.2 The main functions of the Licensing Authority are to:

- licence premises for gambling activities;
- grant permits for gambling and gaming machines in clubs;
- regulate gaming and gaming machines in alcohol licensed premises;
- grant permits to family entertainment centres for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider notices given for the temporary use of premises for gaming;
- receive occasional use notices for betting at tracks; and
- register small societies lotteries;

3.3 Spread betting is regulated by the Financial Services Authority.
Remote Gambling is dealt with by the Gambling Commission.
The National Lottery is regulated by Gambling Commission.

4. General Statement of Principles

4.1 The Authority recognises the wide variety of premises which will require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs, amusement arcades and racing tracks.

4.2 In carrying out its licensing functions the Authority will have regard to guidance issued by the Gambling Commission.

- 4.3 The Authority will not seek to use the Act to resolve matters more readily dealt with under other legislation. This statement of principles will avoid duplication with other regulatory regimes wherever possible. In considering applications, and taking enforcement action, under the Gambling Act the Licensing Authority will have regard to the provisions of the Human Rights Act.
- 4.4 To ensure the licensing objectives are met the Authority will establish a close working relationship with the police, the Gambling Commission and other responsible authorities.
- 4.5 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to local authorities. However, the overriding principle is that each application and the circumstances prevailing at each premises will be considered on their own individual merits.

5. Preventing gambling from being a source of crime and disorder; being associated with crime and disorder or being used to support crime

- 5.1 The Gambling Commission will play a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling, or being associated with providing such facilities.
- 5.2 When applying to the Authority for a premises licence the applicant will have to hold an operating licence from the Commission before a licence can be issued so the Authority will not be concerned with the suitability of the applicant. Where concerns about a person's suitability arise the Authority will bring those concerns to the attention of the Commission. The Authority will have to be satisfied that the premises will not adversely affect the licensing objective and is compliant with the Commission's Guidance, codes of practice and this gambling policy.
- 5.3 The Authority will expect the applicant to have a good understanding of the local area in which they either operate, or intend to operate. The applicant will have to provide evidence that they meet the criteria set out in the policy and demonstrate that in operating the premises they will promote this objective. Operators need to be aware of how the operation of their premises may impact on this objective. The Authority will expect the applicants to provide details as to their crime prevention measures and any risk assessments that they have carried out.
- 5.4 To prevent gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime, the Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews.

Criteria:

Whether the premises make or will make a contribution to the levels of crime and disorder and whether the applicant has demonstrated that he has, or intends to, implement sufficient controls to prevent the premises being a source of, and/or associated with crime or disorder, or being used to support crime, if the application is granted.

Considerations:

- Where an area is known for high levels of crime the Authority will consider carefully whether gambling premises are suitable to be located there, and whether additional conditions may be necessary, such as the provision of CCTV, minimum levels of staffing and licensed door supervisors.
- Whether there is a history of crime or disorder associated with the premises or its use by those involved in crime to associate or dispose of the proceeds of crime.
- Whether the layout, lighting and fitting out of the premises have been designed so as to minimise conflict and opportunities for crime and disorder.
- Whether sufficient management measures are proposed or are in place to prevent the premises being a source of, or associated with crime or disorder, or used to support crime either as a place of association or to avoid being apprehended.
- The Licensing Authority will also consider the location of the premises in the context of this licensing objective. If an application is received in relation to premises that are in an area noted for particular problems with organised crime or a premises that have previously been a focus for antisocial behaviour, the Licensing Authority will expect applicants to demonstrate that they have sufficient measures in place to prevent or deter people involved from using their premises and will also consider conditions being put on the licence to promote this licensing objective.
- Whilst issues of nuisance are not included specifically in the gambling objectives and cannot be addressed via the Gambling Act, the Authority may consider, when making decisions on the applications for premises licences, that extreme instances of public nuisance and/or persistent public nuisance may constitute disorder and/or crime for the purposes of this objective.

6. Ensure Gambling is conducted in a fair and open way

- 6.1 Generally the Commission would not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for either the management of the gambling business, and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence.
- 6.2 In relation to the licensing of tracks the Licensing Authority's role will be different from other premises in that track operators will not necessarily have an operating licence. In those circumstances the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

Criteria:

Whether the premises will operate measures that will ensure that the gambling activity is conducted in a fair and open way.

Considerations:

- Whether the layout, lighting and fitting out of the premises have been designed so as to ensure gambling is conducted in a fair and open way.
- Whether sufficient management measures are proposed or are in place to ensure that gambling is conducted in a fair and open way.
- Whether the management and operation of the premises is open and transparent.
- Whether the operators of the premises have been or will be fully cooperative with enforcement agencies.
- Whether the Commission's Codes of Practice have been complied with.

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

7.1 The Gambling Commission's Guidance states that one of the aims of this objective means preventing children from taking part in gambling (as well as restricting advertising so that gambling products are not aimed at or are, particularly attractive to children).

7.2 The Act and Gambling Commission Guidance does not define the term "vulnerable". For regulatory purposes and the Commission states that it assumes "vulnerable persons" includes:

- people who gamble more than they want to;
- people who are gambling beyond their means; and
- people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

This is the definition the Licensing Authority will use in its consideration of applications.

7.3 This Licensing Authority will pay particular attention to any codes of practice, which the Gambling Commission issues in relation to specific premises. It will consider this licensing objective on a case-by-case basis, and where necessary add conditions to promote this objective.

7.4 To protect children and other vulnerable persons from being harmed or exploited by gambling, the Licensing Authority will apply the following criteria and take into account the following considerations, where relevant, in determining applications and reviews.

Criteria:

Whether there are appropriate measures in place to protect children and other vulnerable persons from being harmed or exploited by gambling.

Considerations:

- Whether the operator has a specific training programme for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to promote this objective to exclude them from the premises or parts of the premises.
- If the premises is an adult only environment, whether the operator has taken effective measures to implement an appropriate proof of age scheme to ensure that no one under the age of 18 is admitted to the premises or restricted areas.
- Whether there is provision for self-barring schemes and provision of information leaflets/helpline numbers for organisations such as GamCare
- Whether the layout, lighting and fitting out of the premises have been designed so as to not attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling.
- Whether any promotional material associated with the premises could encourage the use of the premises by children or young people.
- The Licensing Authority will also consider the location of the premises in the context of this licensing objective. If an application for a gambling premises is received for a location within a sensitive area or in close proximity to what are considered to be sensitive areas the Licensing Authority will expect applicants to demonstrate that they have sufficient and suitable control measures in place to promote this licensing objective.

8. Premises Licences

8.1 Section 150 of the Act permits the issue of premises licences authorising the provision of facilities at the following:-:

- casino premises;
- bingo premises;
- betting premises, including tracks and premises used by betting intermediaries;

- adult gaming centres;
- family entertainment centres;

- 8.2 Premises can be 'any place' but the Act prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can be genuinely regarded as being different 'premises'.
- 8.3 A particular requirement might be for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of the premises is not compromised and that people are not allowed to 'drift' accidentally into a gambling area.
- 8.4 Where the Authority has concerns about the use of premises for gambling it will seek to address this through licence conditions wherever possible.
- 8.5 Other than an application for a betting premises licence in respect of a track, the Authority is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.
- 8.6 When considering applications for premises licences the Authority will not take into consideration either the expected 'demand' for facilities or the likelihood of planning permission being granted.
- 8.7 The Authority will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

9. Location

- 9.1 This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises. However, it considers that the location of gambling premises can be a major factor on the promotion of the licensing objectives. The authority will pay particular attention to the suitability of a location for gambling activity in terms of the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 9.2 Applicants will have to clearly show that they have considered the potential impact of their proposed business on the licensing objectives and provide information on how they plan to reduce or remove any likely adverse impact on them. The supporting information may contain the following information:
- how the premises will restrict access to children, young people or other vulnerable persons,
 - whether a proof of age scheme is being used,
 - will the appropriate number of security staff be employed at appropriate times ,
 - will opening times be set so that the premises are not open during school start and finish times,
 - what procedures and staff training are in place to identify vulnerable persons such as problem gamblers, those who are inebriated through drink or drugs, etc,

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

- 9.3 The Licensing Authority will consider proposals for new gambling premises that are in close proximity to hostels or other accommodation or centres catering for vulnerable people, including those with mental disabilities or learning difficulties, and those with problem gambling or with alcohol or drug abuse problems, as very likely to adversely affect the gambling objectives.
- 9.4 It should be noted that each application will be decided on its own merits, but the onus will be upon the applicant to show how the potential concerns can be overcome.

10. Primary Activity

- 10.1 The primary activity of each premises licence type is specified on the premises licence when it is issued. The Licensing Authority will take decisions in accordance with the Commission's guidance and codes of practice on primary gambling activity, and will have regard to the advice which it issues from time to time. Applicants are expected to operate premises in line with the Commission's Guidance and conditions on their operators licence. The Authority will monitor the operation of premises and report any potential breach of operating licence conditions to the Commission. Applications for new premises licences, or to vary an existing licence, will be expected to be clear that the premises are intended to be used for the primary gambling activity proposed.
- 10.2 It should be noted that the Act does not permit a premises to be licensed for more than one gambling activity.

11. Responsible Authorities

- 11.1 These are generally public bodies that must be notified of all applications and who are entitled to make representations to the Authority if they are relevant to the licensing objectives.
- 11.2 Section 157 of the Act identifies the bodies that are to be treated as responsible authorities. In relation to the Authority's area, these are:
- The Licensing Authority itself
 - The Gambling Commission;
 - The chief officer of police/chief constable for the area in which the premises is wholly or partially situated
 - The fire and rescue authority for the same area
 - The local planning authority;
 - An authority with functions in relation to pollution of the environment or harm to human health
 - A body designated in writing by the Licensing Authority as competent to advise about the protection of children from harm (see paragraphs 11.3 and 11.4 set out below)
 - HM Revenue & Customs; and
 - Any other person prescribed in regulations by the Secretary of State.

Section 211(4) provides that in relation to a vessel, but no other premises, responsible authorities also include navigation authorities within the meaning of section 221(1) of the Water Resources Act 1991 that have statutory functions in

relation to the waters where the vessel is usually moored or berthed or any waters where it is proposed to be navigated at a time when it is to be used for licensable activities.

11.3 The Authority is required to set out the principles to be applied in exercising its powers to designate, in writing, a body which is competent to advise about the protection of children from harm. The principles applied in designating such a body are:

- the body must be responsible for covering the whole of the Authority's area: and
- the body should be answerable to democratically elected persons rather than any particular vested interest groups etc.

11.4 Details of the body designated for North Warwickshire Borough Council, is Warwickshire County Council (Protection Of Children). Details of this and all other responsible authorities are available on www.northwarks.gov.uk or in printed form available from the Authority.

12. Interested Parties

12.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence based on the principles detailed in section 2 of this policy statement.

An interested party is someone who:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons in either of the two groups above

12.2 The principles the Licensing Authority will apply to determine whether a person is an interested party are:

- Interested parties could include trade associations and trade unions, and residents' and tenants' associations. 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 e.g. lives sufficiently close to the premises or has business interests likely to be affected by the activities being applied for.
- 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. Other than these persons, this authority will require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 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.

- 12.3 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 or in any other way have a personal interest that would preclude them from participating in a hearing. If there are any doubts then please contact the licensing team.
- 12.4 It should be noted that, unlike the Licensing Act, the Gambling Act does not include as a specific licensing objective the prevention of public nuisance. There is however other relevant legislation which deals with public nuisance.

13. Representations

- 13.1 The Authority is obliged to consider representations from 'responsible authorities' and 'interested parties' and must determine whether or not representations are admissible. A representation is inadmissible if not made by a responsible authority or an interested party.
- 13.2 The only representations likely to be relevant are those that relate to the licensing objectives, or that raise issues under this statement or the Commissions guidance or codes of practice. The Authority must determine the relevance of the representation.
- 13.3 Any concerns that responsible authorities have in relation to their own functions cannot be taken into account if they are not relevant to the application for a premises licence and the licensing objectives.
- 13.4 The Authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case but before coming to a decision the Authority may consider the following:
- who is making the representation and whether there is a history of making representations that are not relevant;
 - whether it raises a 'relevant' issue or not; or
 - whether it raises issues specifically to do with the premises which are the subject of the application.

14. Conditions of Licence

- 14.1 Conditions imposed by the Authority may be general in nature by applying to all licences, or those of a particular type, or they may be specific to a particular licence.
- 14.2 The Authority will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.
- 14.3 Any conditions imposed by the Authority will be proportionate to the circumstances they are intended to address. In particular, the Authority will ensure that any conditions are:
- relevant to the need to make the premises suitable as a gambling facility;

- directly related to the premises and the type of licence applied for;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects
- decided on a case by case basis

14.4 The Authority will not consider imposing conditions:

- which make it impossible to comply with an operating licence condition imposed by the Gambling Commission;
- relating to gaming machine categories, numbers or method of operation;
- which specify that membership of a club or other body is required; and
- in relation to stakes, fees, winnings or prizes.

15. Casinos

15.1 The Authority has already considered its position under Section 166 of the Gambling Act 2005 regarding the application for a casino and has passed a 'no casino' resolution.

16. Betting Machines in Betting Premises

16.1 The Authority is aware of its power to restrict the number of betting machines, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence.

16.2 In the event that the Authority considers whether to impose such a condition on any particular licence it may, among other things, 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.

17. Bingo

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

17.2 Section 172(7) of the Act provides that the holder of bingo premises licences may make available for use a number of category B gaming machines for use on the premises.

17.3 This Authority also notes the Commissions Guidance in the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted. It is not permissible for all of the gaming machines to which each of the licenses brings an entitlement to be grouped together within one of the licensed premises.

17.4 New rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners welfare institutes. Where the level of bingo played in these premises, under the exempt gaming allowances, reaches a certain threshold, it will no longer be authorised by these allowances, and a bingo operating licence will be required by the commission.

- 17.5 The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.
- 17.6 Commercial bingo halls will require a bingo premises licence from the Council
- 17.7 Children and young people are allowed into bingo premises, however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed, local authorities will 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.

18.0 Tracks

- 18.1 Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'. A track is a site where races or other sporting events take place.
- 18.2 Track operators are not required to hold an 'operators licence' granted by the Gambling Commission. Therefore, premises licences for tracks, issued by the Council are likely to contain requirements for premises licence holders about their responsibilities in relation to the proper conduct of betting. Indeed, track operators will have an important role to play, for example in ensuring that betting areas are properly administered and supervised.
- 18.3 Although there will, primarily be a betting premises licence for the track there may be a number of subsidiary licences authorising other gambling activities to take place. Unlike betting offices, a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.
- 18.4 When considering whether to exercise its power to restrict the number of betting machines at a track the Authority will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

19. Temporary Use Notices

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

- 19.2 The Licensing Authority can only accept a Temporary Use Notice from a person or company holding a relevant operating licence.
- 19.3 Regulations prescribed by the Secretary of State provide that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming where the gaming is intended to produce a single winner, for example games such as backgammon, cribbage, bingo and poker.
- 19.4 There are a number of statutory limits as regards temporary use notices. Gambling Commission Guidance is noted that "The meaning of "premises" in part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", licensing authorities will need to look at, amongst other things, the ownership/occupation and control of the premises.
- 19.5 The Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission Guidance.

20. Occasional Use Notices

- 20.1 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. The Licensing Authority will though need to consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

21. Gaming Machines

- 21.1 A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would cause it to be a gaming machine.
- 21.2 The Authority is aware of its power to restrict the number of gaming machines in certain circumstances. In the event that the Authority considers whether to impose such a restriction on any particular permit it may, among other things, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons or by vulnerable persons.
- 21.3 The Authority will be unable to issue premises licences to authorise gaming machines in certain types of premises. These generally will be premises to which children and vulnerable people will have unrestricted access and would include take-away premises, taxi offices, supermarkets etc.

22. Unlicensed Family Entertainment Centre Gaming Machine Permits

- 22.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 22.2 Guidance also states that an application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC,

and if the chief officer of police has been consulted on the application, Licensing Authorities may wish to consider asking applications to demonstrate:

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

22.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

22.5 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.

23. (Alcohol) Licensed Premises Gaming Machine Permits

23.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the Licensing Authority. The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

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

23.2 If a premises wishes to have more than 2 machines, then it needs to 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 that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

23.3 It is recognised that some alcohol-licensed premises may apply for a premises licence for the use of gaming machines in their non-alcohol licensed areas. Any such

application would need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

- 23.4 It should be noted that the Licensing Authority can decide to grant the permit application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 23.5 It should also be noted that the holder of a permit must comply with Gaming Machines in Alcohol Licensed Premises Code of Practice issued by the Gambling Commission about the location and operation of the machine(s).

24. Prize Gaming Permits

- 24.1 In making its decision on an application for this permit the Licensing Authority does not need to but may have regard to the licensing objectives but must have regard to any Gambling Commission guidance.
- 24.2 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but the Licensing Authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

25. Club Gaming and Club Machine Permits

- 25.1 Members' Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machines Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Gaming Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 25.2 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.
- 25.3 Licensing authorities may only refuse an application on the grounds that:
- the applicant does not fulfil the requirements for a members' or Commercial Club or Miners' Welfare Institute and therefore is not entitled to receive the type of permit for which it has applied;
 - the applicant's premises are used wholly or mainly by children and/or young persons;

- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Commission or the police

25.4 It should be noted that there is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. 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" and "The grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- that a Club Gaming Permit or Club Machine Permit issued to the applicant in the last ten years has been cancelled."

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

26. Lotteries

26.1 In carrying out its functions in relation to Lotteries, the Authority will have regard to the Act, any guidance issued by the Commission from time to time and any Regulations issued by the Secretary of State.

26.2 The Act makes it illegal to promote lotteries unless they are licensed or within an exempt category. One such exemption relates to registered small society lotteries and the Council is responsible for registering small society lotteries, which are promoted by non-commercial organisations that are established for:

- Charitable purposes
- For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- For any other non-commercial purpose other than that of private gain.

27. Exchange of Information

27.1 The principle that the Licensing Authority will apply in respect of the exchange of information between it and the Gambling Commission and those bodies listed in Schedule 6 of the Act is that it will act in accordance with the provisions of the Gambling Act 2005 which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any guidance issued by the Gambling Commission 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.

28. Enforcement

- 28.1 The Council will liaise with the Gambling Commission and other enforcing authorities on enforcement issues and will look to carry out joint inspections. The targeting of resources towards high-risk premises and activities that require greater attention will provide a more efficient deployment of the Council's officers and other officers that are commonly engaged in enforcing gambling law and inspection of licensed premises. A lighter touch will apply in respect of low risk premises, which are well run.
- 28.2 The Council's approach to enforcement will be based on identified risk and will take into account:
- Relevant codes of practice
 - Guidance issued by the Gambling Commission
 - The licensing objectives
 - The principles set out in this statement of gambling policy
- 28.3 In general, action will only be taken in accordance with the principles of the Regulatory Compliance Code, Licensing Authority Enforcement Policy and the relevant provisions of the Regulatory Enforcement and Sanctions Act 2008. To this end the key principles of consistency, transparency and proportionality will be maintained.
- 28.4 The Council will also be guided by the Gambling Commission's Guidance for local authorities and will endeavour to be:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
 - Consistent: rules and standards must be joined up and implemented fairly;
 - Transparent: regulators should be open, and keep regulations simple and user friendly; and
 - Targeted: regulation should be focused on the problem, and minimise side effects
- 28.5 In accordance with the Gambling Commission Guidance to Licensing Authorities the Council will endeavour to avoid duplication with other regulatory regimes as far as possible.
- 28.6 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 Operator 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.

29. The Licensing Process

- 29.1 The powers of the Council as a Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or, instead, by one or more Council officers acting under delegated authority. The Council has adopted the following scheme of delegation:-

Matters to be dealt with	Full Council	Full Committee	Sub Committee	Officers
Three year Gambling Policy	X			
Policy not to permit casinos	X			
Fee Setting – when appropriate		X		
Application for premises licence			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 and not withdrawn	Where no representations received/representations have been withdrawn
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/representations have been withdrawn
Application to review premises licence/club premises certificate			X	
Application for club gaming/club machine permits			Where objections have been made and not withdrawn.	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits			X	
Applications for other permits/registration of small society lotteries				X
Cancellation of licensed premises gaming machine permits				X
Consideration of temporary use notice				X
Decision to give a counter notice to a temporary use notice			X	
Decision on whether a complaint is irrelevant frivolous vexatious etc				X
Decision as Responsible Authority to call for a Review of a Premises Licence				X

29.2 Application forms will be in the format prescribed by regulations. The form will need to contain information that describes the gambling activities to be provided, the operational procedures, hours, nature of the location, needs of the local community, etc. Most importantly, the applicant will have to detail the steps that will be taken to promote the three licensing objectives. From 6th April 2016 applicants should carry

out a risk assessment before they apply for a premises licence or to vary a premises licence.

- 29.3 Applicants are encouraged to fully consult the Police and other responsible authorities well in advance of submitting their applications. Application forms and guidance leaflets will be available from the Licensing Authority, including contact names for each of the responsible authorities that will be receiving applications. Most applications will require additional documentation and a fee to be included with the form. Incomplete applications will not be considered and will be returned to the applicant.
- 29.4 The Act requires licensing authorities to maintain a register of premises licences issued. The register must be available at any reasonable time to the public, who can request copies of the entries. The register will be located at:

North Warwickshire Borough Council
South Street
Atherstone
Warwickshire
CV9 1DE

Effective:	31 st January 2007
Effective date of reviewed policy:	31 st January 2013 Valid until 30 th January 2016
Effective date of reviewed policy:	31 st January 2016 Valid until 30 th January 2019

Agenda Item No 9

Licensing Committee

27 July 2015

**Report of the
Assistant Chief Executive and
Solicitor to the Council**

**The Deregulation Act 2015 and
Local Government (Miscellaneous
Provisions) Act 1976 – Variation In
Fees – Taxi and Private Hire
Licensing**

1 Summary

- 1.1 The report asks the Committee to consider varying the fees charged by the Council for the issue of Hackney Carriage and Private Hire driver and vehicle licences and Private Hire Operator licences following the changes made by the Deregulation Act 2015.

Recommendation to Council

The proposed variation to charges set out in the report in respect of licensing of Hackney Carriages, Private Hire Vehicles, Drivers and Private Hire Operators be agreed.

2 Consultation

- 2.1 Councillors Jones and Lewis have been sent an advanced copy of this report for comment and the taxi and private hire trade have been consulted. Any comments received will be reported verbally at the meeting.

3 Report

- 3.1 The Local Government (Miscellaneous Provisions) Act 1976 (The 1976 Act) allows the Council to charge such fees for the grant of driver, vehicle and operator licences as may be sufficient to cover the cost of the service
- 3.2 Historically licences for Hackney Carriages and Private Hire Vehicles and Drivers and Private Hire Operators have been issued annually. The Deregulation Act 2015 has changed the law so that from 1 October 2015 driver's licences must now normally be issued on a three yearly basis and Private Hire Operators licences five yearly.
- 3.3 This change had implications for the cost of driver's and Private Hire Operators licences but prompted a review of all taxi and private hire fees. The proposed fees are set out in the table below alongside the existing fees for comparison.

3.4 The 1976 Act requires the Council to advertise in a local newspaper drawing attention to the proposed changes. Such advertisements are quite expensive and therefore it is proposed that the revised fees should stand for a period of three years making a considerable saving on advertising costs and also offering a period of certainty for the trade allowing them to budget with confidence. At the end of the period the level of fees will be reviewed and any adjustments, up or down, can be made to reflect the cost of providing the service over that period.

3.5

Type of Licence	Existing Fee	Proposed Fee	Change
Hackney Carriage	£266.20 (annual)	£271.90 (annual)	+ £5.70 per annum
Private Hire Vehicle	£266.20 (annual)	£271.90 (annual)	+£5.70 per annum
Driver	£121.80 (annual)	£230.12 (3 years)	-£135.28 over 3 years
Private Hire Operator	£119.90 (annual)	£276.98 (5 years)	-£322.52 over 5 years
Vehicle Transfer (New Vehicle)	£91.60	£92.80	+£1.20

All other related fees remain unchanged.

4 Report Implications

4.1 Finance and Value for Money Implications

4.1.1 The recommendations contained in this report will achieve the level of income required to meet the cost of providing the service. Additionally, there will be a reduction in expenditure on advertising as, due to the longer duration of the licences, we will not need to advertise changes to fees as frequently.

4.2 Safer Communities Implications

4.2.1 The licensing of taxis, private hire vehicles, drivers and operators provides a valuable safeguard for residents and visitors to the Borough.

4.3 Legal and Human Rights Implications

4.3.1 There are no known adverse implications in the report.

4.4 Environment and Sustainability Implications

4.4.1 There are no known adverse implications in the report.

4.5 Health, Wellbeing and Leisure Implications

4.5.1 There are no known adverse implications in the report.

4.6 Human Resources Implications

4.6.1 The changes will have an impact on the workload of the Central Services Assistant (Licensing). However any capacity released will be absorbed in relieving the intense pressure under which that service is operating until the commencement of the next cycle of licensing after three years have elapsed.

4.7 Risk Management Implications

4.7.1 There are no risk implications providing the requirements of the 1976 Act are followed. There is a risk to the Council if it does not keep its fees and charges under review to ensure that the service is not making a profit.

4.8 Equalities Implications

4.8.1 There are no negative impacts of opportunity for any known group.

The Contact Officer for this report is Stephen Whiles (719326).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date