

# Public Document Pack

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## MID DEVON DISTRICT COUNCIL

### LICENSING COMMITTEE

**A MEETING** of the **LICENSING COMMITTEE** will be held in the Phoenix House, Tiverton on Tuesday, 9 October 2018 at 11.00 am

#### **STEPHEN WALFORD**

Chief Executive  
1 October 2018

**Councillors:** Mrs E M Andrews, K Busch, A Bush, R J Chesterton, Mrs F J Colthorpe, D R Coren (Chairman), Mrs G Doe, S G Flaws, T G Hughes, D J Knowles, Mrs E J Slade and L D Taylor

### **A G E N D A**

#### **MEMBES ARE REMINDED OF THE NEED TO MAKE DECLARATIONS OF INTEREST PRIOR TO ANY DISCUSSION WHICH MAY TAKE PLACE**

- 1 **ELECTION OF CHAIRMAN (CHAIRMAN OF THE COUNCIL, CLLR P J HEAL, IN THE CHAIR)**  
To elect a Chairman of the Licensing Committee for the Municipal Year 2018/19.
- 2 **ELECTION OF VICE CHAIRMAN**  
To elect a Vice Chairman of the Licensing Committee for the Municipal Year 2018/19.
- 3 **APOLOGIES AND SUBSTITUTE MEMBERS**  
To receive any apologies for absence and notices of appointment of Substitute Members (if any).
- 4 **DECLARATIONS OF INTEREST UNDER THE CODE OF CONDUCT**  
Councillors are reminded of the requirement to declare any interest, including the type of interest, and reason for that interest, either at this stage of the meeting or as soon as they become aware of that interest.
- 5 **PUBLIC QUESTION TIME**  
To receive any questions relating to items on the agenda from members of the public and replies thereto.
- 6 **MINUTES** (*Pages 5 - 8*)  
Members to consider whether to approve the minutes as a correct

record of the meeting held on 21 March 2017.

**7      **FOURTH REVIEW OF THE GAMBLING ACT 2005 STATEMENT OF PRINCIPLES** (Pages 9 - 124)**

To receive a report from the Group Manager for Public Health and Regulatory Services. Mid Devon District Council is required to set out and formally adopt a Statement of Principles advising how it will carry out its duties under the Gambling Act 2005. That statement has to be reviewed every three years and this is its fourth review.

**8      **FOURTH REVIEW OF THE LICENSING POLICY UNDER THE LICENSING ACT 2003** (Pages 125 - 258)**

To receive a report from the Group Manager for Public Health and Regulatory Services. The Council, as the licensing authority, must adopt a licensing policy that sets out how it carries out its duties under the Licensing Act 2003. That policy must be reviewed every five years. This report brings forward the fourth review of that document.

**The Human Rights Act 1998 came into force on 2nd October 2000. It requires all public authorities to act in a way which is compatible with the European Convention on Human Rights. The reports within this agenda have been prepared in light of the Council's obligations under the Act with regard to decisions to be informed by the principles of fair balance and non-discrimination.**

Anyone wishing to film part or all of the proceedings may do so unless the press and public are excluded for that part of the meeting or there is good reason not to do so, as directed by the Chairman. Any filming must be done as unobtrusively as possible from a single fixed position without the use of any additional lighting; focusing only on those actively participating in the meeting and having regard also to the wishes of any member of the public present who may not wish to be filmed. As a matter of courtesy, anyone wishing to film proceedings is asked to advise the Chairman or the Member Services Officer in attendance so that all those present may be made aware that is happening.

Members of the public may also use other forms of social media to report on proceedings at this meeting.

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

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

If you would like a copy of the Agenda in another format (for example in large print) please contact Carole Oliphant on:

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## MID DEVON DISTRICT COUNCIL

**MINUTES** of a **MEETING** of the **LICENSING COMMITTEE** held on 21 March 2017 at 10.00 am

### **Present**

#### **Councillors**

D R Coren (Chairman)  
Mrs E M Andrews, K Busch, R J Chesterton,  
Mrs F J Colthorpe, Mrs G Doe, C J Eginton,  
P H D Hare-Scott, D J Knowles and  
L D Taylor

### **Apologies**

#### **Councillor(s)**

T G Hughes and J L Smith

### **Also Present**

#### **Officer(s):**

Simon Newcombe (Public Health and Professional Services Manager), Thomas Keating (Lead Licensing Officer), Philip Langdon (Solicitor) and Julia Stuckey (Member Services Officer)

## **8 APOLOGIES AND SUBSTITUTE MEMBERS**

Apologies were received from Cllrs T G Hughes and J L Smith.

## **9 PUBLIC QUESTION TIME**

There were no members of the public in attendance.

## **10 MINUTES**

The Minutes of the last meeting were approved as a true record and signed by the Chairman.

## **11 PRE-APPLICATION ADVICE AND CHARGING FOR LICENSING APPLICATIONS**

The Committee had before it a report \* from the Public Health and Professional Services Manager which set out proposals for the introduction of a discretionary chargeable service for the provision of pre-application advice for licensing applications.

The officer outlined the contents of the report, explaining that the Localism Act 2011 allowed authorities to make a charge where it was not under a duty to provide the service and the person had agreed to the service being provided. There was also a duty to ensure that taking one financial year with another, the income from charges did not exceed the costs of providing of the service, in other words the Council cannot make a profit from charging for the service.

The licensing team dealt with a wide range of licensable activities under a range of different legislation. In particular, the following applications were the most complex and time-consuming:

- Licensing Act 2003: Sale of alcohol, entertainment and the provision of late night refreshment (i.e. new premises, variations, transfers and changes of Designated Premises Supervisors)
- Gambling Act 2005: Gambling (i.e. new premises, variations, transfers)

Although there was a statutory duty on the Council to administer applications, that duty did not extend to the provision of pre-submission advice and assistance.

The officer explained that the proposal to introduce discretionary services held benefits for the Council. Officers believed that the assistance offered under the proposed discretionary scheme would benefit residents and persons present in the Mid Devon area. From discussions with applicants, officers knew that some were put off, for example, by the length of application forms and the amount of sometimes technical information required in submitting a completed application. Guidance notes and policies were publicly available to applicants on the website, but the prescribed application process was inherently complicated mainly because it was closely linked to the primary legislation and applicants did not always have time to consider the guidance that was available.

The proposal was that potential applicants or persons indicating an interest in applying for a licence would be given the opportunity to take advantage of officer assistance at the appropriate discretionary fee.

The level of pre-application advice and assistance required was determined by the type of application to be completed and experience of the applicant. In order to try and be as inclusive as possible, it was proposed to offer three levels of service for the majority of applications, ranging from low to high (1 hour to 3 hours) of officer time. Costs were then calculated based on the hourly rate (including on-costs) of the licensing officer post for 2017/18.

Proposed fees were set as follows:

Level of assistance required		
Low	1 hour	£30.00
Medium	2 hours	£60.00
High	3 hours	£90.00

The type of pre-application advice and assistance given would depend on the requirements of the applicant but examples of what the service may consist of included:

- Advice and assistance with completing the application forms;
- Advice on appropriate conditions taken from the pool of standard conditions or in consultation with responsible authorities;
- Advice on drawing up plans and other technical documents to accompany the application in accordance with the relevant requirements,
- Advice on nominating an appropriate designated premises supervisor,
- Assistance with completing the statutory notices and advertising,
- On-site visit(s) to ensure plans were compliant with prescribed regulations and the appropriate statutory notices were correctly on display.

The officer clarified that applicants who decided not to take advantage of the proposed new process would still be signposted to the relevant guidance notes and policies. It was also important to ensure that the new process did not become overly bureaucratic. As a consequence, no fees would be charged for straightforward queries that could easily be dealt with over the phone or email and did not require significant officer time.

It was proposed that the officer involved with pre-application assistance and advice would not have any subsequent involvement with processing or determination of that individual application. This would help to ensure that a potential conflict could neither be seen nor occur, especially with those applications decided by officers under delegated authority.

The officer clarified that where an application related to the provision of regulated entertainment only (not alcohol) and that application was by or on behalf of an educational institution e.g. a school or college or a church hall, chapel hall or other similar building or a village hall, parish hall or community hall or other similar building, no fee was payable on application. Consequently it was proposed to extend this exemption and not charge for pre-application advice for these premises.

Discussion took place regarding:

- How applicants would know the level of support required;
- TENS (Temporary Event Notices) applications and the fact that it was not proposed to include them at the present time but they could be considered in the future;
- The requirement that charges were at cost and not profit making;
- Consideration that would be given to charging when a site visit was required, by combining the visit with another check in the area;
- Other authorities that had introduced the same scheme and the number of applicants;
- Applicants could still apply without taking advantage of the advice facility;
- On line information was completely free and would continue to be available;
- Minor changes to the application form which included examples being provided at 5, changes to wording at 6 and simplification of the sentence at 8. Officers would liaise with the legal service regarding this;
- The recommendation within the report should refer to 'this committee' and not 'these committees';
- A detailed log of applications and the time they took to process would be kept and there would be ongoing review of this.

It was **RECOMMENDED** that Council:

- a) Approve the introduction of the discretionary chargeable service for the provision of pre-application advice for relevant licensing applications as set out in Section 2 and Annexe 1 of the report.

and

- b) That the Scheme of Delegation for the Licensing Committee be updated within the Constitution to include the Localism Act 2011 to enable consequential reviews and updates to scheme charges to be made by this committee.

(Proposed by the Chairman)

Note: Report \* previously circulated and attached to Minutes.

## 12 **ENFORCEMENT UPDATE**

The Lead Licensing Officer informed the Committee that the team had been making proactive premises inspections, which involved visiting unannounced. Since November six premises had been found to have a risk rate of medium and two premises had a risk rate of high. Where a high risk was reported a second visit would take place to ensure that areas of concern had been put right.

The team had handled seven new applications since November; the average was around twenty for the year.

Since November the team had issued two simple cautions for non-compliance. One involved a premises that had been selling alcohol whilst their licence was suspended for non-payment of an annual fee and the other was for selling alcohol without a licence or a TENs notice. They had subsequently applied for a licence.

A hearing had been held regarding Eggbeer Farm and the licence had been granted.

The officer informed the Committee that the team were continuing to work in partnership with Trading Standards and the Police and had undertaken evening work visiting the pubs in the three main town centres.

## 13 **IMMIGRATION ACT UPDATE**

The Lead Licensing Officer informed the Committee that he expected the checking of immigration status for new applicants to commence in early April. Officers would be undertaking Home Office training and he would provide further information as and when it became available.

(The meeting ended at 10.55 am)

**CHAIRMAN**

## LICENSING COMMITTEE – 9 OCTOBER 2018

### FOURTH REVIEW OF THE GAMBLING ACT 2005 STATEMENT OF PRINCIPLES

**Cabinet Member(s):** Colin Slade

**Responsible Officer:** Simon Newcombe, Group Manager for Public Health and Regulatory Services

#### REASON FOR REPORT:

Mid Devon District Council is required to set out and formally adopt a Statement of Principles advising how it will carry out its duties under the Gambling Act 2005. That statement has to be reviewed every three years and this is its fourth review.

#### RECOMMENDATIONS:

It is recommended that the Statement of Principles (attached as Annex 5) is adopted as the new policy and the Licensing Committee is asked to make this recommendation to Full Council on 24 October 2018. It will have effect from 31 January 2019.

**Relationship to Corporate Plan:** This proposal links directly to the licensing function with the aim of ensuring the safety and wellbeing of our community.

**Financial Implications:** None that are not contained within existing resources.

**Legal Implications:** The Council is required to adopt a Statement of Principles.

**Risk Assessment:** If the Statement of Principles is not properly adopted it could be subject to legal challenge.

**Equality Impact Assessment:** No equality issues identified for this report.

**Consultation carried out with:** S.349 of the Gambling Act 2005 requires that the licensing authority consult the Chief Officer of Police; one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.

## **1.0 INTRODUCTION**

- 1.1 The Gambling Act 2005 (“the Act”) came into force on 1 September 2007 and consolidated regulation of casinos, bingo, gaming machines, lotteries, betting and remote gambling in one Act.
- 1.2 The Act also created a new unified industry regulator, the Gambling Commission, which has responsibility for advising both central and local government on issues relating to gambling.
- 1.3 Mid Devon District Council has responsibilities under the Act to issue premises licences, permits and notices in respect of premises where it is proposed that gambling take place. The Council is also responsible for the registration of Small Society Lotteries.
- 1.4 The Act was based on three key principles, which are set out in section 1 of the Act:
  - Gambling should not be a source of crime or disorder, associated with crime or disorder or be used to support crime;
  - Gambling should be conducted in a fair and open way;
  - Children and other vulnerable people should be protected from being harmed or exploited by gambling.
- 1.5 Section 349 of the Act requires all licensing authorities to prepare and publish a Statement of Principles that they intend to apply in exercising their functions under the Act. The Statement of Principles will last a maximum of three years.
- 1.6 The current Statement of Principles for Mid Devon District Council was formally adopted on 4 December 2015 and came into force on 31 January 2016. It is therefore due to be reviewed.

## **2.0 REVISED STATEMENT OF PRINCIPLES**

- 2.1 The Act requires that the Statement of Principles be reviewed on a three yearly basis. The proposed Statement of Principles that was consulted on is attached as Annex 1.
- 2.2 As with previous versions, the new Statement of Principles has been written in pursuant to the provisions of the Gambling Act and also takes account of the Guidance issued under Section 25 of the Act by the Gambling Commission. This guidance provides a clear steer on what Statements of Principles should look to cover.
- 2.3 The Devon Licensing Officer Group also met to consider the amendments / additions that may be required to the Statement of Principles.



## Amendments to the Statement of Principles

- 2.4 The suggested amendments are made for three main reasons; in response to legislative changes; to clarify issues; and minor structural changes to aid the flow of the document. A general overview of the main changes is given below. Amendments considered minor are not listed.

## Summary of machine provisions, categories and entitlements (previously Appendix B, C and D)

- 2.5 The previous tables have been removed as Appendices and replaced with links to where this information is available online via the Gambling Commission website. This ensures the information provided is up to date.

## Information regarding inspections and Local Area Risk Assessments

- 2.6 A note was included to say that during inspections, officers may check that the Local Risk Assessment completed for the premises is available and up to date. Additionally, later in the Policy it states that a copy of it should be kept on the premises and that the document itself should be reviewed on an annual basis.

## Significant changes to premises

- 2.7 The use of privacy screens has been included as an example of a potential significant change.

## Access between premises

- 2.8 Additional information has been included on this and the requirement for there to be no direct access between certain premises.

## Children and other vulnerable people to be protected from harm

- 2.9 The policy now requires gambling premises to have in place policies and measures to ensure children and vulnerable people are protected from harm or being exploited by gambling. It states that harm is not limited to gambling activities, and can also include wider safeguarding issues, like sexual exploitation.

## **3.0 CONSULTATION**

- 3.1 S.349 of the Act requires that licensing authorities consult with:

- The chief officer of police
- Representatives of gambling businesses
- Representatives of people who, in the opinion of the authority, are likely to be affected by the exercise of the function.

- 3.2 The consultation took place between 11 June 2018 and 10 August 2018.
- 3.3 The draft policy was published on the Council's website and specific letters / emails were sent to:
- Association of British Bookmakers
  - British Amusement and Catering Trade Association
  - British Beer and Pub Association
  - Citizens' Advice Bureau
  - Community Safety Partnership
  - Churches Housing Action Team
  - Devon & Cornwall Constabulary
  - Devon County Council – Local Safeguarding Children's Board
  - Devon County Council – Social Services / Education Department
  - Devon and Somerset Fire and Rescue Service
  - Environmental Health (MDDC)
  - Certain existing licence holders / representatives
  - Federation for Small Business (Mid Devon)
  - Gamblers Anonymous
  - Gambling Commission
  - GamCare (a body that helps people with gambling problems)
  - Mencap
  - NSPCC
  - Planning (MDDC)
  - Primary Care Trust
  - Town and Parish Councils
- 3.4 Three responses were received and these were from HM Revenue and Customs (to update address details), Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB) and GamCare. The responses from ABB and Gamcare are attached as Annexes 2 and 3 respectively. The response from Gamcare is not specific to our proposed policy, but rather a response to all licensing authorities listing a range of issues and factors that may be considered.
- 3.5 Specific comments from the responses received and recommended amendments to the Statement of Principles based on them are attached as Annex 4. Only one comment from the Gamcare response is included within this Annex, and this is the one that has led to a slight amendment to the proposed policy.
- 3.6 Additionally, Annex 4 contains some suggested amendments that are considered to be relatively minor points. They are intended to clarify matters and provide a bit more information where possible.
- 3.7 An updated Statement of Principles reflecting the proposed amendments outlined in Annex 4 is attached as Annex 5. This is the final proposed Statement of Principles for adoption.

#### **4.0 RECOMMENDATION**

- 4.1 It is recommended that the Statement of Principles (attached as Annex 5) is adopted as our new policy and the Licensing Committee is asked to make this recommendation to Full Council on 24 October 2018. It will have effect from 31 January 2019.

#### **5.0 TIMESCALE**

- 5.1 The Council, as the licensing authority for the gambling function, is required to publish the adopted Statement of Principles no later than four weeks before the day on which it comes into effect. The policy will take effect on 31 January 2019 and a draft copy of the notice for publication is attached as Annex 6. It will be published on the Council's website, on the notice board of Phoenix House and also in the public libraries of Cullompton and Cridton. It is proposed that it will be published in December, thus fulfilling our statutory requirements.

#### **ANNEXES TO REPORT**

- ANNEX 1: Draft Statement of Principles (consultation version)  
ANNEX 2: Response from Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB)  
ANNEX 3: Response from GamCare  
ANNEX 4: Table of responses, comments and recommendations  
ANNEX 5: Updated Statement of Principles (proposed for adoption)  
ANNEX 6: Draft copy of the notice of publication

<b>Contact for any more information</b>	Mr Tom Keating (01884) 244618 Mr Jeremy Pritchard
<b>Background Papers</b>	Gambling Commission Guidance to Licensing Authorities / Previous Statement of Principles
<b>File Reference</b>	Licensing/Gambling Act 2018
<b>Circulation of the Report</b>	Licensing Committee

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**Licensing Authority**  
**Mid Devon District Council**  
Phoenix House, Phoenix Lane Tiverton,  
Devon, EX16 6PP

## **Gambling Act 2005**

### **Statement of Principles**

**31<sup>st</sup> January 2019~~16~~ to 30<sup>th</sup> January 2022~~19~~**

(Adopted by Full Council on ~~4 November 2015~~TBC)

## **Table of Contents**

<b>Item</b>	<b>Page</b>
<b>Part A</b>	
Licensing Objectives	3
Introduction	3
Description of the Licensing Authority Area	4
Consultation	5
Declaration	6
The Overriding Principle	6
Responsible Authorities	6
Interested Parties	7
Exchange of Information	8
Enforcement	8
Licensing Authority Functions	10
The Licensing Process	10
Fees	11
Administration, Exercise and Delegation	<a href="#">11</a>
Local Area Risk Assessments	<a href="#">12</a>
Local Area Profile	<a href="#">14</a>
<b>Part B – Premises Licences</b>	
General Principles	<a href="#">15</a>
Adult Gaming Centres	22
(Licensed) Family Entertainment Centres	<a href="#">22</a>
Casinos	23
Bingo	23
Betting Premises	<a href="#">23</a>
Tracks	24
Travelling Fairs	<a href="#">25</a>
Provisional Statements	26
Reviews	27
<b>Part C – Permits/Temporary &amp; Occasional Use Notices</b>	
Unlicensed Family Entertainment Centre Gaming Machine Permits	29
(Alcohol) Licensed Premises Gaming Machine Permits	32
Prize Gaming Permits	33
Club Gaming & Club Machine Permits	34
Temporary Use Notices	35
Occasional Use Notices	36
Small Society Lotteries	36
<b>Appendix A - Responsible Authorities</b>	<a href="#">39</a>
<b>Appendix B - <del>Summary of machine provisions by premises</del> <a href="#">Additional links for machine provisions, categories and entitlements</a></b>	<a href="#">45</a> <del>0</del>
<b><del>Appendix C – Summary of gaming machine categories and entitlements</del></b>	<a href="#">42</a>
<b><del>Appendix D – Summary of gaming entitlements for clubs and alcohol licensed premises</del></b>	<a href="#">43</a>

## **STATEMENT OF PRINCIPLES**

Text in the shaded boxes within this Statement of Principles is advisory only intended to give assistance to applicants, interested persons and responsible authorities.

### **Part A**

#### **1 The Licensing Objectives**

- 1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The ~~relevant~~ licensing objectives are:
- preventing gambling from being a source of crime or 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
- 1.2 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.
- 1.3 It should also be noted that considerations such as moral or ethical objections to gambling are not valid reasons to reject applications for premises licences. An authority's decision cannot be based on dislike of gambling, or a general ~~notion~~ that it is undesirable to allow gambling premises in an area ~~-(with-the~~ exception of the casino resolution powers).

~~Applicants are also advised to note Part B of this Statement of Principles:—  
Premises Licences — General Principles~~

#### **2 Introduction**

- 2.1 This Statement of Licensing Principles is written pursuant to the provisions of the Gambling Act 2005 and the Guidance issued under s.25 of the Act by the Gambling Commission.
- 2.2 All references to the Guidance refer to the Gambling Commission's Guidance for Local Authorities.
- 2.3 The Statement takes effect on 31 January ~~2016~~[2019](#).

## 3



- 3.1 Mid Devon is one of the larger local authorities in England with a rural area of 352 square miles but a fairly sparse population of ~~78,600~~79,200. The district boasts a high quality natural environment, bordering Dartmoor and Exmoor National Parks and the Blackdown Hills Area of Outstanding Natural Beauty~~, consisting of 34,754 households~~. There are three main towns in the district, Tiverton being ~~by far~~ the largest with a population of approximately 22,~~177,000~~ and the other two, Cullompton and Crediton ~~both~~ have populations of approximately 9,~~245,000~~ and ~~8,000~~7,872 respectively. The rest of the population is spread throughout the district in villages and hamlets stretching from Dartmoor to Exmoor to the Blackdown Hills.
- 3.2 Mid Devon is the licensing authority for a range of gambling activities in conjunction with the Gambling Commission. To give an indication of the numbers involved, please see the table below. This data was true as of ~~July~~May 201~~8~~5 and experience has shown that the numbers stay fairly constant:

Type of licence / Permit / Authorisation	Number in District
Betting Shop	5
Adult Gaming Centre	3
Family Entertainment Gaming Machine Permit	3
Club Gaming Permit	2
Club Machine Permit - 10	9
Alcohol licensed premises - Gaming Machine Permit – Notification	<del>73</del> 83
Alcohol licensed premises - Gaming Machine - 4	3



Permit	
Small Society Lottery	<del>113</del> 93

## 4 Consultation

4.1 Licensing authorities are required by the Gambling Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts reconsulted upon. The statement must then be republished.

4.2 The Gambling Act requires that the following parties ~~are~~be consulted by Licensing Authorities:

- The Chief Officer of Police;
- Persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
- Persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act.

4.3 In adopting this policy, the Licensing Authority have consulted with the following parties: ~~List of persons this authority consulted:~~

- All Responsible Authorities under the Gambling Act
- Citizen’s Advice Bureau
- Community Safety Partnership
- Churches Housing Action Team
- ~~Devon and Cornwall Constabulary~~
- ~~Devon County Council Social Services/Education Department~~
- ~~Devon Fire and Rescue Service~~
- Environmental Health
- Public Health, Mid Devon District Council
- Existing licence-holders (or representatives)
- Federation for Small Business – Mid Devon
- ~~Planning~~
- Gamblers Anonymous
- Gambling Commission
- Gamcare
- Mencap
- NSPCC
- Primary Care Trust
- Residents / Businesses of Mid Devon through the Council website
- Town & Parish Councils within Mid Devon

4.4 Proper weight has been given to the views of all those who have been consulted prior to the date of implementation of the Statement of Principles.

Our consultation took place between TBC 20 July 2015 – 13 September 2015 and we followed Cabinet office guidance on public consultations, which is available at:  
<https://www.gov.uk/government/publications/consultation-principles-guidance>.

4.5 The Statement of Principles was approved at a meeting of the Full Council on ~~4 November 2015~~[TBC](#) and was published on our website on ~~1 December 2015~~[TBC](#). Copies were placed in the public libraries of the area as well as being available for viewing at Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton, Devon EX16 6PP.

4.6 Should you have any comments regarding this Statement of Licensing Principles please write to the above address or email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk).

## 5 Declaration

5.1 In producing the final statement this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act, the guidance to licensing authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

## 6 The Overriding Principle

6.1 In exercising its functions under the Act, this licensing authority will aim to permit the use of premises for gambling in so far as it thinks it ~~is;~~

- in accordance with the Gambling Act and associated legislation;
- in accordance with any relevant Code Of Practice ~~under section 24;~~
- ~~having regard to the~~[in accordance with any](#) relevant guidance issued by the Gambling Commission ~~under section 25;~~
- ~~as is to be~~ reasonably consistent with the licensing objectives
- ~~and having regard to~~[in accordance with](#) this Statement of Principles ~~under section 349.~~

6.2 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are the subject of the application.

6.3 The overriding principle does not, however, apply if this Authority resolves not to issue casino premises licences.

6.4 Each case will be decided on its individual merits.

## 7 Responsible Authorities

7.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licence. Such bodies are entitled to make representations to the licensing authority in relation to the applications.  
The Responsible Authorities are detailed in Appendix A.

7.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body

which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

7.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the ~~Local~~ [Devon](#) Safeguarding Children Board for this purpose.

~~7.4 Under the Gambling Act a "child" is an individual who is less than 16 years old and a "young person" is not a child but is less than 18 years old.~~

## 8 Interested Parties

8.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act as follows: "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

8.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act to determine whether a person is an interested party. The principles are set out below.

8.3 Each case will be decided upon its [own](#) merits. This authority will not apply a rigid rule to its decision-making. The factors that this licensing authority may take into account when determining what 'sufficiently close to the premises' means (in each case) might include:

- The size of the premises
- The nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment)
- The circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.

8.4 In determining whether a person with business interests might be affected by the premises, the factors likely to be relevant include:

- The size of the premises

- The 'catchment' area of the premises (that is, how far people travel to visit the premises)
- Whether the person making the representation has business interests in that catchment area that might be affected.

8.5 Interested parties can be persons who are democratically elected such as county, parish and town councillors and MPs. 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. Parish and town councils may also be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises likely to be ~~to be likely to be~~ affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Team, Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton, Devon EX16 6PP or telephone 01884 255255 or email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)

## 9 Exchange of Information

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

9.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act in its exchange of information and comply with the ~~which includes the provision that the~~ Data Protection Act 1998 ~~will not be contravened~~. This licensing authority will also have regard to any Guidance issued by the Gambling Commission ~~to licensing authorities~~ on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act.

9.2 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 10 Enforcement

~~Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.~~

- 10.1 The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with licences and permits issued and any conditions attached to them, including compliance with relevant codes of practice, dealing with temporary permissions and registration of small society lotteries.
- 10.2 The licensing authority will act in accordance with the following principles for regulators:
- Proportionate: regulators should only intervene when necessary; and 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.
- 10.3 In line with the Gambling Commission's Guidance for licensing authorities this licensing authority will endeavor to avoid duplication with other regulatory regimes so far as possible.
- 10.4 This licensing authority will also adopt and implement a risk-based inspection programme based on:
- The licensing objectives and intelligence / complaints received
  - Relevant codes of practice
  - Guidance issued by the Gambling Commission
  - The principles set out in this statement of licensing policy
- 10.5 During inspections this authority may cover:
- details of training policies and training undertaken by staff
  - Details of Local Risk Assessments and ensuring the document is available to view and up to date
  - records of refusals to serve / admit on age grounds (subject to the terms of any primary authority agreements)
  - records of any relevant incidents in or outside the premises, e.g. anti-social behaviour
  - approach to managing self-exclusion and numbers of people currently self-excluded
  - involvement / impact of any work in local schemes or partnership working with other local businesses
  - reviewing paperwork relating to the purchase of machines from licensed manufacturers
  - interviews with staff members
  - confirming that appropriate signage is in place.

This list is not exhaustive but provides the common factors covered in a standard inspection.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions, which it authorises. This can include undertaking enforcement action. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This licensing authority also keeps itself informed of developments as with regards to the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

~~Bearing in mind the principle of transparency, this licensing authority's enforcement policy is available to view here - <https://www.middevon.gov.uk/residents/public-health/public-health-enforcement-policy/> - compliance protocols / written agreements will be available upon request to the licensing team at Mid Devon District Council. Our risk methodology will also be available upon request.~~

## 11 Licensing Authority functions

### 11.1 Licensing Authorities are required under the Gambling Act to:

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

It should be noted that licensing authorities are not involved in licensing remote gambling as this is regulated by the Gambling Commission. Remote gambling is defined by the Act as gambling in which persons participate by the use of remote communication including: the internet, telephone, television and radio.

## 12 The Licensing Process

12.1 A Licensing Committee, a Sub-Committee, or the Licensing Officer acting under delegated authority may carry out the powers of the authority under the Gambling Act.

[12.2](#) Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.

12.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing Committee have received adequate training for their role under the Gambling Act. ~~12.2~~

12.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.

12.5 Applicants for premises licences are required to copy their applications in full to the responsible authorities [under the Gambling Act](#) (~~as listed in~~ [see](#) Appendix A).

## 13 Fees

- 13.1 This Council will aim to ensure that the income it receives in fees matches the costs of providing the service to which fees relate. The Council sets its own fees within a framework set by central government.

## 14 Administration, Exercise and Delegation

- 14.1 [The following table shows the ~~Recommended~~](#) delegation of functions permitted under the Gambling Act. A tick indicates the lowest level to which decisions can be delegated.

<u>Matter to be dealt with</u>	<u>Full Council</u>	<u>Sub-committee of licensing committee</u>	<u>Officers</u>
<a href="#">Three year licensing Statement of Principles</a>	<u>✓</u>		
<a href="#">Policy not to permit casinos</a>	<u>✓</u>		
<a href="#">Fee setting (when appropriate)</a>		<u>✓</u>	
<a href="#">Application for premises licences</a>		<a href="#">Where representations have been received and not withdrawn</a>	<a href="#">Where no representations received/representations have been withdrawn</a>
<a href="#">Application for a variation to a licence</a>		<a href="#">Where representations have been received and not withdrawn</a>	<a href="#">Where no representations received/representations have been withdrawn</a>
<a href="#">Application for a transfer of a licence</a>		<a href="#">Where representations have been received from the Commission</a>	<a href="#">Where no representations received from the Commission</a>
<a href="#">Application for a provisional statement</a>		<a href="#">Where representations have been received and not withdrawn</a>	<a href="#">Where no representations received/representations have been withdrawn</a>
<a href="#">Review of a premises licence</a>		<u>✓</u>	
<a href="#">Application for club gaming/ club machine permits</a>		<a href="#">Where objections have been made (and not withdrawn)</a>	<a href="#">Where no objections made/objections have been withdrawn</a>
<a href="#">Cancellation of club gaming/ club machine permits</a>		<u>✓</u>	
<a href="#">Applications for other permits</a>			<u>✓</u>
<a href="#">Cancellation of licensed premises gaming machine permits</a>			<u>✓</u>
<a href="#">Consideration of temporary use notice</a>			<u>✓</u>
<a href="#">Decision to give a counter notice to a temporary use notice</a>		<u>✓</u>	

## 15 Local Risk Assessments

- 15.1 The Gambling Commissions Licence Conditions and Codes of Practice ~~will~~have required operators with premises licences to consider local risks ~~with effect from the~~since 6 April 2016.
- 15.2 The Gambling Commission's Social Responsibility Code ~~will~~requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this policy statement.
- 15.3 Licensees will be required to undertake and submit a local risk assessment when applying for a new premises licence. The risk assessment should be reviewed on an annual basis to ensure it is up to date and must also be reviewed (and if necessary updated):
- When applying for a variation of a premises licence.
  - To take account of significant changes in local circumstances, including those identified in this policy.
  - When there are significant changes at a licensee's premisess that may affect the level of risk or the mitigation of those risks.

### Significant Changes in Local Circumstances

- 15.4 The following sets out some examples of what the Licensing Authority consider being significant changes in local circumstances:
- The local area is identified as a crime hotspot by the Police and/or Licensing Authority
  - Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable group are opened in proximity to gambling premises (e.g. additional homeless hostels or gambling or mental health care/support facilities are opened in the local area)
  - Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment
  - The local area is identified by the Licensing Authority as an area of heightened risk within its Statement of Licensing Principles
- 15.5 The above list is not exhaustive and other significant changes may occur that are considered relevant. The Licensing Authority will provide information to gambling operators when it feels a significant change has occurred in the local area. The licensing authority will set out what the change is and may provide information on any specific concerns it may have that should be considered by operators. However, operators must also consider what is happening in their local areas and it is their responsibility to identify significant changes which may require a review and possible amendment to their risk assessment.



## Significant Changes to the Premises

- 15.6 The following list is not exhaustive but sets out some examples of what the Licensing Authority considers to be significant changes to the premises (some of which may also require a variation of the existing premises licence):
- Any building work or premises alteration where gambling facilities are relocated within the premises [\(including the use of privacy screens\)](#)
  - The premises licence is transferred to a new operator who has different policies and procedures to the previous licence holder
  - Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff [retraining](#) ~~will require retraining on those policy changes~~
  - The entrance or entrances of the premises are changed
  - New gambling facilities are made available on the premises which were not provided previously, for example, Self Service Betting Terminals, bet in play or different category of gaming machines are provided
- 15.7 The ~~is new~~ Social Responsibility Code provision is supplemented by an Ordinary Code that ~~will~~ requires licensees to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Council.
- 15.8 Whilst there are no plans to request that licensed premises share their risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licensee share a copy of its risk assessment. The risk assessment, [which should be kept on the premises to which it relates](#), will set out the measures the licensee has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required.
- 15.9 When comprising their risk assessments operators should consider:
- The risks posed to the licensing objectives by the provision of gambling facilities at each of their premises in the local authority area
  - Reference to any specific local risks
  - How the operator proposes to mitigate these risks
  - How the operator will monitor specific risks
- 15.10 Although not forming an exhaustive list, the following factors are ones which operators may wish to consider when comprising and reviewing their risk assessments:
- The geographical location of the premises and socio-economic makeup of the area
  - The type and usage of the premises

- The layout and size of the premises, e.g. access and egress, position of counters and gaming machines, lines of sight between counters and entrance points and machines, the physical structure of the premises, presence of any visual obstacles and the appropriate level of supervision at different times of the day/ year
- Specific types of gambling premises in the local area and their density. Whether there is any facility for sharing information between premises for example, in preventing anti-social behavior?
- The opening hours of the premises and the possible interaction of the gambling premises with any surrounding night time economy
- Client demographics, the presence of children and vulnerable adults
- Staff numbers, training and supervision
- Staff roles and their engagement with other activities
- Issues of lone working and staff working closely with children
- How the presentation and marketing of any gambling products does not appeal to children and is clear to anyone wishing to participate in gambling

15.11 Operators will also wish to consider the potential risk of under-age gambling and the increased risk of problem gambling in certain groups, and therefore it is suggested that operators consider:

- Self-exclusion data - the number of self-exclusions and underage attempts to gamble-
- The proximity of the premises to any school, centre, or establishment for the education, training or care of young and/or vulnerable persons
- The proximity of the premises to leisure centres used for sporting and similar activities by young and/or vulnerable persons
- The proximity to the premises to any youth club or similar establishment
- The proximity of the premises to any community, ~~ecclesiastical~~, welfare, health or similar establishment used specifically, or to a large extent, by young and/or vulnerable persons
- The proximity of any other area or location where young and/or vulnerable persons could congregate
- The proximity of any hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater potential risk of problems among these groups.

~~15.12—In order to assist those completing risk assessments this authority has produced a template which is available on the Mid Devon District Council website. It should be noted that this is for guidance only and may be updated from time to time as a result of feedback and experience.~~

## 16 Local Area Profile

16.1 There is no mandatory requirement to undertake a local area profile and this authority has decided not to do so at the time of producing this policy statement. This decision will be reviewed should it be felt by the authority that potential or actual risks merit its production.

## **Part B - Premises Licences: Consideration of Applications**

### **17 General Principles**

- 17.1 Premises Licences are subject to the requirements set-out in the Gambling Act and regulations, as well as specific mandatory and default conditions, which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 17.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks [it](#):
- in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives and
  - in accordance with the authority's Statement of Licensing Principles.
- 17.3 It is appreciated that, in line with the Gambling Commission's Guidance for licensing authorities, "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a licensing authority.
- 17.4 In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

#### **Definition of premises**

- 17.5 ~~Definition of "premises"~~ In the Act, "premises" is defined as including "any place". Section 152, therefore, prevents more than one premises licence applying to any place, but a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. This licensing authority, will, however, pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- [17.6](#) The Gambling Commission states in its Guidance to Licensing Authorities that "In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or

temporarily separated, for example, by ropes or moveable partitions, can properly be regarded as different premises”.

17.6

- 17.7 This licensing authority takes particular note of the Gambling Commission’s Guidance for licensing authorities which states that Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or be able to closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit
- Customers should be able to participate in the activity named on the premises licence

- 17.8 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

- 17.9 This Licensing Authority accepts that there must be no direct access between an adult gaming centre and any other premises licensed under the Act or premises with an FEC, club gaming, club machine or licensed premises gaming permit. There is no definition of ‘direct access’ in the Act or regulations. However it could be said that there should be an area separating the premises concerned (for example, a street or café), which the public go to for the purposes other than gambling, for there to be shown to be no direct access. This must be made clear on the relevant plan. The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

#### Casinos

- The principal access entrance to the premises must be from a street
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons

- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

### **Betting Shops**

- Access must be from a street or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

### **Bingo Premises**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

### **Premises “ready for gambling”**

- 17.10 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.
- 17.11 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.
- 17.12 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- 17.13 First, whether the premises ought to be permitted to be used for gambling

- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

17.13 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

### **Location**

17.1317.14 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. In line with the Gambling Commission's Guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon with regards to areas where gambling premises may present a greater risk, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its own merits with the applicant having to show how they have taken into account and aim to overcome any concerns.

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

17.1417.15 This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will listen to, and consider carefully, any concerns about conditions, which are not able to be met by licensees due to planning restrictions, should such a situation arise.

17.1517.16 When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

### **Licensing objectives**

17.1617.17 In carrying out its licensing functions the Authority will promote the licensing objectives which are:

- preventing gambling from being a source of crime or 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

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

17.18 This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance.

~~17.17~~17.19

Disorder is intended to mean an activity that is more serious and disruptive than mere nuisance. Factors this authority will consider in determining whether a disturbance was serious enough to constitute disorder will include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.

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

~~17.18~~17.20 This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is, however, more of a role regarding tracks which is explained in more detail in the tracks section — ~~see page 24~~.

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

~~17.19~~17.21 This licensing authority has noted the Gambling Commission's Guidance to licensing authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

~~17.20~~17.22 This licensing authority is also aware of the Codes of Practice, which the ~~Gambling Commission issues as regards~~with regards to this licensing objective, in relation to specific premises.

17.23 ~~As~~ With regards to the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.” This licensing authority will consider the licensing objective on a case-by- case basis.

17.24 Additionally, this Licensing Authority expects operators of gambling premises to have in place policies and measures to ensure children and other vulnerable people are protected from being harmed or exploited by gambling. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.



17.25 The efficiency of such policies and procedures will be considered on their merits; however, they may include appropriate measures/training for staff with regards to suspected truanting school children on the premises, measures/training covering how staff would deal with unsupervised young children being on the premises, or children causing perceived problems.

17.26 This Authority will pay particular attention to measures proposed by operators to protect children from harm in Adult Gaming Centres and Family Entertainment Centres. Additional information and examples of appropriate measures to consider for some specific types of premises are provided throughout this policy in each of the relevant sections.

#### **Licensing Conditions - Mandatory**

~~4.4~~17.27 Mandatory conditions may be attached to a premises licence by the Secretary of State under Section 167 of the Act. They can be attached generally to all Premises Licences, or may be attached to all Premises Licences of a particular type, or to a particular type of Premises Licences under certain specified circumstances.

~~4.2~~17.28 Once Mandatory conditions are attached they can only be removed by further Secretary of State regulations. The Authority has no discretion to decide not to include them, or modify them.

#### **Licensing Conditions - Default**

17.29 The Secretary of State considers the use of default conditions are most appropriate where a general industry or sector wide approach is desirable in order to assist national consistency, but where licensing authorities ought to be able to respond to local circumstances by altering those conditions if necessary.

~~17.21~~

~~17.22~~17.30 Section 169 of the Act gives licensing authorities the ability to exclude from a Premises Licence any default conditions that have been imposed under section 168. However, as default conditions are considered to be the industry norm, and while licensing authorities are free to limit or remove them where appropriate, this Authority will only extend them with reference to the Commission Codes of Practice and Guidance, the Licensing Objectives and this Policy Statement.

~~4.3~~17.31 Any conditions attached to licences will be proportionate and will be:

- relevant to the need to make the proposed building 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.

~~4.4~~17.32 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, and appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the ~~licence~~ applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.



~~4.5~~17.33 This licensing authority will also consider specific measures, which may be required for buildings, which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

~~4.6~~17.34 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

~~4.7~~17.35 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

17.36 It is noted that there are conditions, which the licensing authority cannot attach to premises licences, which are:

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

#### **Door Supervisors**

~~4.8~~17.37 The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts ~~of~~ unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a ~~premises licence~~ condition to this effect.

~~4.9~~17.38 Where it is decided that supervision of entrances/machines is appropriate for

particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary. ~~(as per the Guidance, Part 33).~~

~~4.10~~17.39 Licence holders will be expected to make information publicly available about organisations that can provide advice and support, both in relation to gambling itself and to debt ~~eg.g.~~ Gamcare, Gamblers Anonymous, Gordon House Association, National Debtline, local Citizen's Advice Bureaux and independent advice agencies.

## **2.18 Adult Gaming Centres**

18.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. ~~and will expect the applicant to satisfy the authority that there will be sufficient measures, for example, to ensure that under 18 year olds do not have access to the premises.~~ This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures / licence conditions may cover issues such as:

~~2.1~~

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Provision of information leaflets/helpline numbers for organisations such as Gamcare
- Self-exclusion schemes
- Specific opening hours

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

## **18.19 (Licensed) Family Entertainment Centres**

~~2.2~~19.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

~~2.3~~19.2 This licensing authority will expect applicants to offer their own measures ~~may consider measures~~ to meet the licensing objectives; however appropriate measures / licence conditions may cover issues such as:

- CCTV
- Location of entry
- Measures / training for staff on how to deal with suspected truant school children on the premises
- Notices / signage
- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets / helpline numbers for organisations such as Gamcare.

- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

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

[Applicants of permits for Adult or Family Entertainment Centres \(licensed or unlicensed\) \(formerly known as 'Amusement Arcades'\) are advised to speak to the Planning Department of this Council before making a formal application to the Licensing Service.](#)

### **320 Casinos – Local Policy**

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

### **421 Bingo premises**

**21.1** This licensing authority notes that the Gambling Commission's Guidance states that it should take steps to satisfy itself 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 bingo 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 licences, for that or those excluded areas.

**18.121.2** This authority also notes the Gambling Commission's Guidance that in the unusual circumstances that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.

**4.421.3** 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.

### **522 Betting premises**

**5.422.1 Gaming machines** - The holder of a betting Premises Licence may make available for use up to four gaming machines of category B, C or D.

**Betting machines** – When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, in line with Gambling Commission Guidance, will take into account the size of the premises, the number of

counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

~~5.2~~22.2 The licensing authority recognises that the design and layout of betting premises (or any other premises including tracks) will vary so will have particular regard to the siting of age restricted gaming machines within each individual premises to ensure, so far as is reasonably practicable, that staff properly monitor the use of these machines by children and young persons. This licensing authority reserves the right to request that gaming machines are repositioned where circumstances demonstrate that it is appropriate to do so.

~~5.3~~22.3 Factors to be taken into consideration will include the following:

- CCTV
- Relocation of the machines
- Door buzzers
- Remote cut-off switches
- Training provision
- Any other factor considered relevant

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

## ~~6~~23 Tracks

23.1 Section 353 of the Gambling Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

~~18.2~~23.2 This licensing authority is aware that tracks may be subject to one or more ~~than one~~ premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (~~ie i.e.~~ the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

~~6.4~~23.3 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

~~6.2~~23.4 This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Location of entry
- Notices / signage
- Physical separation of areas
- Proof of age schemes

- Provision of information leaflets / helpline numbers for organisations such as Gamcare
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

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

### **Gaming Machines**

~~6.3~~[23.5](#) Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

~~6.4~~[23.6](#) Applicants are advised to consult the Gambling Commission Guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority will also, in line with the Gambling Commission Guidance, consider the location of gaming machines at tracks.

### **Applications and Plans**

~~6.5~~[23.7](#) The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

~~18.3~~[23.8](#) Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

~~18.4~~[23.9](#) This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

## **~~7~~[24](#) Travelling Fairs**

~~7.1~~[24.1](#) ~~This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. Where category D machines and / or equal chance prize gaming without a permit is to be made available, this Licensing Authority will be responsible for deciding whether the gambling forms ancillary amusement.~~

~~7.2~~[24.2](#) The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

~~7.3~~24.3 It is noted that the 27-day statutory maximum for the land being used as a fair, is on a calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## ~~8.2~~25 **Provisional Statements**

~~8.4~~25.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

~~8.2~~25.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

~~8.3~~25.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

~~18.5~~25.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

~~18.6~~25.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

~~8.4~~25.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **9.26** Reviews

**9.4**26.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for this licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's Statement of Principles.

**9.2**26.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

**9.3**26.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

**9.4**26.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

~~18.7~~26.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

~~18.8~~26.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

**9.5**26.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

**9.6**26.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

**9.7**26.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder

- the applicant for review (if any)
- the [Gambling](#) Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

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## **Part C - Permits / Temporary & Occasional Use Notice**

### **40.27 Unlicensed Family Entertainment Centre Gaming Machine Permits**

~~40.1~~27.1 Where a premises does not hold a Premises Licence but wishes to provide category D 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 (~~Section 238~~). The permit cannot therefore be granted for an entire shopping centre or bowling alley, for example.

~~40.2~~27.2 The premises are 'unlicensed' in that they do not require a premises licence but do require a permit. It should not be confused with a 'licensed family entertainment centre' which does require a premises licence because it contains both category C and D gaming machines.

~~40.3~~27.3 The Gambling Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it may not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Gambling Commission ~~under section 25~~. The Gambling Commission's Guidance to licensing authorities also states: "A licensing authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for permits.... ~~licensing authorities will want to give weight to matters relating to child protection issues.~~"

~~40.4~~27.4 Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. . . . Licensing authorities might wish to consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

~~40.5~~27.5 It should be noted that a licensing authority cannot attach conditions to this type of permit.

#### **Statement of Principles**

~~27.2~~27.6. This licensing authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow the council to better determine the suitability of the applicant and the premises for a permit.

27.7 The principles that this authority intends to adopt will require the applicant to show there are policies and procedures in place to protect children from harm and protect vulnerable persons.

## **Child Protection Issues**

27.8 Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and [L](#) or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' (or equivalent) phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult-
- Maintain policies to deal with any young children who enter the premises unaccompanied
- The provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## **Protection of Vulnerable Persons Issues**

27.9 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## Other miscellaneous issues

27.10 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## Supporting documents

27.11 The licensing authority will require the following supporting documents to be served with all uFEC gaming machine permit applications:

- proof of age (a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from ~~Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website <http://www.disclosurescotland.co.uk/>~~ the Disclosure and Barring Service. For further details visit the website <https://www.gov.uk/government/publications/basic-checks>.
- In the case of applications for an uFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling machine supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission
- A plan of the premises for which the permit is sought showing the following items:
  - a) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - b) where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. slot machines, penny-falls, cranes)
  - c) the positioning and types of any other amusement machines on the premises
  - d) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - e) the location of any ATM/cash machines or change machines
  - f) the location of any fixed or temporary structures such as columns or pillars
  - g) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - h) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

27.12 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:

- they are a fit and proper person to hold the permit
- they have considered and are proposing suitable measures to promote [the licensing objectives, and](#)
- ~~the licensing objectives, and~~
- they have a legal right to occupy the premises to which the permit is sought.

[27.13](#) The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate, [based on the individual merits of the case.](#)

~~27.13~~[27.14](#) [A guidance document in respect of the expectations of the licensing authority in respect of compliance inspections for these permits is available at: TBC.](#)

## 28 (Alcohol) Licensed premises gaming machine permits

### Automatic Entitlement to Two Machines

[28.1](#) There is provision in the Gambling Act 2005 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.

~~28.1~~[28.2](#) [The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine. A copy of the relevant Code can be found here: <http://www.gamblingcommission.gov.uk/pdf/code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>.](#)

~~28.2~~[28.3](#) 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

### Permit for Three or More Machines

~~28.3~~[28.4](#) 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,~~ and “other such matters as the Authority think relevant.”

~~28.4~~28.5 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 t~~The applicant will be expected to demonstrate that ~~satisfy the authority that~~ there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines.

~~28.5~~28.6 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 ~~that who~~ will monitor ~~that~~ the machines to ensure they are not being used by those under 18. Notices and signage may also be helpful. ~~As~~ With regards to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as Gamcare.

~~28.6~~28.7 It should be noted that the licensing authority could decide to grant the 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.

~~28.7 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine—<http://www.gamblingcommission.gov.uk/pdf/code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>~~

Applicants should be aware that only those premises which have a ‘bar’ (servery) at which alcohol is sold for consumption on the premises will be eligible for a machine in the bar area of the premises. This means that premises such as restaurants or even hairdressers which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food (~~the old Part IV restaurant licences under the former Licensing Act 1964~~) will fall outside the scope of this section of the Gambling Act. ~~to which this section (s.279 – 284) of the Gambling Act applies.~~

## 29 Prize Gaming Permits

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

29.2 This licensing authority ~~has prepared a statement of principles that they~~ will expect the applicant to set out the types of gaming that he or she is intending to offer and ~~that~~ the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law; and
- clear policies that outline steps to be taken to protect children from harm.

29.3 In making its decision on an application for this permit ~~this~~the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

29.4 It should be noted that there are conditions in the Gambling Act with 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.

### 30 Club Gaming and Club Machines Permits

- 30.1 Members Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machine permit. The Club Gaming Permit will enable the premises to provide no more than 3 gaming machines from categories B3A, B4, C or D (but only one B3A machine can be sited as part of this entitlement), equal chance gaming and games of chance as prescribed in regulations. A Club Gaming Machine permit will enable the premises to provide no more than 3 gaming machines from categories B3A, B4, C and D.
- 30.2 The Act states that 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 restricted to that of a prescribed kind (currently bridge and whist). 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."
- 30.3 The [Gambling](#) Commission Guidance also notes "licensing authorities may only refuse an application on the grounds that:
- (a) 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;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the [Gambling](#) Commission or the police."
- 30.4 In determining whether a club is a genuine members' club, the licensing authority may take account a number of matters, including the following:
- Is the primary purpose of the club's activities something other than the provision of gaming to its members? This is an indicator that it's a genuine members' club.
  - Are the profits retained in the club for the benefit of the members? This is the key difference between a members' club and a commercial club.
  - Are there 25 or more members? This is the amount of members a club has to have to qualify.
  - Are there genuine domestic addresses on the register of members? Are domestic addresses listed for every member? Are members local to the club? These are all



indicators that the member lists are bona fide and are made up of genuine members.

- Do members participate in the activities of the club via the internet? It is less likely to be a genuine members' club if this is the case.
- Do guest arrangements link a member to every guest? Is there evidence of a signing-in register for guests? Guests must be genuine guests of members and not members of the general public.
- Is the 48 hour rule between applying for membership and participating in any gaming properly applied? This is an indication that the club has a proper membership scheme.
- Are there annual accounts for more than one year? This would indicate that the club is permanent in nature, rather than temporary.
- How is the club advertised and listed in directories, including on the internet? If the club is categorised under 'gaming' or 'poker', it is less likely to be genuine members' club.
- What information is provided on the club's website? This can be a useful source of information about the club.
- Are children permitted into the club? Appropriate access to the premises by children may indicate that it is less likely that the club is primarily for gambling activities.
- Does the club have a constitution and can it provide evidence that the constitution was approved by the members of the club? This provides further evidence that it is a properly constituted members' club.
- Is there a list of committee members and evidence of their election by the members of the club? Can the club provide minutes of committee and other meetings? These are further evidence that the club is a properly constituted members' club.

30.5 There is also a 'fast-track' procedure available under the Act for premises, which hold a Club Premises Certificate under the Licensing Act 2003 (~~Schedule 12 paragraph 10~~). As ~~t~~<sup>the</sup> The Gambling Commission's Guidance to licensing authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced," The grounds on which an application may be refused are: ~~and "The grounds on which an application under the process may be refused are:~~

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

30.6 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. A copy of the relevant Code can be found here: <http://www.gamblingcommission.gov.uk/pdf/code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>.

## 31 Temporary Use Notices

31.1 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.

[31.2](#) The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

~~31.2~~[31.3](#) The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

~~31.3~~[31.4](#) There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Local Authorities. 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".

~~31.4~~[31.5](#) In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

~~31.5~~[31.6](#) The same set of premises may not be the subject of a Temporary Use Notice for more than 21 days in any 12 month period, but may be the subject of several Notices provided that the total does not exceed 21 days.

## **32 Occasional Use Notices**

32.1 Occasional use notices enable betting on a track for up to eight days a year without a premises licence.

32.2 The licensing authority has very little discretion ~~as regards~~[with](#) these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will consider the definition of a 'track' and whether the applicant is permitted to serve the notice.

## **33 Small Society Lotteries**

33.1 These are lotteries operated by non-commercial societies, as defined in Section 19 of the Act, which states that a society is non-commercial if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics [or a](#) ~~or a~~ cultural activity
- for any other non-commercial purpose other than that of private gain

33.2 The promoting society of a small society lottery must, throughout the period during which



the lottery is promoted, be registered with a licensing authority. The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Authority believes that a society's principal office is situated in another area, it will inform the society and the other relevant authority as soon as possible.

33.3 The Gambling Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with the following limits it will be in breach of the Act's provisions, and consequently be liable to prosecution:

- at least 20% of the lottery proceeds must be applied to the purposes of the society
- no single prize may be worth more than £25,000
- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
- every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed

33.4 A small society lottery must send financial returns to the licensing authority with which it is registered, following each lottery held. This information allows the licensing authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

33.5 The following information must be submitted as part of the return:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

33.6 The Act also requires that returns must:

- be sent to the licensing authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent electronically) by two members of the society, who must be aged eighteen or older, are appointed for the purpose in writing by the society or, if it has one,

its governing body, and be accompanied by a copy of their letter or letters of appointment.

DRAFT

## **Appendix A - Responsible Authorities Contacts**

### **1) The Licensing Authority ~~Mid-~~**

Mid Devon District Council ~~Phoenix~~

Phoenix House

Phoenix Lane

Tiverton

EX16 6PP

Tel: 018884 255 255

E-mail: [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)

### **2) The Gambling Commission**

Gambling-Commission

Victoria Square House

Victoria Square

Birmingham

B2 4BP

Tel: 0121 233 1058

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

### **3) Her Majesty's Revenue and Customs**

HM Revenue and Customs National

Registration Unit Portcullis House

21 India Street

GLASGOW

G2 4PZ

Tel: 0141 555 3633

Email: [nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)

### **4) Child Protection**

Local Safeguarding Children's ~~The~~

~~Children's Safeguarding Board Social~~

~~Services Directorate Parkers Barn,~~

~~Parkers Way~~

Follaton House, Plymouth Road

Totnes

Devon

TQ9 5RSUF

Tel: 01392 386067601

Email: [cpchecks@devon.gov.uk](mailto:cpchecks@devon.gov.uk)

## **5) Devon & Cornwall Constabulary**

Licensing Department (East)  
Devon & Cornwall Police HQ  
Middlemoor  
EXETER EX2  
7HQ  
Non-urgent calls: 01392 452225  
Fax: 01392 452447  
Email: [licensingeast@devonandcornwall.pnn.police.uk](mailto:licensingeast@devonandcornwall.pnn.police.uk)

## **6) Devon and Somerset Fire & Rescue Service**

Central Command (East)  
Middlemoor Fire Station  
Sidmouth Road  
EXETER EX2  
7AP  
Tel: 01392 872200  
Fax: 01392 266839  
<http://dsfire.gov.uk/index.cfm?siteCategoryId=1>

## **7) Environmental Health Department**

Mid Devon District Council Phoenix  
House  
Phoenix Lane  
Tiverton EX16  
6PP  
Tel: 01884 255 255  
E-mail: [ehadmin@middevon.gov.uk](mailto:ehadmin@middevon.gov.uk)

## **8) Planning & Building Control**

Mid Devon District Council Phoenix  
House  
Phoenix Lane  
Tiverton EX16  
6PP  
Tel: 01884 255255  
Email for Planning: [devcon@middevon.gov.uk](mailto:devcon@middevon.gov.uk)  
Email for Building Control: [bcont@middevon.gov.uk](mailto:bcont@middevon.gov.uk)

## Appendix B: Summary of machine provisions by premises

	Machine category						
Premises type	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks occupied by pool betting		Maximum of 4 machines categories B2 to D (except B3A machines)					
Bingo premises 1				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
Adult gaming centre <sup>2</sup>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4		No limit on category C or D machines	
Licensed family entertainment centre 3					No limit on category C or D machines		
Family entertainment centre (with permit) <sup>3</sup>						No limit on category D machines	
Clubs or miners' welfare institute (with permits) <sup>4</sup>			Maximum of 3 machines in categories B3A or B4 to D				
Qualifying alcohol- licensed premises			1 or 2 machines of category C or D automatic upon notification				
Qualifying alcohol- licensed premises (with licensed premises gaming machine permit)			Number of category C-D machines as specified on permit				
Travelling fair							No limit on category D machines

- ~~1) Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight<sup>95</sup> category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.~~
- ~~2) Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.~~
- ~~3) Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FEC's and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. there is no power for the licensing authority to set a limit on the number of machines under the FEC permit.~~
- ~~4) Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.~~
- ~~5) Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.~~

Appendix C: Summary of gaming machine categories and entitlements

Category of machine	Maximum stake (from Jan 2014)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

\* With option of max £20,000 linked progressive jackpot on premises basis only

**Appendix D: Summary of gaming entitlements for clubs and alcohol-licensed premises**

	Members' club or MW institute with club gaming permit	Clubs established to provide facilities for gaming of a prescribed kind (currently bridge or whist clubs)	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit or club machine permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or Whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	Poker £1000 / week £250 / day £10 / person per game  Other gaming No limit	Poker £1000 / week £250 / day £10 / person per game  Other gaming No limit	Poker £100 / premises per day  Other gaming £5 / person per game  Cribbage & dominoes No limit
Limits on prizes	No limit	No limit	Poker £250 / game  Other gaming No limit	Poker £250 / game  Other gaming No limit	Poker £100 / game  Other gaming No limit
Max particip. fees – per person per day	Bridge/whist* £20  Other gaming £3	£18 (without club gaming permit) £20 (with club gaming permit)	Bridge/whist* £18  Other gaming £3 (for a commercial club) £1 (members' club)	Bridge/whist* £18  Other gaming £1	None permitted
Bankers /unequal chance gaming	Pontoon <i>Chemin de fer</i>	None permitted	None permitted	None permitted	None permitted
Limits on bingo **	Maximum of £2,000 / week in stakes or prizes.	No bingo permitted	Maximum of £2,000 / week in stakes or prizes.	Maximum of £2,000 / week in stakes or prizes.	Maximum of £2,000 / week in stakes or prizes.

\* On a day when no other facilities for gaming are provided

\*\* If more than the maximum, then an operating licence will be required.



## **Appendix B: Additional links for machine provisions, machine categories and gaming entitlements**

### **Summary of machine provisions by premises:**

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-A-Summary-of-machine-provisions-by-premises.aspx>

### **Summary of gaming machine categories and entitlements**

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx>

### **Summary of gaming entitlements for clubs and alcohol-licensed premises**

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-C-Summary-of-gaming-entitlements-for-clubs-and-alcohol-licensed-premises.aspx>

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**GOSSCHALKS**  
SOLICITORS

BY E-MAIL ONLY  
LICENSING DEPARTMENT  
MID DEVON DISTRICT COUNCIL

Please ask for: Richard Taylor  
Direct Tel: 01482 590216  
Email: [rjt@gosschalks.co.uk](mailto:rjt@gosschalks.co.uk)  
Our ref: RJT / AW / 097505.00005  
#GS2046900  
Your ref:  
Date: 5 July 2018

Dear Sir/Madam,

**Re: Gambling Act 2005 Policy Statement Consultation**

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take for example, with regard, to the new requirements for local area risk assessments and ensuring the right structures are in place in shops that are appropriate for that area.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these

within new processes would be detrimental to the gambling licensing regime. The ABB also believes it is important that the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised under the new regime.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and

socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, described the project as *"breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."*

### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015. By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

### **Local area risk assessments**

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The new requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account

based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

### **Best practice**

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

### **Concerns around increases in the regulatory burden on operators**

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

### **Employing additional licence conditions**

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called “Think 21”. This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

### **Other concerns**

Where a local area profile is produced by the licensing authority, this be made clearly available within the body of the licensing policy statement, where it will be easily accessible by the operator and also available for consultation whenever the policy statement is reviewed.

### **Considerations specific to the Draft Statement of Principles 31<sup>st</sup> January, 2019 to 30<sup>th</sup> January, 2022**

On behalf of the ABB, we welcome the early acknowledgement of “the overriding principle” contained within Paragraph 6 to Part A and overall, we welcome the light touch approach to this draft Statement of Principles. There are, however, a number of paragraphs where we submit that amendments should be considered. Those paragraphs are below:-

### Paragraph 15.10

This paragraph contains a list of bullet points detailing factors that operators may wish to consider when compiling local area risk assessments. The first bullet point refers to the “socio economic make up of the area”. This bullet point should be removed. The purpose of the local area risk assessment is to assess local risks to the licensing objectives and to ensure that operators have policies, procedures and control measures to mitigate those risks.

The relative affluence of an area can have no bearing on whether or not an application or the operation of an existing premise is reasonably consistent with the licensing objectives unless the licensing authority has pre-determined that persons in a particular socio economic group or of a particular income level are automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this pre-determination will not have taken place and accordingly the reference to the “socio economic make up of the area” should be removed.

### Paragraph 17.17

This paragraph refers to the licensing authority promoting the licensing objectives.

The licensing authority is required to promote the licensing objectives when dealing with applications under Licensing Act 2003, it is required to “have regard” to the licensing objectives under Gambling Act 2005. Accordingly the reference to “promote” should be amended.

### Paragraph 17.27 to 17.36 – Licensing conditions

These paragraphs properly explain the existence of the mandatory and default conditions. This section, however, would be assisted if a clear statement was made that the mandatory and default conditions are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives. The draft Statement of Principles would also be assisted if it was to be made clear that additional conditions will only be imposed where there is clear evidence in the circumstances of a particular case of a need to supplement those mandatory and default conditions.

In addition, the evidential basis for the imposition of conditions should be made clear and references to conditions being opposed simply where it is felt it to be “appropriate” (Paragraph 17.1) and where there is a “perceived need” (Paragraph 17.32) should be amended accordingly.

## **Conclusion**

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory



for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



**GOSSCHALKS**

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**From:** [Catherine Sweet](#)  
**To:** [Licensing](#)  
**Cc:** [Thomas Keating](#)  
**Subject:** RE: Gambling Act Consultation: 11 June 2018 - 10 August 2018  
**Date:** 11 June 2018 10:54:56  
**Attachments:** [image005.png](#)  
[image006.png](#)  
[GamCare Local Authorities Brochure 2018 \(web\).pdf](#)  
[GamCare Training Brochure 2017.pdf](#)

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Hello,

Thank you for your email, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the [Gambling Commission](#).

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see [www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/](http://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/)
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from [GamCare Certified operators](#). GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact [mike.kenward@gamcare.org.uk](mailto:mike.kenward@gamcare.org.uk)

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,  
Catherine

**Catherine Sweet**  
**Head of Marketing and Communications**

T: 020 7801 7028

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## Specific sections of responses received to draft Statement of Principles under the Gambling Act 2005

NOTE: Complete copies of responses are attached as Annexes to the report.

Part of Statement	Consultee	Comments	Relevant Points / Recommendations
Paragraph 15.10	Association of British Bookmakers (via Gosschalks)	<p><i>‘This paragraph contains a list of bullet points detailing factors that operators may wish to consider when compiling local area risk assessments. The first bullet point refers to the “socio economic make up of the area”. This bullet point should be removed. The purpose of the local area risk assessment is to assess local risks to the licensing objectives and to ensure that operators have policies, procedures and control measures to mitigate those risks.</i></p> <p><i>The relative affluence of an area can have no bearing on whether or not an application or the operation of an existing premise is reasonably consistent with the licensing objectives unless the licensing authority has pre-determined that persons in a particular socio economic group or of a particular income level are automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this pre-determination will not have taken place and accordingly the reference to the “socio economic makeup of the area” should be removed’.</i></p>	<p>Although Mid Devon District Council has not produced its own specific set of data, this does not mean the authority cannot make an informed judgement based on relevant data that has been gathered elsewhere. Such data cannot be ignored and it is therefore right to be pointed out as a consideration for operators and licence holders.</p> <p>One such data source is ‘Geofutures’ (<a href="https://www.geofutures.com/research/gambling/">https://www.geofutures.com/research/gambling/</a>). The Gambling &amp; Place Research Hub looks at the relationship between gambling behavior, location and communities.</p> <p>Documents can be seen in full via the above link but one summary point from the ‘<i>Exploring area-based vulnerability to gambling-related harm...</i>’ (2015) document states that:</p> <p><i>There is good evidence to support youth, those with substance abuse/misuse/excessive alcohol consumption, poorer mental health, those living in deprived areas, from certain ethnic groups, those with low IQs, those with certain personality traits and those who are unemployed as being potentially more</i></p>

			<p><i>vulnerable to harm’ (p86).</i></p> <p>The consultation response specifically references the <i>‘relative affluence’</i> of an area but affluence is not the only consideration of socio-economic issues and the range of factors that can influence health within this context. It is suggested that the policy should be updated and clarified to include reference to <i>‘deprivation’</i>. The reasoning for this specific update is highlighted by <i>Geofutures</i>:</p> <p><i>In policy terms, it is recognised that deprivation is multifaceted and is not just about poverty and income. In England, deprivation is measured using the Index of Multiple Deprivation (IMD). The Department of Communities and Local Government is clear, this is a measure of deprivation not affluence (DCLG, 2011). In policy terms deprivation means: “a broad range of issues and refers to unmet needs caused by a lack of resources of all kinds, not just financial” (DCLG, 2011). In analysis, the most commonly used tool is IMD. This brings together several different domains of deprivation: income; employment; health; disability; education, skills and training; barriers to housing and services; living environment and crime (2015).</i></p> <p>The relevant bullet point within the Statement of principles would therefore read as follows:</p> <p><i>The geographical location of the premises, its levels of deprivation and the socio-economic makeup of the area.</i></p>
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			<p>Those wanting further information on the Index of Multiple Deprivation should visit this page: <a href="https://www.gov.uk/government/statistics/english-indices-of-deprivation-2015">https://www.gov.uk/government/statistics/english-indices-of-deprivation-2015</a>. It should be noted that information about Mid Devon can be found within the supporting documents on this site.</p>
Paragraph 17.7	General update	It is considered useful to include some examples of how separation can be achieved.	<p>A bullet point has been added to state:</p> <p><i>Adequate separation may be obtained by means of screening, walls, clear signage etc. but each case will be judged on its own merits.</i></p>
Paragraph 17.17	Association of British Bookmakers (via Gosschalks)	<i>'The licensing authority is required to promote the licensing objectives when dealing with applications under Licensing Act 2003, it is required to "have regard" to the licensing objectives under Gambling Act 2005. Accordingly the reference to "promote" should be amended.</i>	Update the policy as suggested.
Paragraph 17.27 to 17.36	Association of British Bookmakers (via Gosschalks)	<p><i>These paragraphs properly explain the existence of the mandatory and default conditions. This section, however, would be assisted if a clear statement was made that the mandatory and default conditions are usually sufficient to ensure operation that is reasonably consistent with the licensing objectives.</i></p> <p><i>The draft Statement of Principles would also be assisted if it was to be made clear that additional conditions will only be imposed where there is clear evidence in the circumstances of a particular case of a</i></p>	<p>It is proposed to add an additional paragraph which states:</p> <p><i>It is unlikely that the council will need to apply individual conditions imposing a more restricted regime in relation to matters that have already been dealt with via mandatory or default conditions. However, where there are regulatory concerns of an exceptional nature the Council may do so.</i></p> <p>Additionally, it is proposed to amend the existing</p>

		<p><i>need to supplement those mandatory and default conditions.</i></p> <p><i>In addition, the evidential basis for the imposition of conditions should be made clear and references to conditions being opposed simply where it is felt it to be “appropriate” (Paragraph 17.1) and where there is a “perceived need” (Paragraph 17.32) should be amended accordingly’.</i></p>	<p>paragraph relating to conditions to include the following statement:</p> <p><i>Any conditions attached to licences will only be applied where there is evidence of a risk to the licensing objectives.</i></p> <p>No further amendments are proposed.</p>
Paragraph 17.35	General update	Not all kinds of premises are covered by the requirements listed	It is proposed to add a clarifying note to say that <i>the considerations listed will apply to ‘specific relevant premises’.</i>
Paragraph 18.1 and 19.2.	Gamcare	<p><i>Does the operator ensure that there is an adequate number of staff and managers are on premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and / or pubs, bars and clubs’.</i></p>	<p>It is proposed to add the following bullet point as an additional consideration:</p> <p><i>Additional staffing during busier periods / times</i></p>
Paragraph 19.2 information box (moved to Paragraph 17.15)	General update	Requirements for planning were split between two separate paragraphs so it would make sense to combine this information.	Proposed to add a note about applicants contacting Planning to 17.15. This keeps the general planning comments together.
Paragraph 21.1	General update	It was not clear that the consideration applied to new premises also.	Proposed to add a note to clarify that <i>the ability to play bingo is a consideration for new premises too.</i>



Paragraph 22.1	General update	'Person to person' is no longer the normal term used.	Replace the phrase 'person to person' with ' <i>over the counter</i> '.
Paragraph 22.1 and 22.2	General update	These paragraphs mention that staff should 'monitor' the use of machines by children or vulnerable people. This implies monitoring the use is OK without any required action (i.e. to prevent).	Add a note to say that staff will also ' <i>prevent</i> ' the use of machines by children, young persons or vulnerable people.
Paragraph 27.1	General update	This introductory paragraph would benefit from highlighting that additional information is available later in the policy on the documents that are required to support an application.	Proposed to add a note to say that <i>Paragraph 27.11 contains additional information on the documents required</i> . This ensures people reading this part of the policy are aware of the additional information that follows.
Paragraph 30.4	General update	The 48 hour membership rule does not apply to commercial clubs.	Proposed to add a note to say that <i>the 48 hour rule does not apply to commercial clubs</i> .
Paragraph 32.1	General update	There was not a great deal of information on Occasional Use Notices.	Added a link for additional information on Occasional Use Notices.
Appendix A	HM Revenue and Customs	Update HMRC address and contact telephone number.	Amend Appendix A as suggested with new address and contact details.

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**Licensing Authority**  
**Mid Devon District Council**  
**Phoenix House, Phoenix Lane Tiverton,**  
**Devon, EX16 6PP**

## **Gambling Act 2005**

### **Statement of Principles**

**31<sup>st</sup> January 2019~~16~~ to 30<sup>th</sup> January 2022~~19~~**

**(Adopted by Full Council on ~~4 November 2015~~TBC)**

## Table of Contents

Item	Page
<b>Part A</b>	
Licensing Objectives	3
Introduction	3
Description of the Licensing Authority Area	4
Consultation	5
Declaration	6
The Overriding Principle	6
Responsible Authorities	6
Interested Parties	7
Exchange of Information	8
Enforcement	8
Licensing Authority Functions	10
The Licensing Process	10
Fees	11
Administration, Exercise and Delegation	<a href="#">11</a>
Local Area Risk Assessments	<a href="#">12</a>
Local Area Profile	<a href="#">14</a>
<b>Part B – Premises Licences</b>	
General Principles	<a href="#">15</a>
Adult Gaming Centres	22
(Licensed) Family Entertainment Centres	<a href="#">22</a>
Casinos	23
Bingo	23
Betting Premises	<a href="#">23</a>
Tracks	24
Travelling Fairs	<a href="#">25</a>
Provisional Statements	26
Reviews	27
<b>Part C – Permits/Temporary &amp; Occasional Use Notices</b>	
Unlicensed Family Entertainment Centre Gaming Machine Permits	29
(Alcohol) Licensed Premises Gaming Machine Permits	32
Prize Gaming Permits	33
Club Gaming & Club Machine Permits	34
Temporary Use Notices	35
Occasional Use Notices	36
Small Society Lotteries	36
<b>Appendix A - Responsible Authorities</b>	<a href="#">39</a>
<b>Appendix B - <del>Summary of machine provisions by premises</del> <a href="#">Additional links for machine provisions, categories and entitlements</a></b>	<a href="#">45</a> <del>0</del>
<b><del>Appendix C – Summary of gaming machine categories and entitlements</del></b>	<a href="#">42</a>
<b><del>Appendix D – Summary of gaming entitlements for clubs and alcohol licensed premises</del></b>	<a href="#">43</a>

## **STATEMENT OF PRINCIPLES**

Text in the shaded boxes within this Statement of Principles is advisory only intended to give assistance to applicants, interested persons and responsible authorities.

### **Part A**

#### **1 The Licensing Objectives**

- 1.1 The Licensing Authority has a duty under the Gambling Act 2005 to carry out its licensing functions in a manner which is consistent with three licensing objectives. The ~~relevant~~ licensing objectives are:
- preventing gambling from being a source of crime or 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
- 1.2 It should be noted that this policy statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.
- 1.3 It should also be noted that considerations such as moral or ethical objections to gambling are not valid reasons to reject applications for premises licences. An authority's decision cannot be based on dislike of gambling, or a general- notion- that it is undesirable to allow gambling premises in an area ~~-(with-the~~ exception of the casino resolution powers).

~~Applicants are also advised to note Part B of this Statement of Principles:-  
Premises Licences – General Principles~~

#### **2 Introduction**

- 2.1 This Statement of Licensing Principles is written pursuant to the provisions of the Gambling Act 2005 and the Guidance issued under s.25 of the Act by the Gambling Commission.
- 2.2 All references to the Guidance refer to the Gambling Commission's Guidance for Local Authorities.
- 2.3 The Statement takes effect on 31 January ~~2016~~[2019](#).

## 3



- 3.1 Mid Devon is one of the larger local authorities in England with a rural area of 352 square miles but a fairly sparse population of ~~78,600~~79,200. The district boasts a high quality natural environment, bordering Dartmoor and Exmoor National Parks and the Blackdown Hills Area of Outstanding Natural Beauty, consisting of 34,754 households. There are three main towns in the district, Tiverton being ~~by far~~ the largest with a population of approximately 22,177,000 ~~and the other two~~, Cullompton and Crediton ~~both~~ have populations of approximately 9,245000 and ~~8,000~~7,872 respectively. The rest of the population is spread throughout the district in villages and hamlets stretching from Dartmoor to Exmoor to the Blackdown Hills.
- 3.2 Mid Devon is the licensing authority for a range of gambling activities in conjunction with the Gambling Commission. To give an indication of the numbers involved, please see the table below. This data was true as of ~~July~~May 2018~~5~~ and experience has shown that the numbers stay fairly constant:

Type of licence / Permit / Authorisation	Number in District
Betting Shop	5
Adult Gaming Centre	3
Family Entertainment Gaming Machine Permit	3
Club Gaming Permit	2
Club Machine Permit - 10	9
Alcohol licensed premises - Gaming Machine Permit – Notification	<del>73</del> 83
Alcohol licensed premises - Gaming Machine - 4	3

Permit	
Small Society Lottery	<del>113</del> 93

## 4 Consultation

4.1 Licensing authorities are required by the Gambling Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts reconsulted upon. The statement must then be republished.

4.2 The Gambling Act requires that the following parties ~~are~~be consulted by Licensing Authorities:

- The Chief Officer of Police;
- Persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
- Persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act.

4.3 In adopting this policy, the Licensing Authority have consulted with the following parties: ~~List of persons this authority consulted:~~

- All Responsible Authorities under the Gambling Act
- Citizen’s Advice Bureau
- Community Safety Partnership
- Churches Housing Action Team
- ~~Devon and Cornwall Constabulary~~
- ~~Devon County Council Social Services/Education Department~~
- ~~Devon Fire and Rescue Service~~
- Environmental Health
- Public Health, Mid Devon District Council
- Existing licence-holders (or representatives)
- Federation for Small Business – Mid Devon
- ~~Planning~~
- Gamblers Anonymous
- Gambling Commission
- Gamcare
- Mencap
- NSPCC
- Primary Care Trust
- Residents / Businesses of Mid Devon through the Council website
- Town & Parish Councils within Mid Devon

4.4 Proper weight has been given to the views of all those who have been consulted prior to the date of implementation of the Statement of Principles.

Our consultation took place between TBC 20 July 2015 – 13 September 2015 and we followed Cabinet office guidance on public consultations, which is available at:  
<https://www.gov.uk/government/publications/consultation-principles-guidance>.

4.5 The Statement of Principles was approved at a meeting of the Full Council on ~~4 November 2015~~[TBC](#) and was published on our website on ~~1 December 2015~~[TBC](#). Copies were placed in the public libraries of the area as well as being available for viewing at Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton, Devon EX16 6PP.

4.6 Should you have any comments regarding this Statement of Licensing Principles please write to the above address or email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk).

## 5 Declaration

5.1 In producing the final statement this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act, the guidance to licensing authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

## 6 The Overriding Principle

6.1 In exercising its functions under the Act, this licensing authority will aim to permit the use of premises for gambling in so far as it thinks it ~~is;~~

- in accordance with the Gambling Act and associated legislation;
- in accordance with any relevant Code Of Practice ~~under section 24;~~
- ~~having regard to the~~[in accordance with any](#) relevant guidance issued by the Gambling Commission ~~under section 25;~~
- ~~as is to be~~ reasonably consistent with the licensing objectives
- ~~and having regard to~~[in accordance with](#) this Statement of Principles ~~under section 349.~~

6.2 In deciding whether or not to grant a licence, this authority does not have regard to the expected demand for the facilities that are the subject of the application.

6.3 The overriding principle does not, however, apply if this Authority resolves not to issue casino premises licences.

6.4 Each case will be decided on its individual merits.

## 7 Responsible Authorities

7.1 Responsible authorities are those public bodies, as specified by the Gambling Act, which must be notified of applications for premises licence. Such bodies are entitled to make representations to the licensing authority in relation to the applications.  
The Responsible Authorities are detailed in Appendix A.

7.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body



which is competent to advise the authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

7.3 In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the ~~Local~~ [Devon](#) Safeguarding Children Board for this purpose.

~~7.4 Under the Gambling Act a "child" is an individual who is less than 16 years old and a "young person" is not a child but is less than 18 years old.~~

## 8 Interested Parties

8.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act as follows: "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person –

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or
- c) represents persons who satisfy paragraph (a) or (b)"

8.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act to determine whether a person is an interested party. The principles are set out below.

8.3 Each case will be decided upon its [own](#) merits. This authority will not apply a rigid rule to its decision-making. The factors that this licensing authority may take into account when determining what 'sufficiently close to the premises' means (in each case) might include:

- The size of the premises
- The nature of the premises
- The distance of the premises from the location of the person making the representation
- The potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment)
- The circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.

8.4 In determining whether a person with business interests might be affected by the premises, the factors likely to be relevant include:

- The size of the premises

- The 'catchment' area of the premises (that is, how far people travel to visit the premises)
- Whether the person making the representation has business interests in that catchment area that might be affected.

8.5 Interested parties can be persons who are democratically elected such as county, parish and town councillors and MPs. 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. Parish and town councils may also be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises likely to be ~~to be likely to be~~ affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Team, Mid Devon District Council, Phoenix House, Phoenix Lane, Tiverton, Devon EX16 6PP or telephone 01884 255255 or email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)

## 9 Exchange of Information

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

9.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act in its exchange of information and comply with the ~~which includes the provision that the~~ Data Protection Act 1998 ~~will not be contravened~~. This licensing authority will also have regard to any Guidance issued by the Gambling Commission ~~to licensing authorities~~ on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act.

9.2 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 10 Enforcement

~~Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.~~

- 10.1 The main enforcement and compliance role for this licensing authority in terms of the Act will be to ensure compliance with licences and permits issued and any conditions attached to them, including compliance with relevant codes of practice, dealing with temporary permissions and registration of small society lotteries.
- 10.2 The licensing authority will act in accordance with the following principles for regulators:
- Proportionate: regulators should only intervene when necessary; and 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.
- 10.3 In line with the Gambling Commission's Guidance for licensing authorities this licensing authority will endeavor to avoid duplication with other regulatory regimes so far as possible.
- 10.4 This licensing authority will also adopt and implement a risk-based inspection programme based on:
- The licensing objectives and intelligence / complaints received
  - Relevant codes of practice
  - Guidance issued by the Gambling Commission
  - The principles set out in this statement of licensing policy
- 10.5 During inspections this authority may cover:
- details of training policies and training undertaken by staff
  - Details of Local Risk Assessments and ensuring the document is available to view and up to date
  - records of refusals to serve / admit on age grounds (subject to the terms of any primary authority agreements)
  - records of any relevant incidents in or outside the premises, e.g. anti-social behaviour
  - approach to managing self-exclusion and numbers of people currently self-excluded
  - involvement / impact of any work in local schemes or partnership working with other local businesses
  - reviewing paperwork relating to the purchase of machines from licensed manufacturers
  - interviews with staff members
  - confirming that appropriate signage is in place.

This list is not exhaustive but provides the common factors covered in a standard inspection.

The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions, which it authorises. This can include undertaking enforcement action. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

This licensing authority also keeps itself informed of developments as with regards to the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

~~Bearing in mind the principle of transparency, this licensing authority's enforcement policy is available to view here - <https://www.middevon.gov.uk/residents/public-health/public-health-enforcement-policy/> - compliance protocols / written agreements will be available upon request to the licensing team at Mid Devon District Council. Our risk methodology will also be available upon request.~~

## 11 Licensing Authority functions

### 11.1 Licensing Authorities are required under the Gambling Act to:

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

It should be noted that licensing authorities are not involved in licensing remote gambling as this is regulated by the Gambling Commission. Remote gambling is defined by the Act as gambling in which persons participate by the use of remote communication including: the internet, telephone, television and radio.

## 12 The Licensing Process

12.1 A Licensing Committee, a Sub-Committee, or the Licensing Officer acting under delegated authority may carry out the powers of the authority under the Gambling Act.

[12.2](#) Many of the licensing procedures are largely administrative in nature. In the interests of efficiency, non-contentious procedures are carried out by licensing officers.

12.3 The Licensing Authority ensures that all Licensing Officers and Members of the Licensing Committee have received adequate training for their role under the Gambling Act. ~~12.2~~

12.4 Where admissible and relevant representations are received in relation to an application for a premises licence, or in relation to the review of a premises licence, a Sub-Committee is delegated to hear the matter.

12.5 Applicants for premises licences are required to copy their applications in full to the responsible authorities [under the Gambling Act](#) (~~as listed in~~ [see](#) Appendix A).

## 13 Fees

- 13.1 This Council will aim to ensure that the income it receives in fees matches the costs of providing the service to which fees relate. The Council sets its own fees within a framework set by central government.

## 14 Administration, Exercise and Delegation

- 14.1 [The following table shows the ~~Recommended~~](#) delegation of functions permitted under the Gambling Act. A tick indicates the lowest level to which decisions can be delegated.

<u>Matter to be dealt with</u>	<u>Full Council</u>	<u>Sub-committee of licensing committee</u>	<u>Officers</u>
<a href="#">Three year licensing Statement of Principles</a>	<u>✓</u>		
<a href="#">Policy not to permit casinos</a>	<u>✓</u>		
<a href="#">Fee setting (when appropriate)</a>		<u>✓</u>	
<a href="#">Application for premises licences</a>		<a href="#">Where representations have been received and not withdrawn</a>	<a href="#">Where no representations received/representations have been withdrawn</a>
<a href="#">Application for a variation to a licence</a>		<a href="#">Where representations have been received and not withdrawn</a>	<a href="#">Where no representations received/representations have been withdrawn</a>
<a href="#">Application for a transfer of a licence</a>		<a href="#">Where representations have been received from the Commission</a>	<a href="#">Where no representations received from the Commission</a>
<a href="#">Application for a provisional statement</a>		<a href="#">Where representations have been received and not withdrawn</a>	<a href="#">Where no representations received/representations have been withdrawn</a>
<a href="#">Review of a premises licence</a>		<u>✓</u>	
<a href="#">Application for club gaming/ club machine permits</a>		<a href="#">Where objections have been made (and not withdrawn)</a>	<a href="#">Where no objections made/objections have been withdrawn</a>
<a href="#">Cancellation of club gaming/ club machine permits</a>		<u>✓</u>	
<a href="#">Applications for other permits</a>			<u>✓</u>
<a href="#">Cancellation of licensed premises gaming machine permits</a>			<u>✓</u>
<a href="#">Consideration of temporary use notice</a>			<u>✓</u>
<a href="#">Decision to give a counter notice to a temporary use notice</a>		<u>✓</u>	

## 15 Local Risk Assessments

- 15.1 The Gambling Commissions Licence Conditions and Codes of Practice ~~will~~ have required operators [with premises licences](#) to consider local risks ~~with effect from the~~ [since](#) 6 April 2016.
- 15.2 The Gambling Commission's Social Responsibility Code ~~will~~ requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, licensees should take into account any relevant matters identified in this policy statement.
- 15.3 Licensees will be required to undertake and submit a local risk assessment when applying for a new premises licence. The risk assessment [should be reviewed on an annual basis to ensure it is up to date and](#) must [also](#) be reviewed (and if necessary updated):
- When applying for a variation of a premises licence.
  - To take account of significant changes in local circumstances, including those identified in this policy.
  - When there are significant changes at a licensee's premises [s](#) that may affect the level of risk or the mitigation of those risks.

### Significant Changes in Local Circumstances

- 15.4 The following sets out some examples of what the Licensing Authority consider being significant changes in local circumstances:
- The local area is identified as a crime hotspot by the Police and/or Licensing Authority
  - Any vulnerable group is identified by the Licensing Authority or venues relating to those vulnerable group are opened in proximity to gambling premises (e.g. additional homeless hostels or gambling or mental health care/support facilities are opened in the local area)
  - Educational facilities increase in the local area. This may occur as a result of the construction of a new school/college or where a significant change is made to an existing establishment
  - The local area is identified by the Licensing Authority as an area of heightened risk within its Statement of Licensing Principles
- 15.5 The above list is not exhaustive and other significant changes may occur that are considered relevant. The Licensing Authority will provide information to gambling operators when it feels a significant change has occurred in the local area. The licensing authority will set out what the change is and may provide information on any specific concerns it may have that should be considered by operators. However, operators must also consider what is happening in their local areas and it is their responsibility to identify significant changes which may require a review and possible amendment to their risk assessment.

## Significant Changes to the Premises

- 15.6 The following list is not exhaustive but sets out some examples of what the Licensing Authority considers to be significant changes to the premises (some of which may also require a variation of the existing premises licence):
- Any building work or premises alteration where gambling facilities are relocated within the premises [\(including the use of privacy screens\)](#)
  - The premises licence is transferred to a new operator who has different policies and procedures to the previous licence holder
  - Any change to the operator's internal policies which as a result requires additional or changes to existing control measures; and/or staff [retraining](#) ~~will require retraining on those policy changes~~
  - The entrance or entrances of the premises are changed
  - New gambling facilities are made available on the premises which were not provided previously, for example, Self Service Betting Terminals, bet in play or different category of gaming machines are provided
- 15.7 The ~~is new~~ Social Responsibility Code provision is supplemented by an Ordinary Code that ~~will~~ requires licensees to share their risk assessments with the Licensing Authority when applying for a premises licence or applying for a variation to existing licensed premises or otherwise on request of the Council.
- 15.8 Whilst there are no plans to request that licensed premises share their risk assessments on a periodic basis, where concerns do exist, perhaps prompted by new or existing risks, the Licensing Authority is likely to request that a licensee share a copy of its risk assessment. The risk assessment, [which should be kept on the premises to which it relates](#), will set out the measures the licensee has put in place to address specific concerns, thereby potentially reducing the occasions on which a premises review and the imposition of licence conditions is required.
- 15.9 When comprising their risk assessments operators should consider:
- The risks posed to the licensing objectives by the provision of gambling facilities at each of their premises in the local authority area
  - Reference to any specific local risks
  - How the operator proposes to mitigate these risks
  - How the operator will monitor specific risks
- 15.10 Although not forming an exhaustive list, the following factors are ones which operators may wish to consider when comprising and reviewing their risk assessments:
- The geographical location of the premises, [its levels of deprivation](#) and [the](#) socio-economic makeup of the area



- The type and usage of the premises
- The layout and size of the premises, e.g. access and egress, position of counters and gaming machines, lines of sight between counters and entrance points and machines, the physical structure of the premises, presence of any visual obstacles and the appropriate level of supervision at different times of the day/ year
- Specific types of gambling premises in the local area and their density. Whether there is any facility for sharing information between premises for example, in preventing anti-social behavior?
- The opening hours of the premises and the possible interaction of the gambling premises with any surrounding night time economy
- Client demographics, the presence of children and vulnerable adults
- Staff numbers, training and supervision
- Staff roles and their engagement with other activities
- Issues of lone working and staff working closely with children
- How the presentation and marketing of any gambling products does not appeal to children and is clear to anyone wishing to participate in gambling

15.11 Operators will also wish to consider the potential risk of under-age gambling and the increased risk of problem gambling in certain groups, and therefore it is suggested that operators consider:

- Self-exclusion data - the number of self-exclusions and underage attempts to gamble-
- The proximity of the premises to any school, centre, or establishment for the education, training or care of young and/or vulnerable persons
- The proximity of the premises to leisure centres used for sporting and similar activities by young and/or vulnerable persons
- The proximity to the premises to any youth club or similar establishment
- The proximity of the premises to any community, ~~ecclesiastical~~, welfare, health or similar establishment used specifically, or to a large extent, by young and/or vulnerable persons
- The proximity of any other area or location where young and/or vulnerable persons could congregate
- The proximity of any hostels or support services for vulnerable people, such as those with addiction issues or who are homeless, given the greater potential risk of problems among these groups.

~~15.12—In order to assist those completing risk assessments this authority has produced a template which is available on the Mid Devon District Council website. It should be noted that this is for guidance only and may be updated from time to time as a result of feedback and experience.~~

## 16 Local Area Profile

16.1 There is no mandatory requirement to undertake a local area profile and this authority has decided not to do so at the time of producing this policy statement. This decision will be reviewed should it be felt by the authority that potential or actual risks merit its production.



## **Part B - Premises Licences: Consideration of Applications**

### **17 General Principles**

- 17.1 Premises Licences are subject to the requirements set-out in the Gambling Act and regulations, as well as specific mandatory and default conditions, which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 17.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks [it](#):
- in accordance with any relevant code of practice issued by the Gambling Commission
  - in accordance with any relevant guidance issued by the Gambling Commission
  - reasonably consistent with the licensing objectives and
  - in accordance with the authority's Statement of Licensing Principles.
- 17.3 It is appreciated that, in line with the Gambling Commission's Guidance for licensing authorities, "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos below) and also that unmet demand is not a criterion for a licensing authority.
- 17.4 In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the licensing objectives. One example of [an](#) irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

#### **Definition of premises**

- 17.5 ~~Definition of "premises"~~ In the Act, "premises" is defined as including "any place". Section 152, therefore, prevents more than one premises licence applying to any place, but a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. This licensing authority, will, however, pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.
- [17.6](#) The Gambling Commission states in its Guidance to Licensing Authorities that "In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or

temporarily separated, for example, by ropes or moveable partitions, can properly be regarded as different premises”.

17.6

- 17.7 This licensing authority takes particular note of the Gambling Commission’s Guidance for licensing authorities which states that Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or be able to closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit
- Adequate separation may be obtained by means of screening, walls, clear signage etc. but each case will be judged on its own merits.
- Customers should be able to participate in the activity named on the premises licence

- 17.8 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include:

- Do the premises have a separate registration for business rates?
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

This authority will consider these and other relevant factors in making its decision, depending on ~~all~~ the circumstances of the case.

- 17.9 This Licensing Authority accepts that there must be no direct access between an adult gaming centre and any other premises licensed under the Act or premises with an FEC, club gaming, club machine or licensed premises gaming permit. There is no definition of ‘direct access’ in the Act or regulations. However it could be said that there should be an area separating the premises concerned (for example, a street or café), which the public go to for the purposes other than gambling, for there to be shown to be no direct access. This must be made clear on the relevant plan. The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

#### Casinos

- The principal access entrance to the premises must be from a street
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

#### **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

#### **Betting Shops**

- Access must be from a street or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

#### **Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

#### **Bingo Premises**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

#### **Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

#### **Premises “ready for gambling”**

- 17.10 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.
- 17.11 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.
- 17.12 In deciding whether a premises licence can be granted where there are outstanding

construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

17.13 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

### **Location**

17.1317.14 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision making. In line with the Gambling Commission's Guidance to licensing authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon with regards to areas where gambling premises may present a greater risk, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its own merits with the applicant having to show how they have taken into account and aim to overcome any concerns.

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

17.1417.15 This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will listen to, and consider carefully, any concerns about conditions, which are not able to be met by licensees due to planning restrictions, should such a situation arise. All applicants are advised however, to speak to the Planning Department of this Council before making a formal application to the Licensing Service.

17.1517.16 When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

### **Licensing objectives**

17.1617.17 In carrying out its licensing functions the Authority will ~~promote~~ have regard to the licensing objectives which are:

- preventing gambling from being a source of crime or 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

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

17.18 This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance.

~~17.17~~ 17.19

Disorder is intended to mean an activity that is more serious and disruptive than mere nuisance. Factors this authority will consider in determining whether a disturbance was serious enough to constitute disorder will include whether police assistance was required and how threatening the behaviour was to those who could see or hear it.

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

~~17.18~~ 17.20 This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is, however, more of a role regarding tracks which is explained in more detail in the tracks section ~~—see page 24.~~

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

~~17.19~~ 17.21 This licensing authority has noted the Gambling Commission's Guidance to licensing authorities states that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). This licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

~~17.20~~ 17.22 This licensing authority is also aware of the Codes of Practice, which the ~~—~~Gambling Commission issues ~~as regards~~ with regards to this licensing objective, in relation to specific premises.

17.23 As With regards to the term “vulnerable persons” it is noted that the Gambling Commission does not seek to offer a definition but states that “it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who 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 licensing authority will consider the licensing objective on a case-by- case basis.

17.24 Additionally, this Licensing Authority expects operators of gambling premises to have in place policies and measures to ensure children and other vulnerable people are protected from being harmed or exploited by gambling. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.

17.25 The efficiency of such policies and procedures will be considered on their merits; however, they may include appropriate measures/training for staff with regards to suspected truanting school children on the premises, measures/training covering how staff would deal with unsupervised young children being on the premises, or children causing perceived problems.

17.26 This Authority will pay particular attention to measures proposed by operators to protect children from harm in Adult Gaming Centres and Family Entertainment Centres. Additional information and examples of appropriate measures to consider for some specific types of premises are provided throughout this policy in each of the relevant sections.

#### **Licensing Conditions - Mandatory**

~~4.4~~17.27 Mandatory conditions may be attached to a premises licence by the Secretary of State under Section 167 of the Act. They can be attached generally to all Premises Licences, or may be attached to all Premises Licences of a particular type, or to a particular type of Premises Licences under certain specified circumstances.

~~4.2~~17.28 Once Mandatory conditions are attached they can only be removed by further Secretary of State regulations. The Authority has no discretion to decide not to include them, or modify them.

#### **Licensing Conditions - Default**

17.29 The Secretary of State considers the use of default conditions are most appropriate where a general industry or sector wide approach is desirable in order to assist national consistency, but where licensing authorities ought to be able to respond to local circumstances by altering those conditions if necessary.

~~17.21~~

17.30 Section 169 of the Act gives licensing authorities the ability to exclude from a Premises Licence any default conditions that have been imposed under section 168. However, as default conditions are considered to be the industry norm, and while licensing authorities are free to limit or remove them where appropriate, this Authority will only extend them with reference to the Commission Codes of Practice and Guidance, the Licensing Objectives and this Policy Statement.

~~17.22~~17.31 It is unlikely that the council will need to apply individual conditions imposing a more restricted regime in relation to matters that have already been dealt with via mandatory or default conditions. However, where there are regulatory concerns of an exceptional nature the Council may do so.

~~4.3~~17.32 Any conditions attached to licences will only be applied where there is evidence of a risk to the licensing objectives. They will be proportionate and will be:

- relevant to the need to make the proposed building 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.

~~4.4~~17.33 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, and appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the ~~licence~~ applicant to offer his/her own suggestions as to the way in which the licensing objectives can be met effectively.

~~4.5~~17.34 This licensing authority will also consider specific measures, which may be required for buildings, which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

~~4.6~~17.35 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

These ~~considerations will~~ apply to the specific relevant premises, including buildings where multiple premises licences are applicable.

~~4.7~~17.36 This licensing authority is aware that tracks may be subject to more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

17.37 It is noted that there are conditions, which the licensing authority cannot attach to premises licences, which are:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required (the Gambling Act specifically removes the membership requirement for casino and bingo clubs) and this provision prevents it being reinstated; and



- conditions in relation to stakes, fees, winning or prizes.

## Door Supervisors

~~4.8~~17.38 The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts ~~of~~ unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a ~~premises licence~~condition to this effect.

~~4.9~~17.39 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary. ~~(as per the Guidance, Part 33).~~

~~4.10~~17.40 Licence holders will be expected to make information publicly available about organisations that can provide advice and support, both in relation to gambling itself and to debt ~~e.g.~~ Gamcare, Gamblers Anonymous, Gordon House Association, National Debtline, local Citizen's Advice Bureaux and independent advice agencies.

## ~~2~~18 Adult Gaming Centres

18.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling. ~~and will expect the applicant to satisfy the authority that there will be sufficient measures, for example, to ensure that under 18 year olds do not have access to the premises.~~ This licensing authority will expect applicants to offer their own measures to meet the licensing objectives, however appropriate measures / licence conditions may cover issues such as:

~~2.4~~

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Provision of information leaflets/helpline numbers for organisations such as Gamcare
- Self-exclusion schemes
- Specific opening hours
- Additional staffing during busier periods / times

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

## ~~18~~19 (Licensed) Family Entertainment Centres

~~2.2~~19.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.

~~2.3~~19.2 This licensing authority will expect applicants to offer their own measures ~~may consider measures~~ to meet the licensing objectives; however



appropriate measures / licence conditions may cover issues such as:

- CCTV
- Location of entry
- Measures / training for staff on how to deal with suspected truant school children on the premises
- Notices / signage
- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets / helpline numbers for organisations such as Gamcare.
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas
- [Additional staffing during busier periods / times](#)

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

### **320 Casinos – Local Policy**

~~3.4~~20.1 This licensing authority has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

### **421 Bingo premises**

21.1 This licensing authority notes that the Gambling Commission’s Guidance states that it should take steps to satisfy itself that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration [for new premises and](#) where the operator of an existing bingo 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 licences, for that or those excluded areas.

~~18.1~~21.2 This authority also notes the Gambling Commission’s Guidance that in the unusual circumstances that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises.

~~4.4~~21.3 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.

### **522 Betting premises**

**5.422.1 Gaming machines** - The holder of a betting Premises Licence may make available for use up to four gaming machines of category B, C or D.

**Betting machines** – When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, in line with Gambling Commission Guidance, will take into account the size of the premises, the number of counter positions available for ~~person-to-person~~ over the counter transactions, and the ability of staff to monitor and prevent the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people.

**5.222.2** The licensing authority recognises that the design and layout of betting premises (or any other premises including tracks) will vary so will have particular regard to the siting of age restricted gaming machines within each individual premises to ensure, so far as is reasonably practicable, that staff properly monitor and prevent the use of these machines by children and young persons. This licensing authority reserves the right to request that gaming machines are repositioned where circumstances demonstrate that it is appropriate to do so.

**5.322.3** Factors to be taken into consideration will include the following:

- CCTV
- Relocation of the machines
- Door buzzers
- Remote cut-off switches
- Training provision
- Any other factor considered relevant

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

## **623 Tracks**

**23.1** Section 353 of the Gambling Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

~~18.2~~ **23.2** This licensing authority is aware that tracks may be subject to one or more ~~than one~~ premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

**6.223.4** This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Location of entry
- Notices / signage
- Physical separation of areas
- Proof of age schemes
- Provision of information leaflets / helpline numbers for organisations such as Gamcare
- Self-exclusion schemes
- Specific opening hours
- Supervision of entrances / machine areas

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

### **Gaming Machines**

~~6.3~~[23.5](#) Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

~~6.4~~[23.6](#) Applicants are advised to consult the Gambling Commission Guidance on where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. This licensing authority will also, in line with the Gambling Commission Guidance, consider the location of gaming machines at tracks.

### **Applications and Plans**

~~6.5~~[23.7](#) The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

~~18.3~~[23.8](#) Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.

~~18.4~~[23.9](#) This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

## **~~7~~[24](#) Travelling Fairs**

~~7.1~~[24.1](#) ~~This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met. Where category D machines and / or equal chance prize gaming without a permit is to be made available, this Licensing~~

[Authority will be responsible for deciding whether the gambling forms ancillary amusement.](#)

~~7.2~~[24.2](#) The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

~~7.3~~[24.3](#) It is noted that the 27-day statutory maximum for the land being used as a fair, is on a calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **~~8.2~~[25](#) Provisional Statements**

~~8.1~~[25.1](#) Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

~~8.2~~[25.2](#) S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

~~8.3~~[25.3](#) The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

~~18.5~~[25.4](#) In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

~~18.6~~[25.5](#) The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

~~8.4~~[25.6](#) In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;

- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **9.26 Reviews**

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

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's Statement of Principles.

**9.2.26.2** The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

**9.3.26.3** The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

**9.4.26.4** Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

**18.7.26.5** The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

**18.8.26.6** The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months; and
- (d) revoke the premises licence.

**9.5.26.7** In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

**9.6.26.8** In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner

without intending to use them.

~~9.7~~[26.9](#) Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the [Gambling](#) Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

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## **Part C - Permits / Temporary & Occasional Use Notice**

### **40.27 Unlicensed Family Entertainment Centre Gaming Machine Permits**

~~40.4~~27.1 Where a premises does not hold a Premises Licence but wishes to provide category D 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 (~~Section 238~~). The permit cannot therefore be granted for an entire shopping centre or bowling alley, for example. [Additional information on the documents required for these permits \(i.e. plans\) is provided in paragraph 27.11 below.](#)

~~40.2~~27.2 The premises are 'unlicensed' in that they do not require a premises licence but do require a permit. It should not be confused with a 'licensed family entertainment centre' which does require a premises licence because it contains both category C and D gaming machines.

~~40.3~~27.3 The Gambling Act states that a licensing authority may prepare a statement of principles that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it may not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the [Gambling Commission](#) ~~under section 25~~. The Gambling Commission's Guidance to licensing authorities also states: "A licensing authority may include a statement of principles that it proposes ~~to~~ to apply when exercising its functions in considering applications for permits ~~.... licensing authorities will want to give weight to matters relating to child protection issues.~~"

~~40.4~~27.4 Guidance also states: "An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. . . . Licensing authorities might wish to consider asking applicants to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
- that staff are trained to have a full understanding of the maximum stakes and prizes.

~~40.5~~27.5 It should be noted that a licensing authority cannot attach conditions to this type of permit.

#### **Statement of Principles**

~~27~~27.6. This licensing authority has adopted a Statement of Principles in accordance with Paragraph 7 of Schedule 10 of the Act and they are for the purposes of clarifying the measures that the council will expect applicants to demonstrate when applying for a permit for an unlicensed family entertainment centre. This will allow the council to better determine the suitability of the applicant and the premises for a permit.

27.7 The principles that this authority intends to adopt will require the applicant to show there are policies and procedures in place to protect children from harm and protect vulnerable persons.

## Child Protection Issues

27.8 Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The council will assess these policies and procedures on their merits, and they should (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- maintain contact details for any local schools and [L](#) or the education authority so that any truant children can be reported
- employ policies to address the problems associated with truant children who may attempt to gain access to the premises and gamble when they should be at school
- employ policies to address any problems that may arise during seasonal periods where children may frequent the premises in greater numbers, such as half terms and summer holidays
- maintain information at the premises of the term times of any local schools in the vicinity of the premises and also consider policies to ensure sufficient staffing levels during these times
- display posters displaying the 'Child Line' (or equivalent) phone number in discreet locations on the premises e.g. toilets
- maintain an incident register of any problems that arise on the premises related to children such as children gambling excessively, truant children, children being unruly or young unaccompanied children entering the premises. (The register should be used to detect any trends which require attention by the management of the premises.)
- ensure all young children are accompanied by a responsible adult-
- Maintain policies to deal with any young children who enter the premises unaccompanied
- The provision of satisfactory basic disclosure checks (criminal records checks) for all staff who will be working closely with children.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## Protection of Vulnerable Persons Issues

27.9 The council will expect the applicant to show that there are policies and procedures in place to protect vulnerable persons. Applicants should refer to the section in the council's 'Statement of Licensing Policy under the Gambling Act' to familiarise themselves with who the council considers vulnerable. The council will assess these policies and procedures on their merits, however, they may (depending on the particular permit being applied for) include appropriate measures / training for staff relating to the following:

- display Gamcare helpline stickers on all gaming machines
- display Gamcare posters in prominent locations on the premises
- training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable
- consider appropriate positioning of ATM and change machines (including the display of Gamcare stickers on any such machines.)

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.



## Other miscellaneous issues

27.10 The applicant should also be mindful of the following possible control measures (depending on the particular permit being applied for) to minimise crime and disorder and the possibility of public nuisance:

- maintain an effective CCTV system to monitor the interior and exterior of the premises
- keep the exterior of the premises clean and tidy
- ensure that external lighting is suitably positioned and operated so as not to cause nuisance to neighbouring or adjoining premises
- consider the design and layout of the outside of the premises to deter the congregation of children and youths.

NB: Any supporting evidence of the above measures e.g. training manuals or other similar documents/written statements should be attached to the application.

## Supporting documents

27.11 The licensing authority will require the following supporting documents to be served with all uFEC gaming machine permit applications:

- proof of age (a certified copy or sight of an original birth certificate, a photo style driving licence, or passport – all applicants for these permits must be aged 18 or over)
- proof that the applicant has the right to occupy the premises. Acceptable evidence would be a copy of any lease, a copy of the property's deeds or a similar document
- the result of a criminal records basic disclosure [criminal conviction certificate] (the disclosure must have been issued within the previous month). This will be used to check that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act.) – Basic Disclosures can be obtained from ~~Disclosure Scotland. For further details call their helpline number 0870 609 6006, or visit the website~~ <http://www.disclosurescotland.co.uk/> the Disclosure and Barring Service. For further details visit the website <https://www.gov.uk/government/publications/basic-checks>.
- In the case of applications for an uFEC gaming machine permit evidence that the machines to be provided are or were supplied by a legitimate gambling machine supplier or manufacturer who holds a valid gaming machine technical operating licence issued by the Gambling Commission
- A plan of the premises for which the permit is sought showing the following items:
  - a) the boundary of the building with any external or internal walls, entrances and exits to the building and any internal doorways
  - b) where any category D gaming machines are positioned and the particular type of machines to be provided (e.g. slot machines, penny-falls, cranes)
  - c) the positioning and types of any other amusement machines on the premises
  - d) the location of any fixed or semi-fixed counters, booths or offices on the premises whereby staff monitor the customer floor area
  - e) the location of any ATM/cash machines or change machines
  - f) the location of any fixed or temporary structures such as columns or pillars
  - g) the location and height of any stages in the premises; any steps, stairs, elevators, balconies or lifts in the premises
  - h) the location of any public toilets in the building

Unless otherwise agreed with the council, the plan should be drawn to a standard scale with a key showing the items mentioned above. The standard scale is 1:100.

27.12 Within this process the council will aim to grant the permit where the applicant is able to demonstrate that:

- they are a fit and proper person to hold the permit
- they have considered and are proposing suitable measures to promote [the licensing objectives, and](#)
- ~~the licensing objectives, and~~
- they have a legal right to occupy the premises to which the permit is sought.

[27.13](#) The measures suggested in this document should be read as guidance only and the council will be happy for applicants to suggest measures above and beyond those listed in the document and or to substitute measures as appropriate, [based on the individual merits of the case.](#)

~~27.13~~[27.14](#) [A guidance document in respect of the expectations of the licensing authority in respect of compliance inspections for these permits is available at: TBC.](#)

## 28 (Alcohol) Licensed premises gaming machine permits

### Automatic Entitlement to Two Machines

[28.1](#) There is provision in the Gambling Act 2005 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.

~~28.1~~[28.2](#) [The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine. A copy of the relevant Code can be found here: <http://www.gamblingcommission.gov.uk/pdf/code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>.](#)

~~28.2~~[28.3](#) 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

### Permit for Three or More Machines

~~28.3~~[28.4](#) 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,~~ and “other such matters as the Authority think relevant.”

~~28.4~~28.5 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 t~~The applicant will be expected to demonstrate that ~~satisfy the authority that~~ there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines.

~~28.5~~28.6 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 ~~that who~~ will monitor ~~that~~ the machines to ensure they are not being used by those under 18. Notices and signage may also be helpful. ~~As~~ With regards to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as Gamcare.

~~28.6~~28.7 It should be noted that the licensing authority could decide to grant the 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.

~~28.7 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine—<http://www.gamblingcommission.gov.uk/pdf/code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf>~~

Applicants should be aware that only those premises which have a ‘bar’ (servery) at which alcohol is sold for consumption on the premises will be eligible for a machine in the bar area of the premises. This means that premises such as restaurants or even hairdressers which do not have a bar for serving drinks or can only sell alcoholic drinks as an ancillary to food (~~the old Part IV restaurant licences under the former Licensing Act 1964~~) will fall outside the scope of this section of the Gambling Act. ~~to which this section (s.279 – 284) of the Gambling Act applies.~~

## 29 Prize Gaming Permits

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

29.2 This licensing authority ~~has prepared a statement of principles that they~~ will expect the applicant to set out the types of gaming that he or she is intending to offer and ~~that~~ the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- that the gaming offered is within the law; and
- clear policies that outline steps to be taken to protect children from harm.

29.3 In making its decision on an application for this permit ~~this~~the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

29.4 It should be noted that there are conditions in the Gambling Act with 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.

### 30 Club Gaming and Club Machines Permits

- 30.1 Members Clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Gaming Machine permit. The Club Gaming Permit will enable the premises to provide no more than 3 gaming machines from categories B3A, B4, C or D (but only one B3A machine can be sited as part of this entitlement), equal chance gaming and games of chance as prescribed in regulations. A Club Gaming Machine permit will enable the premises to provide no more than 3 gaming machines from categories B3A, B4, C and D.
- 30.2 The Act states that 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 restricted to that of a prescribed kind (currently bridge and whist). 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."
- 30.3 The [Gambling](#) Commission Guidance also notes "licensing authorities may only refuse an application on the grounds that:
- (a) 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;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the [Gambling](#) Commission or the police."
- 30.4 In determining whether a club is a genuine members' club, the licensing authority may take account a number of matters, including the following:
- Is the primary purpose of the club's activities something other than the provision of gaming to its members? This is an indicator that it's a genuine members' club.
  - Are the profits retained in the club for the benefit of the members? This is the key difference between a members' club and a commercial club.
  - Are there 25 or more members? This is the amount of members a club has to have to qualify.
  - Are there genuine domestic addresses on the register of members? Are domestic addresses listed for every member? Are members local to the club? These are all

indicators that the member lists are bona fide and are made up of genuine members.

- Do members participate in the activities of the club via the internet? It is less likely to be a genuine members' club if this is the case.
- Do guest arrangements link a member to every guest? Is there evidence of a signing-in register for guests? Guests must be genuine guests of members and not members of the general public.
- Is the 48 hour rule between applying for membership and participating in any gaming properly applied? This is an indication that the club has a proper membership scheme. [This requirement does not apply to commercial clubs.](#)
- Are there annual accounts for more than one year? This would indicate that the club is permanent in nature, rather than temporary.
- How is the club advertised and listed in directories, including on the internet? If the club is categorised under 'gaming' or 'poker', it is less likely to be genuine members' club.
- What information is provided on the club's website? This can be a useful source of information about the club.
- Are children permitted into the club? Appropriate access to the premises by children may indicate that it is less likely that the club is primarily for gambling activities.
- Does the club have a constitution and can it provide evidence that the constitution was approved by the members of the club? This provides further evidence that it is a properly constituted members' club.
- Is there a list of committee members and evidence of their election by the members of the club? Can the club provide minutes of committee and other meetings? These are further evidence that the club is a properly constituted members' club.

30.5 There is also a 'fast-track' procedure available under the Act for premises, which hold a Club Premises Certificate under the Licensing Act 2003 (~~Schedule 12 paragraph 10~~). As ~~t~~<sup>the</sup> The Gambling Commission's Guidance to licensing authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced," [The grounds on which an application may be refused are:](#) ~~and "The grounds on which an application under the process may be refused are:~~

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

30.6 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. [A copy of the relevant Code can be found here: http://www.gamblingcommission.gov.uk/pdf/code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf.](http://www.gamblingcommission.gov.uk/pdf/code-of-practice-for-gaming-machines-in-clubs-and-premises-with-an-alcohol-licence.pdf)

## 31 Temporary Use Notices

31.1 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.

~~31.2~~ 31.2 The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

~~31.2~~ 31.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

~~31.3~~ 31.4 There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Local Authorities. 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".

~~31.4~~ 31.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

~~31.5~~ 31.6 The same set of premises may not be the subject of a Temporary Use Notice for more than 21 days in any 12 month period, but may be the subject of several Notices provided that the total does not exceed 21 days.

## **32 Occasional Use Notices**

32.1 Occasional use notices enable betting on a track for up to eight days a year without a premises licence. [Additional information on them can be found here: http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Betting/Occasional-Use-Notices-OUNs.aspx.](http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Betting/Occasional-Use-Notices-OUNs.aspx)

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

## **33 Small Society Lotteries**

33.1 These are lotteries operated by non-commercial societies, as defined in Section 19 of the Act, which states that a society is non-commercial if it is established and conducted:

- for charitable purposes, as defined in s.2 of the Charities Act 2006
- for the purpose of enabling participation in, or of supporting, sport, athletics or a ~~or a~~ cultural activity
- for any other non-commercial purpose other than that of private gain

33.2 The promoting society of a small society lottery must, throughout the period during which the lottery is promoted, be registered with a licensing authority. The licensing authority with which a small society lottery is required to register must be in the area where their principal office is located. If the Authority believes that a society's principal office is situated in another area, it will inform the society and the other relevant authority as soon as possible.

33.3 The Gambling Act requires that a minimum proportion of the money raised by the lottery is channelled to the goals of the society that promoted the lottery. If a small society lottery does not comply with the following limits it will be in breach of the Act's provisions, and consequently be liable to prosecution:

- at least 20% of the lottery proceeds must be applied to the purposes of the society
- no single prize may be worth more than £25,000
- rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000
- every ticket in the lottery must cost the same and the society must take payment for the ticket fee before entry into the draw is allowed

33.4 A small society lottery must send financial returns to the licensing authority with which it is registered, following each lottery held. This information allows the licensing authority to assess whether financial limits are being adhered to and to ensure that any money raised is applied for the proper purpose.

33.5 The following information must be submitted as part of the return:

- the arrangements for the lottery – specifically the date on which tickets were available for sale or supply, the dates of any draw and the value of prizes, including any donated prizes and any rollover
- the total proceeds of the lottery
- the amounts deducted by the promoters of the lottery in providing prizes, including prizes in accordance with any rollovers
- the amounts deducted by the promoters of the lottery in respect of costs incurred in organising the lottery
- the amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- whether any expenses incurred in connection with the lottery were not paid for by deduction from the proceeds, and, if so, the amount of expenses and the sources from which they were paid.

33.6 The Act also requires that returns must:

- be sent to the licensing authority no later than three months after the date of the lottery draw, or in the case of 'instant lotteries' (scratch cards) within three months of the last date on which tickets were on sale
- be signed (electronic signatures are acceptable if the return is sent



\_\_\_\_ electronically) by two members of the society, who must be aged eighteen or  
\_\_\_\_ older, are appointed for the purpose in writing by the society or, if it has one,  
its governing body, and be accompanied by a copy of their letter or letters of  
appointment.

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## **Appendix A - Responsible Authorities Contacts**

### **1) The Licensing Authority ~~Mid-~~**

Mid Devon District Council ~~Phoenix~~

Phoenix House

Phoenix Lane

Tiverton

EX16 6PP

Tel: 018884 255 255

E-mail: [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk)

### **2) The Gambling Commission**

Gambling-Commission

Victoria Square House

Victoria Square

Birmingham

B2 4BP

Tel: 0121 233 1058

Email: [info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

### **3) Her Majesty's Revenue and Customs**

HM Revenue and Customs ~~National-~~

~~Registration Unit Portcullis House~~

Excise Processing Teams, BX9 1GJ

~~21 India Street~~

~~GLASGOW~~

~~G2 4PZ~~

Tel: 0141 555 3633

Email: [nrubetting&gaming@hmrc.gsi.gov.uk](mailto:nrubetting&gaming@hmrc.gsi.gov.uk)

### **4) Child Protection**

Local Safeguarding Children's ~~The~~

~~Children's Safeguarding Board Social~~

~~Services Directorate Parkers Barn,~~

~~Parkers Way~~

Follaton House, Plymouth Road

Totnes

Devon

TQ9 5RSUF

Tel: 01392 386067601

Email: [cpchecks@devon.gov.uk](mailto:cpchecks@devon.gov.uk)

## **5) Devon & Cornwall Constabulary**

Licensing Department (East)  
Devon & Cornwall Police HQ  
Middlemoor  
EXETER EX2  
7HQ  
Non-urgent calls: 01392 452225  
Fax: 01392 452447  
Email: [licensingeast@devonandcornwall.pnn.police.uk](mailto:licensingeast@devonandcornwall.pnn.police.uk)

## **6) Devon and Somerset Fire & Rescue Service**

Central Command (East)  
Middlemoor Fire Station  
Sidmouth Road  
EXETER EX2  
7AP  
Tel: 01392 872200  
Fax: 01392 266839  
<http://dsfire.gov.uk/index.cfm?siteCategoryId=1>

## **7) Environmental Health Department**

Mid Devon District Council Phoenix  
House  
Phoenix Lane  
Tiverton EX16  
6PP  
Tel: 01884 255 255  
E-mail: [ehadmin@middevon.gov.uk](mailto:ehadmin@middevon.gov.uk)

## **8) Planning & Building Control**

Mid Devon District Council Phoenix  
House  
Phoenix Lane  
Tiverton EX16  
6PP  
Tel: 01884 255255  
Email for Planning: [devcon@middevon.gov.uk](mailto:devcon@middevon.gov.uk)  
Email for Building Control: [bcont@middevon.gov.uk](mailto:bcont@middevon.gov.uk)

## Appendix B: Summary of machine provisions by premises

Premises type	Machine category						
	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks occupied by pool betting		Maximum of 4 machines categories B2 to D (except B3A machines)					
Bingo premises 1				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4	No limit on category C or D machines		
Adult gaming centre <sup>2</sup>				Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4	No limit on category C or D machines		
Licensed family entertainment centre <sup>3</sup>					No limit on category C or D machines		
Family entertainment centre (with permit) <sup>3</sup>					No limit on category D machines		
Clubs or miners' welfare institute (with permits) <sup>4</sup>					Maximum of 3 machines in categories B3A or B4 to D		
Qualifying alcohol-licensed premises					1 or 2 machines of category C or D automatic upon notification		
Qualifying alcohol-licensed premises (with licensed premises gaming machine permit)					Number of category C-D machines as specified on permit		
Travelling fair							No limit on category D machines

- ~~1) Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight<sup>95</sup> category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.~~
- ~~2) Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are entitled to make available four category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.~~
- ~~3) Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FEC's and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. there is no power for the licensing authority to set a limit on the number of machines under the FEC permit.~~
- ~~4) Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.~~
- ~~5) Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.~~

**Appendix C: Summary of gaming machine categories and entitlements**

Category of machine	Maximum stake (from Jan 2014)	Maximum prize (from Jan 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D – non-money prize	30p	£8
D – non-money prize (crane grab machines only)	£1	£50
D – money prize	10p	£5
D – combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machines only)	20p	£20 (of which no more than £10 may be a money prize)

\* With option of max £20,000 linked progressive jackpot on premises basis only

**Appendix D: Summary of gaming entitlements for clubs and alcohol-licensed premises**

	Members' club or MW institute with club gaming permit	Clubs established to provide facilities for gaming of a prescribed kind (currently bridge or whist clubs)	Members' club or commercial club with club machine permit	Members' club, commercial club or MW institute without a club gaming permit or club machine permit	Pubs and other alcohol-licensed premises
Equal chance gaming	Yes	Bridge and/or Whist only	Yes	Yes	Yes
Limits on stakes	No limit	No limit	Poker £1000 / week £250 / day £10 / person per game  Other gaming No limit	Poker £1000 / week £250 / day £10 / person per game  Other gaming No limit	Poker £100 / premises per day  Other gaming £5 / person per game  Cribbage & dominoes No limit
Limits on prizes	No limit	No limit	Poker £250 / game  Other gaming No limit	Poker £250 / game  Other gaming No limit	Poker £100 / game  Other gaming No limit
Max particip. fees – per person per day	Bridge/whist* £20  Other gaming £3	£18 (without club gaming permit) £20 (with club gaming permit)	Bridge/whist* £18  Other gaming £3 (for a commercial club) £1 (members' club)	Bridge/whist* £18  Other gaming £1	None permitted
Bankers /unequal chance gaming	Pontoon <i>Chemin de fer</i>	None permitted	None permitted	None permitted	None permitted
Limits on bingo **	Maximum of £2,000 / week in stakes or prizes.	No bingo permitted	Maximum of £2,000 / week in stakes or prizes.	Maximum of £2,000 / week in stakes or prizes.	Maximum of £2,000 / week in stakes or prizes.

\* On a day when no other facilities for gaming are provided

\*\* If more than the maximum, then an operating licence will be required.

## **Appendix B: Additional links for machine provisions, machine categories and gaming entitlements**

### **Summary of machine provisions by premises:**

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-A-Summary-of-machine-provisions-by-premises.aspx>

### **Summary of gaming machine categories and entitlements**

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx>

### **Summary of gaming entitlements for clubs and alcohol-licensed premises**

<http://www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-C-Summary-of-gaming-entitlements-for-clubs-and-alcohol-licensed-premises.aspx>

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## **GAMBLING ACT 2005**

### **NOTICE OF PUBLICATION - STATEMENT OF PRINCIPLES**

Notice is hereby given that in pursuance of Section 349 of the Gambling Act 2005 and in accordance with The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006, Mid Devon District Council (the Council) will publish on 1 December 2018 a revised Statement of Principles to be applied by the Council in the exercise of its licensing functions under the Gambling Act 2005.

The revised Statement of Principles, which will come into effect on 31 January 2019 and last until 30 January 2022, was approved by the Council on **TBC**.

The Statement of Principles can be viewed on the Council's website here:

**LINK TO BE CREATED AND ADDED**

And at the following Public Libraries:

- The Hayridge, Devon Centre, Exeter Hill, Cullompton, Devon, EX15 1DJ
- Belle Parade, Crediton, Devon, EX17 2AA

A hard copy will also be available for inspection during working hours Monday to Friday at the Council Offices: Mid Devon district Council, Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP.

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## LICENSING COMMITTEE: 9 OCTOBER 2018

### FOURTH REVIEW OF THE LICENSING POLICY UNDER THE LICENSING ACT 2003

**Cabinet Member(s):** Colin Slade

**Responsible Officer:** Simon Newcombe, Group Manager for Public Health and Regulatory Services

#### REASON FOR REPORT:

The Council, as the licensing authority, must adopt a licensing policy that sets out how it carries out its duties under the Licensing Act 2003. That policy must be reviewed every five years. This report brings forward the fourth review of that document.

#### RECOMMENDATION:

It is recommended that the revised Policy (attached as Annex 2) is adopted and the Licensing Committee is asked to make this recommendation to Full Council on 24 October 2018. It is proposed that the policy will have effect from 7 January 2019.

**Relationship to Corporate Plan:** This proposal links directly to the licensing function with the aim of ensuring the safety and wellbeing of our community.

**Financial Implications:** None that are not contained within existing resources.

**Legal Implications:** The Council is required to adopt a licensing policy.

**Risk Assessment:** If the licensing policy is not properly adopted it could be subject to legal challenge.

**Equality Impact Assessment:** No equality issues identified for this report.

#### Consultation carried out with:

The statutory consultees who are: the chief officer of police; the fire authority; public health body; persons / bodies representative of local premises licence-holders; persons / bodies representative of businesses and residents in the area (as part of this we also consulted local town and parish councils).

The consultation was also published on the Councils website and sent to responsible authorities not on the statutory consultation list.

## **1.0 Introduction**

- 1.1 The Licensing Act 2003 requires this Council, as the licensing authority, to produce a statement of licensing principles (or licensing 'policy') that sets out how it will carry out its duties under the Act.
- 1.2 Mid Devon District Council's first policy was adopted by full Council on 13 December 2004 and came into effect on 7 January 2005. At that time, licensing policies had to be reviewed every 3 years but the Government have since changed this requirement to every 5 years.
- 1.3 The existing policy was adopted by the Council on 18 December 2013 and had effect from 7 January 2014. Accordingly, the Licensing Team have carried out a consultation on a new proposed fourth licensing policy, which, if adopted, will have effect from 7 January 2019.

## **2.0 Proposed Policy**

- 2.1 The existing policy has been significantly updated both in content and appearance. As a result of the extent of the changes, the draft policy was not completed in a 'tracked changes' format and it is hoped that the new layout is easier to reference and also update in the future.
- 2.2 The proposed policy has to comply with S182 guidance, which sets out some specific matters to be considered and discussed. The proposed policy is in line with these requirements and in general terms, covers the following:
  - Scheme of delegation
  - The licensing process, including information on what is licensable, the types of licences required and the process of applying (or submitting notices)
  - The licensing objectives
  - The licensing authorities approach to regulation and decision making
  - Examples of best practice and a pool of conditions
- 2.3 The proposed policy includes the following three appendices:
  - Hearing procedures (Appendix B)
  - Pool of conditions (Appendix C)
  - Code of good practice (Appendix D)

These are considered important inclusions and will be discussed briefly below.

#### Hearing procedures (Appendix B)

- 2.4 Members will be familiar with the hearing procedures as they have previously been adopted by the committee. It is considered important to include them as an Appendix of the policy to ensure they are publically available and that all relevant information is kept in one place, insofar as is possible.
- 2.5 If representations are received against an application the Licensing Team will try to discuss issues with all relevant parties to see if an agreed position can be reached, potentially removing the requirement for a hearing. However, on some occasions, an agreement is not possible and the matter must go to a hearing. In such circumstances, it is important to ensure that all parties know what to expect and have the ability to present their case.
- 2.6 The hearing procedure allows for questions to be asked and for open discussion, in a constructive and organised manner. This includes discussion about conditions, which is really important because it may help to prevent the imposition of unenforceable (and challengeable) conditions.

#### Pool of conditions (Appendix C)

- 2.7 One of the most common problems with applications is the suggestion or imposition of conditions that are worded in such a way as to be unenforceable. The pool of conditions has therefore been created to assist with this.
- 2.8 The pool of conditions has had input from the Devon Licensing Officer Group and it should be noted that it is a 'live' document. Conditions are often matters for discussion and the Council must be aware that the enforceability of a condition may be affected by legal precedence. For this reason, this document may be updated from time to time without reference to the Licensing Committee.
- 2.9 All premises have mandatory conditions which are prescribed by regulation; however, other conditions must be tailored to specific premises and determined on a case by case basis. **The pool of conditions should never be interpreted or applied in a blanket fashion and to do so would be illegal.**

#### Code of good practice (Appendix D)

- 2.10 Similarly to the pool of conditions, the code of good practice document must not be considered as standard requirements for all premises and the actions suggested are not worded to be conditions placed on licences. It is designed as a user friendly guide, explaining the steps and measures applicants and licence holders can put in place to help ensure that they are operating in a way that promotes the licensing objectives.

- 2.11 It is hoped that its use will help to minimise or even prevent issues that occur at licensed premises that may undermine the licensing objectives. In addition to this, it provides a framework in which to try and work with premises where it is felt that the licensing objectives are being undermined. We will encourage its use not just by those we licence but also bodies like responsible authorities.
- 2.12 Additionally, the actions suggested could help businesses to ensure they are running premises in accordance with their licence, the licensing objectives and also provide them with the basis of a due diligence defence, should it be required.

### **3.0 Consultation**

3.1 The following parties were consulted:

- The Chief Officer of Police
- Devon and Somerset Fire and Rescue Service
- Director of Public Health (Devon DAAT)
- Devon County Council - Local Safeguarding Children's Board
- Weights and Measures (Trading Standards)
- Public Health (Mid Devon)
- Community Safety Partnership (Mid Devon)
- Town and Parish Councils within Mid Devon
- Health and Safety Executive
- Mid Devon District Council - Environmental Health Services
- Mid Devon District Council - Planning Services
- Home Office
- Persons / bodies representative of local premises licence holders
- Persons / bodies representative of local club premises certificate holders
- Persons / bodies representative of local personal licence holders
- Persons / bodies representative of local businesses and residents in the area

3.2 The consultation was also published on the Councils website.

3.3 The consultation started on 15 June 2018 and ended on 31 August 2018.

3.4 Four responses were received and the relevant points from these can be seen within the table of responses, attached to this report as Annex 1. This Annex also contains an officer recommendation as to whether the Policy should be updated in light of the comment(s) received.

### **4.0 RECOMMENDATION**

4.1 NOTE: The only suggested amendments to the original policy consulted on are updates to the CCTV conditions and the contact details for the HSE. For clarity, the policy has been updated to reflect these amendments in a tracked changes format and the final proposed policy is attached as Annex 2.

- 4.2 It is recommended that the updated policy (attached as Annex 2) is adopted as our new policy and the Licensing Committee is asked to make this recommendation to Full Council on 24 October 2018.

#### **ANNEXES TO REPORT**

ANNEX 1: Table of responses

ANNEX 2: Proposed final policy

<b>Contact for any more information</b>	Mr Tom Keating (01884) 244618 Mr Jeremy Pritchard
<b>Background Papers</b>	Licensing Act 2003 / S182 Guidance / MDDC Licensing Policy
<b>File Reference</b>	Licensing / Licensing Policy Review 2018
<b>Circulation of the Report</b>	Licensing Committee

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Paragraph	Received From	Comment Made	Response to Comment	Recommendation
Appendix C – Pool of conditions  CCTV condition (D45)	Police	<p>Suggested that the CCTV condition reflect the following:</p> <p><i>The licensee shall install and operate a CCTV system that meets the following requirements:-</i></p> <ol style="list-style-type: none"> <li>1) <i>All public areas of the licensed premises including entry and exit points will be covered including any outside areas under the control of the premises licence holder.</i></li> <li>2) <i>The system must record clear images permitting the identification of individuals, and in particular enable facial recognition images (a clear head and shoulder image) of every person entering and leaving in any light condition.</i></li> <li>3) <i>The CCTV system will continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises.</i></li> <li>4) <i>All equipment must have a constant and accurate time and date generation.</i></li> <li>5) <i>All recordings will be stored for a minimum</i></li> </ol>	<p>Any clarification on conditions is to be welcomed and this specific CCTV condition needs to be considered with 2 things in mind. Firstly, a number of premises have a condition which states words to the effect of:</p> <p><i>CCTV will be installed, maintained and operated to the satisfaction of the Chief Officer of Police and Local Authority.</i></p> <p>It is important to ensure that there is no uncertainty within this and setting out the specifics of what either the Police or Local Authority would be satisfied with is considered necessary.</p> <p>Secondly, it must be remembered that these conditions can (and must) be tailored for each individual premises. As a result, conditions will differ between premises but the general wording at least provides a framework for consideration.</p> <p>A combination of the initial condition (D45) and the Police response is therefore suggested. This would read as follows:</p> <p>The premises shall install, operate and maintain a digital colour CCTV system to the satisfaction of the Police and Local Authority. As a minimum, the system</p>	Update the relevant parts of the Policy to reflect the CCTV conditions suggested in the 'response to comment' column.

		<p><i>period of 14 days with date and time stamping. (Offers on applications in excess of 14 days are acceptable)</i></p> <p>6) <i>Viewable copies of recordings will be provided on request to the police and local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 1998 (or any replacement legislation) <b>OR</b> a staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide an authorised officer of a responsible authority copies of recent CCTV images or data with the absolute minimum of delay when requested in accordance with the Data Protection Act 1998 (or any replacement legislation).</i></p> <p>7) <i>The CCTV system will be capable of downloading images to a recognisable viewable format.</i></p> <p>8) <i>There will be security measures in place to ensure the integrity of the system to prevent the tampering with and deletion of images.</i></p> <p>9) <i>The CCTV system will be fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document <a href="http://www.informationcommissioner.gov.uk">www.informationcommissioner.gov.uk</a> (or</i></p>	<p><i>must: (delete / amend as appropriate):</i></p> <ol style="list-style-type: none"> <li>1. Cover all public areas of the licensed premises, including entry and exit points. This also includes any outside areas under the control of the premises licence holder. <i>(The location of cameras can also be specified on the plan attached to the premises licence).</i></li> <li>2. Record clear images permitting the identification of individuals and in particular enable facial recognition images (a clear head and shoulder image) of every person entering and leaving in any light condition.</li> <li>3. Continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises.</li> <li>4. Have a constant and accurate time and date generation.</li> <li>5. Store recordings for a minimum period of 14 days with date and time stamping.</li> <li>6. Viewable copies of recordings will be provided on request to the police and local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 1998 (or any replacement legislation)</li> <li>7. The CCTV system will be capable of downloading images to a recognisable viewable format.</li> </ol>	
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		<p><i>any renewed equivalent guidance which is subsequently issued) regarding installation of CCTV is provided at the premises.</i></p> <p>10) <i>If the CCTV equipment (including any mobile units in use at the premises) breaks down the Licensing Authority and the Police must be informed as soon as is reasonably practicable. This information shall be contemporaneously recorded in an incident report register and shall include the time, date and means this was done and to whom the information was reported. Immediate steps must be taken to put the equipment back into action. The Licensing Authority and the Police shall be informed when faults are rectified.</i></p>	<p>8. The CCTV system will capture a minimum of 4 frames per second.</p> <p>9. The CCTV system will be fitted with security functions to ensure the integrity of the system and to prevent the tampering with and deletion of images (i.e. password protection).</p> <p>Conditions 9 and 10 from the Police are already listed as conditions D46 and D47 of the Pool of Conditions. Additionally, condition D48 is in condition 6 on the police list so there is no need to repeat it again within condition D45.</p> <p>Importantly, it must be remembered that conditions must be tailored for each individual premises and if CCTV is considered appropriate and necessary, the suggested CCTV conditions can be mixed and matched, updated or reworded, as required.</p> <p>The above changes also affect the guidance given regarding CCTV in Appendix D – Code of Good Practice (Page 8). It is important to note that this document and its suggestions are not intended to be worded like conditions however; it is recommended that this be updated to ensure the guidance is consistent with CCTV requirements in other parts of the policy. The following wording is now suggested:</p> <p><b>CCTV</b> should be installed on the premises. The cameras should cover all public areas of the licensed premises, including entry and exit points. Additionally:</p> <p>a) The system should record the correct date and time</p>	
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			<p>of images</p> <p>b) Images should be in real time and stored on hard drive with the ability to copy disks for other agencies, such as the police (in accordance with the Data Protection Act 1998 or any replacement legislation)</p> <p>c) Images should be stored and accessible for a minimum period of 14 days</p> <p>d) Relevant staff should be trained in the maintenance and operation of such systems with a record of kept of the date and name of the person trained. Records should be made available for inspection by the police or licensing authority</p> <p>e) A trained member of staff should be on duty to operate the system whenever the premises are open</p>	
<p>Appendix C – Pool of conditions</p> <p>CCTV conditions (D45)</p>	<p>The Crediton Inn, Mill Street, Crediton</p>	<p><i>Makes no allowance for number of cameras impact on storage. E.g. 1 camera for 31 days as opposed to 20 cameras for 31 days.</i></p>	<p>If CCTV is considered appropriate and necessary then the additional storage requirements would need to be addressed by the licence holder.</p> <p>It should be noted however that the Police have responded that a minimum storage period of 14 days would be acceptable and it is proposed to amend the CCTV condition accordingly.</p>	<p>As above, suggested to amend the CCTV condition to require retention of images for a minimum of 14 days.</p>

General comment regarding annual fees	Sandford Parish Hall, Sandford	<p><i>Some years ago when the Business RVs were increased our annual licence rose from £70 to £180 because our RV was just in band 2. The RVs have been increased again since then and I expect other Halls now fall into Band 2.</i></p> <p><i>At the time I suggested that the scale ought to be amended for the various Bands.I even wrote to our MP and he took it up with the Home Office.I did get a reply but no one seem to want to take any action</i></p> <p><i>It seems to me that the scale of band 2 must take in some very large establishments and I think it WRONG to class community halls with these large commercial organisations.</i></p> <p><i>May I respectfully suggest that some action is taken to remedy this situation.</i></p>	<p>The following response was sent:</p> <p>You are right in that Mid Devon District Council have no power to set premises licence fees. The fees under the Licensing Act are set by Government so I would once again recommend that you contact your MP.</p> <p>The fees have not changed since 2005 and from the Councils perspective; the fees are now unlikely to recover the costs of the licensing regime. This is different to other areas of licensing where fees are set locally, on a cost recovery basis. For your information, the Police Reform and Social Responsibility Act (2011) introduced a power for the Home Secretary to introduce regulations allowing local licensing authorities to set fees themselves but this has not been enacted. More information about this can be found here:</p> <p><a href="https://www.gov.uk/government/consultations/locally-set-licensing-fees">https://www.gov.uk/government/consultations/locally-set-licensing-fees</a>.</p>	No change to Policy as the Council is unable to set fees under the Licensing Act themselves.
Appendix A - Responsible Authority contact list	HSE	<p><u>Please amend to brand new address:</u></p> <p><i>Health &amp; Safety Executive, 1st Floor Cobourg House, 32 Mayflower Street, Plymouth. PL1 1QX</i></p> <p><a href="mailto:Formsadmin.Plymouth@hse.gov.uk">Formsadmin.Plymouth@hse.gov.uk</a></p> <p><i>Tel 0203 028 4950</i></p>	No comments	Update the policy as suggested.

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# **Statement of Licensing Policy**

## **Licensing Act 2003**

**Date of implementation: TBC**

**Mid Devon District Council  
Phoenix House, Phoenix Lane  
Tiverton, Devon, EX16 6PP  
Tel: 01884 255255  
<https://new.middevon.gov.uk/>**

# Mid Devon District Council - Statement of Licensing Policy

## Contents

<b>1.</b>	<b>Introduction</b>	<b>Page 5</b>
<b>2.</b>	<b>Background</b>	<b>Page 6</b>
2.1	Purpose and Scope of the Licensing Policy	Page 6
2.8	Profile of Mid Devon	Page 7
2.12	Consultation and Policy Timeline	Page 8
<b>3.</b>	<b>The Licensing Function</b>	<b>Page 10</b>
3.1	Purpose	Page 10
3.3	Delegation of Functions	Page 10
3.7	Related legislation, Policies and Guidance	Page 12
3.17	Integrating Strategies and Avoiding Duplication	Page 15
<b>4.</b>	<b>The Licensing Process</b>	<b>Page 17</b>
4.1	General	page 17
4.8	Regulated Entertainment, exemptions and de-regulations	Page 18
4.10	New and Full Variation Process	Page 18
4.14	Beer Gardens and Other Outdoor Spaces	page 19
4.17	Mobile, Remote, Internet and Other Delivery Sales	Page 20
4.19	Vessels	Page 20
4.20	Minor Variation Process	Page 20
4.27	Personal Licence Process	Page 22



4.31	Temporary Event Notices	Page 23
4.38	Large Scale Events	Page 24
4.40	Disapplication of Conditions for Community Premises	Page 24
4.42	Licence Reviews	Page 24
4.49	Licensing Fees	Page 26
4.52	Late Night Levy	Page 26
4.58	Early Morning Restriction orders	Page 27
4.64	Cumulative Impact	Page 28
4.74	Public Space Protection Order	Page 31
4.76	Licensing Register	Page 32
<b>5.</b>	<b>Responsible Authorities and Representations</b>	<b>Page 33</b>
5.1	Responsible Authorities	Page 33
5.4	Licensing Authority	Page 33
5.7	Other Persons	Page 34
5.9	Making Representations	Page 34
5.17	Anonymous Representations and Petitions	Page 35
<b>6.</b>	<b>Decision Making</b>	<b>Page 37</b>
6.1	Determining Applications	Page 37
6.15	Licensing Hours	Page 39
6.21	Conditions	Page 40
<b>7.</b>	<b>Enforcement and Code of Good Practice</b>	<b>Page 43</b>
7.7	Code of Good Practice for Licensed Premises	Page 44

<b>8.</b>	<b>Promotion of the Licensing Objectives</b>	<b>Page 46</b>
8.1	Introduction	Page 46
8.5	Prevention of Crime and Disorder	page 46
8.9	Public Safety	Page 47
8.15	Prevention of Public Nuisance	Page 49
8.19	Protection of Children from Harm	Page 50

## **Appendices**

<b>Appendix A</b>	Responsible Authority contact List
<b>Appendix B</b>	Hearing procedures
<b>Appendix C</b>	Pool of conditions
<b>Appendix D</b>	Code of good practice for licensed premises

# 1. Introduction

- 1.1 Mid Devon District Council has a duty to administer and enforce the Licensing Act 2003 (the “Act”) which gives local authorities responsibility for licensing the sale and supply of alcohol, regulated entertainment and the provision of late night refreshment.
- 1.2 The Act requires that Licensing Authorities publish a Statement of Licensing Policy for their area to guide them when considering licence applications and controlling licensed premises. This Statement of Licensing Policy is produced in response to this requirement and applies to all applications, notices, representations and requests we receive under the Act. The Policy also aims to provide guidance to applicants, objectors and interested residents, businesses and the wider community about the approach we will take as the Licensing Authority. It has been the subject of consultation with local bodies, organisations and residents. A list of consultees is provided within the policy itself.
- 1.3 Mid Devon District Council’s original policy was published in 2005 and was subsequently reviewed every 3 years, as required by the legislation at that time. Since then changes to the Act mean that licensing authorities are now required to review their statements of Licensing Policy every 5 years. This is the fourth review of this Policy by Mid Devon District Council.
- 1.4 This Policy Statement will come into force on **(TBC)**.
- 1.5 This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and the latest version of Home Office Guidance issued under section 182 of the Act.

## 2. Background

### Purpose and Scope of the Licensing Policy

- 2.1 This Statement of Licensing Policy is produced in response to the requirements of Section 5 of the Act. It aims to ensure a consistent approach to licensing within Mid Devon. The policy will assist officers and members in reaching a decision on a particular application or licence, setting out those matters that will normally be taken into account. In addition, the Policy seeks to provide clarity for applicants, licence holders, residents, and businesses to enable them to understand the objectives being promoted and the matters that will be considered when determining licences.
- 2.2 In carrying out its licensing function the Licensing Authority must promote the following four licensing objectives:
- The prevention of crime and disorder
  - Public Safety
  - The prevention of public nuisance
  - The protection of children from harm
- 2.3 For the purposes of this Policy, Mid Devon District Council is the Licensing Authority and is referred to as the “Licensing Authority”, unless otherwise stated.
- 2.4 This Policy covers a wide range of licensable activities under the Act and these are as follows:
- Retail sale of alcohol
  - Supply of alcohol to club members
  - Provision of entertainment to the public or club members or with a view to making profit, including raising money for charity, where the entertainment involves:
    - A theatrical performance
    - Film exhibition

- Indoor sporting event
  - Boxing or Wrestling
  - Live music
  - Recorded music
  - A performance of dance
- Supply of hot food or drink from premises between 23:00 and 05:00 (the provision of late night refreshment)
- 2.5 The scope of the policy includes new applications, variations (including transfers and changes of designated premises supervisors), notices and existing licences. Nothing in this policy will prevent a person from making an application under the Act and each application will be determined on its own individual merits.
- 2.6 This Policy sets out the vision for the regulation of licensed premises throughout Mid Devon and outlines the standards expected to ensure the promotion of the four licensing objectives.
- 2.7 The Licensing Authority may depart from the Policy if it considers that doing so would benefit the promotion of the Licensing Objectives. Reasons will be given for any such departure from the general policy. However, it is expected that any such departure would be likely only in exceptional circumstances.

### Profile of Mid Devon

- 2.8 Mid Devon District Council is a rural council, lying inland within Devon. The Council covers an area of 352 square miles (913 square kilometres). The district boasts a high quality natural environment, bordering Dartmoor and Exmoor National Parks and the Blackdown Hills Area of Outstanding Natural Beauty.
- 2.9 With an approximate population of 79,200, the district is one of the most sparsely populated local authorities within England and Wales, comprising approximately 32,750 households.
- 2.10 There are three main market towns in the district. Tiverton is the largest of these with a population of approximately 22,177 and Cullompton and Crediton are the other two, having populations of approximately 9,245 and 7,872 respectively.

2.11 At the time of writing this policy, the Licensing Authority has responsibility for regulating:

- 1,175 Personal Licences
- 286 Premises Licence (with alcohol)
- 63 Premises Licences (without alcohol)
- 39 Club Premises Certificates (with alcohol)
- 373 temporary event notices (average annual figure over 3 years)



## Consultation and Policy Timeline

2.12 In preparing this Policy the Licensing Authority has consulted the following:

- The Chief Officer of Police
- Devon and Somerset Fire and Rescue Service
- Director of Public Health (Devon DAAT)

- Devon County Council - Local Safeguarding Children's Board
- Weights and Measures (Trading Standards)
- Public Health (Mid Devon)
- Community Safety Partnership (Mid Devon)
- Town and Parish Councils within Mid Devon
- Health and Safety Executive
- Mid Devon District Council - Environmental Health Services
- Mid Devon District Council - Planning Services
- Home Office
- Persons / bodies representative of local premises licence holders
- Persons / bodies representative of local club premises certificate holders
- Persons / bodies representative of local personal licence holders
- Persons / bodies representative of local businesses and residents in the area

2.13 This consultation was carried out between XXXX and XXXX.

2.14 Proper weight has been given to the views of organisations and individuals consulted prior to implementing this Policy.

2.15 This Policy was formally adopted by the Council on XXXX and will remain in force for a maximum period of five years. It will then be subject to review and further consultation. The Authority may revise the Policy at any time during the five year period if it considers it appropriate to do so and will consult on any substantial revisions to the Policy.

### 3. The licensing function

#### Purpose

- 3.1 The purpose of the licensing function is to promote the licensing objectives through the effective regulation of licensed premises, qualifying clubs and temporary events. The authority is keen to foster a safe and vibrant leisure economy and will work with applicants and licence holders to encourage and sustain well managed premises which make a positive contribution to the community.
- 3.2 It is recognised that the licensing function is only one means of securing the delivery of the above objectives and should not therefore be seen as a “cure all” for solving all problems within the community. The Licensing Act is part of a wider Government strategy to tackle crime, disorder and anti-social behaviour and reduce alcohol harm. The Licensing Authority will therefore continue to work in partnership with its neighbouring authorities, the police, the fire authority, the Council’s Environmental Health Department, the Community Safety Partnership, local businesses and local people towards the promotion of the objectives as outlined.

#### Delegation of Functions

- 3.3 The powers of the Licensing Authority under the Act may be carried out by the authority’s Licensing Committee, by a Sub-Committee or by one or more officers acting under delegated authority. The Licensing Committee will consist of between 10 and 15 elected members of the Council and will establish sub committees consisting of 3 members of the committee. The Council’s delegation of functions follow the Home Office Guidance issued under Section 182 of the Licensing Act.
- 3.4 Many of the licensing procedures will be largely administrative and un-contentious. In the interests of efficiency and effectiveness officers will generally carry these out.
- 3.5 In situations where representations have been made and an agreement has been reached between all relevant parties to amend the application (i.e. to add conditions) the Licensing Authority reserves the right to not hold a hearing and issue the licence as per the agreement (in such situations the application will be considered ‘uncontested’). This will only be done when the proposed amendments promote the licensing objectives and consideration will be given to the potential for any party to be disadvantaged.
- 3.6 A list of delegations is available below:



<b>Matter to be dealt with</b>	<b>Full Committee</b>	<b>Sub-Committee</b>	<b>Officers</b>
Application for personal licence		If a police objection made	If no police objection made
Application for personal licence with unspent convictions		All cases	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for provisional statement		If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made
Application for minor variation of premises licence/club premises certificate			All cases
Application to vary designated premises supervisor		If a police objection made	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection made	All other cases
Applications for interim authorities		If a police objection made	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant frivolous vexatious etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Determination of an objection to a temporary event notice		All cases (except addition of conditions)	Addition of conditions consistent with existing Licence
Determination of application to vary premises licence for community premises to include alternative licence condition		If a police objection made	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Suspension of premises licence/club premises certificate for non-payment of annual fee			All cases
Review of Statement of Licensing Policy	All cases (Full Council)		
Implementation of a Late Night Levy	All cases (Full Council)		
Creation of an Early Morning Restriction Order	All cases (Full Council)		

## Related Legislation, Policies and Guidance

- 3.7 When making licensing decisions, the licensing authority will comply with all relevant legislation and have regard to a number of strategies, policies and guidance documents. This includes:

### Legislation

- Section 17 Crime and Disorder Act 1998
- The European Convention on Human Rights, which is applied by the Human Rights Act 1998
- The Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000
- Equality Act 2010
- Crime and Disorder Act 1998
- Health and Safety at Work etc. Act 1974
- Environmental Protection Act 1990
- Anti-Social Behaviour, Crime and Policing Act 2014
- Building Regulations
- Regulatory Reform (Fire Safety) Order 2005
- Town and Country Planning Act 1990
- Private Security Industry Act 2001
- Violent Crime Reduction Act 2006
- Police Reform and Social Responsibility Act 2011

### Strategies

- Current East and Mid Devon Community Safety Strategy
- Current Government alcohol strategy
- Current Mid Devon Corporate Plan

### Policies / Codes of Practice

- Regulators' Compliance Code (BIS)
- Mid Devon District Council's Enforcement Policy
- Local Transport Plan

### Guidance

- Guidance issued under s.182 of the Licensing Act 2003 (Home Office)
- Guidance to Health and Safety at Outdoor Events (Purple Book)

- Licensed Property: Noise Control (British Beer and Pub Association)
- Guidance on running events safely (HSE website)
- Managing work-related violence in licensed and retail premises (HSE)
- Code of Practice on Environmental Noise Control at Concerts (Noise Council)
- Home Office Guide to Safer Clubbing
- Any guidance / policy produced by the Council in relation to noise nuisance
- The Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks

3.8 There are some other notable pieces of legislation and these are as follows:

#### Gambling Act 2005

3.9 The provision of gaming machines and certain forms of low-stakes gambling (i.e. poker and bingo) are permitted in alcohol-licensed premises and qualifying clubs under the Gambling Act 2005. The type of gambling allowed, stakes and prizes are specified in regulations and are set at levels which are designed to keep this form of gaming a low-risk, sociable activity. Generally, such gaming should be ancillary to the primary use of the premises. The Authority may take action against a premise where it believes that gaming is becoming the dominant activity or is having a detrimental effect on the licensing objectives.

3.10 The Council has adopted a Gambling Act Policy which stands separate from this Licensing Policy. The Policy may be viewed on the licensing webpages of Mid Devon District Council.

#### Health Act 2006

3.11 The introduction of the Health Act 2006 which prohibited smoking in enclosed or substantially enclosed spaces in England has had a significant impact on alcohol-licensed premises and qualifying clubs. In many premises, customers wishing to smoke must do so in beer gardens, outdoor patio areas or in the street. This can result in noise, nuisance and anti-social behaviour for nearby residents, businesses and passers-by, especially late at night when background noise levels are low. The Authority will expect applicants and licence holders to have particular regard to the management of customers in the immediate vicinity of their premises to ensure that their behaviour does not cause offence or undermine the licensing objectives.

### Sexual Entertainment Venues

- 3.12 Performances of dance which are “relevant entertainment” within the meaning of the Local Government (Miscellaneous Provisions) Act 1982 (“the 1982 Act”) are not affected by the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013, regardless of the size of the audience or the time of day. “Relevant entertainment” is defined in the 1982 Act as a live performance or live display of nudity that, ignoring financial gain, can be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience.
- 3.13 In almost all cases where a performance of dance is potentially licensable as both the provision of *relevant* entertainment (under the 1982 Act) and *regulated* entertainment (under the 2003 Act), the 1982 Act disappplies the entertainment licensing regime in the 2003 Act in favour of its stricter regime for the control of sex establishments.
- 3.14 However, the Licensing Act 2003 will permit the holder of a premises licence to carry out relevant entertainment where the premises are not licensed as a sex entertainment venue under the 1982 Act if:
- The relevant entertainment has only been provided at those premises on no more than 11 occasions in any 12 month period, with none of those occasions lasting longer than 24 hours or taking place within a month of any other such occasion.
- 3.15 The Council has an adopted Sex Establishment Policy which stands separate from this Licensing Policy.

### Promotion of Equality

- 3.16 This policy recognises that the Equality Act 2010 places a legal obligation on public authorities 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. Actions of the Licensing Authority will be undertaken with due regard to equality obligations and where necessary, information will be published at least annually by the Council.

## Integrating Strategies and Avoiding Duplication

3.17 This Policy supports the following elements of the Council's Corporate Plan:

### Economy

- Business development and growth
- Improving and regenerating our town centres
- Growing the tourism sector

### Community

- Working with local communities to encourage them to support themselves
- Working with town and parish councils
- Increasing activity and promoting health and wellbeing

### Environment

- Protecting the natural environment

3.18 The Authority recognises that unnecessary and over-burdensome regulation can prevent businesses from thriving and growing. The Authority will therefore endeavour to regulate licensed premises in a proportionate manner in accordance with the Regulators' Compliance Code. Premises will be assessed on the basis of risk to the promotion of the licensing objectives and inspections will only be carried out when and if they are judged to be necessary.

3.19 The Authority will endeavour to ensure that this Statement of Licensing Policy is aligned with and supports local crime prevention, planning, transport, tourism and cultural strategies. To this end, the Authority will work closely with other agencies and will contribute, where appropriate, to the development of policies and initiatives to tackle alcohol-related crime and disorder.

### Planning

3.20 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process and that there should be a clear separation of the planning and licensing regimes to avoid duplication and inefficiency.

3.21 The Licensing Authority recognises that it is legally permissible for applications for licences to be made before any relevant planning permission has been sought or

granted by the planning authority. However the grant of a licence under the Act does not remove the need for applicants to obtain all the necessary planning consents. It should also be noted that grant of a licence in no way means that any planning application would also be granted and vice versa.

- 3.22 It is strongly recommended that prospective applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It makes operational sense to ensure that planning and licensing are compatible.
- 3.23 Where, as a condition of planning permission, a terminal hour has been set for the use of the premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of planning permission (and vice versa where the licensing hours finish earlier than the planning permission).

## 4. The licensing process

### General

- 4.1 Application forms may be downloaded from the Authority's licensing webpages. Applicants are strongly recommended to discuss their application with a member of the Licensing Team prior to formal submission. The Authority may reject applications which have not been completed correctly or contain insufficient information.
- 4.2 Applications, notices or relevant representations shall be treated as having been "given" to the Authority in accordance with the principles of "deemed service" as set out in the Civil Procedure Rules.
- 4.3 The Act requires that applications for premises licences / club premises certificates are advertised in accordance with regulations. The Authority will need to be satisfied that the applicant has complied fully with these regulations and may request copies of notices and advertisements to verify that the application has been properly made. If an application has not been correctly advertised, the Authority may reject the application. Further guidance on advertising applications is available on the Licensing Act 2003 pages available on the Authority's website.
- 4.4 When determining applications the Licensing Authority will have regard to this policy, the Act and Section 182 Guidance. Each application will be considered on its own individual merits.
- 4.5 Applicants should make themselves aware of the relevant sections of this policy, in particular the issues that will need to be addressed in formulating the operating schedule and offering appropriate conditions. In order to assist with this, the Licensing Authority has created two documents of note, a 'Pool of conditions' (Appendix C) and a 'Code of Practice for Licensed Premises' (Appendix D).
- 4.6 The Licensing Authority will expect individual applicants to address the licensing objectives in their operating schedule having regard to the location and type of premises, the licensable activities to be provided, and the operational procedures.
- 4.7 Applicants should consider the benefits of exceeding their statutory consultation requirements by proactively seeking the views of parties on the application and proposed licensable activities. This includes proactively liaising with local residents, local ward Councillors, businesses and responsible authorities.

## Regulated entertainment exemptions and de-regulations

- 4.8 Since the introduction of the Act, the Government has de-regulated various types of regulated entertainment. Applicants are advised to consult the government's website for further information:

<https://www.gov.uk/guidance/entertainment-licensing-changes-under-the-live-music-act>

- 4.9 When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits. There will inevitably be a degree of judgement as to whether a performance constitutes regulated entertainment or not. If in doubt, organisers of events should check with the Licensing Authority.

## New and full variation process

- 4.10 The procedure for making a new application and changes to an existing Premises Licences or Club Premise Certificates are very similar. Both involve the same advertising procedure, a 28 day consultation period and the application is determined by the Licensing Sub-Committee if relevant representations are received. If no relevant representations are received then the application is automatically granted at the end of the consultation period.

- 4.11 In brief, applicants must:

- Submit a completed application on the prescribed application form to Mid Devon District Council with the required fee and a plan of the premises of 1:100 scale (unless agreed otherwise). The application form must include an Operating Schedule.
- Submit an entire copy of the application to all responsible authorities at the same time as the application is submitted to the Licensing Authority. *NB. If applicants chose to submit the application electronically they are not required to submit copies to the responsible authorities.*
- Advertise the application in a prominent position at or on the premises on a pale blue coloured notice of at least A4 size with a minimum font size of 16, for not less than 28 consecutive days starting on the day following the day on which the application was submitted to the Licensing Authority.



- Advertise the application within 10 working days (starting on the day following the day on which the application was submitted to the Licensing Authority) in a local newspaper circulating in the Mid Devon area.
- If the application includes the retail or supply of alcohol, the consent of the individual Personal Licence holder who wishes to be the Designated Premises Supervisor (DPS) is required with the application.

4.12 The application will be advertised on Mid Devon District Council's website.

4.13 All applicants for the grant or variation of a Premises Licence or Club Premises Certificate are expected to demonstrate within their Operating Schedules how they intend to promote each of the four licensing objectives. The proposals included in the Operating Schedule will form the main body of conditions to be applied to the licence or certificate (if granted).

### **Beer gardens or other outdoor spaces**

4.14 Applicants should consider whether they might want to use a garden or other outdoor space as a location from which alcohol will be consumed. The sale of alcohol is treated as taking place where the alcohol is appropriated to the contract. This means that where drink orders are taken by a member of staff in the garden or outdoor space and the member of staff then collects the drinks from the licensed premises and returns to deliver them to the customer, this would be treated as an off-sale and any conditions that relate to off-sales would apply.

4.15 In such cases it will not be necessary to include the garden or other outdoor space on the plan as part of the area covered by the premises licence, assuming the licence authorises the sale of alcohol for consumption off the premises. However, it will be necessary for the applicant to include the garden or other outdoor space on the plan as part of the area covered by the premises licence if the intention is to provide a service whereby drinks are available for sale and consumption directly from that area (i.e. the provision of on-sales). This would apply in the case of an outdoor bar or a service whereby a member of staff who is in the garden or outdoor space carries with them drinks that are available for sale (without the need for the staff member to return to the licensed premises to collect them).

4.16 If the beer garden or other outdoor area is to be used for the consumption of off-sales only, there is no requirement to show it on the plan of the premises, but the prescribed application form requires the applicant to provide a description of where the place is and its proximity to the premises.

## **Mobile, Remote, Internet and Other Delivery Sales**

- 4.17 The Licensing Authority shall have due regard to sales of alcohol which are made remotely, by mobile methods, internet or by other delivery sales.
- 4.18 The expectation of the Licensing Authority is that conditions suggested by way of operating schedules for these types of activities should be extremely robust. If new applications are made or existing premises are looking to extend into this area they should seek advice from the Licensing Authority or the police as it might be appropriate for provisions in the operating schedule for age verification and restriction of delivery times and quantities.

## **Vessels**

- 4.19 The Licensing Authority will give particular weight to the views of the British Waterways Board when considering applications for premises licences in respect of vessels. Where, in the opinion of the Licensing Authority, if its discretion is engaged and any of the four objectives are undermined and cannot be resolved through the imposition of conditions, the application may be refused.

## **Minor Variation process**

- 4.20 Small changes to a Premises Licence or Club Premises Certificate that will not impact adversely on the licensing objectives can be dealt with via the 'Minor Variation' process which is a scaled down version of the full variation process detailed above, with a reduced fee.
- 4.21 We expect that the process will be used for changes such as:
- Small changes to the structure or layout of a premises;
  - Additional authorisations required for late night refreshment or regulated entertainment (such as live music, performance of plays or film exhibitions);
  - Small changes to licensing hours (see below for changes that relate to alcohol);
  - Revisions, removals and additions of conditions (this could include the removal or amendment of out of date, irrelevant or unenforceable conditions, or the addition of volunteered conditions).

4.22 Minor variation applications will not apply to:

- Substantial changes to the premises;
- Varying the Designed Premises Supervisor;
- Authorising the sale by retail of alcohol;
- Authorising the supply of alcohol at any time between 23:00 and 07:00 hours;
- Authorising an increase in the amount of time on any day during which alcohol may be sold by retail.

4.23 In brief, applicants must:

- Submit a completed application on the prescribed application form to Mid Devon District Council with the required fee. If you are applying for a variation to the layout of your premises, you must include a revised plan of the premises of 1:100 scale (unless agreed otherwise).
- Advertise the application in a prominent position at or on the premises on a white notice of at least A4 size with a minimum font size of 32 for the header and 16 for the content, for not less than 10 working days starting on the day following the day on which the application was submitted to the Licensing Authority.

4.24 On receipt of a minor variation application, the Licensing Authority will consider the application and consult the relevant responsible authorities as it considers appropriate. In deciding on the application the Licensing Authority will consider any relevant representations received within the statutory time limit (ten working days from the day after the application was received by the Licensing Authority). The Licensing Authority will either grant the application or refuse it where it considers that the proposed application could impact adversely on any of the four licensing objectives.

4.25 If the Licensing Authority fails to determine the application within 15 working days, the application will be treated as being refused but the fee returned. However, in such cases the Licensing Authority and applicant may agree instead that the undetermined application should be treated as a new application and that the fee originally submitted will be treated as a fee for the new application thus avoiding the need for a new application to be submitted.

- 4.26 Applications that have been rejected under the minor variations process can then be the subject of a full variation application or a revised minor variation application. The refusal of a minor variation does not affect or pre-determine any subsequent variation application in respect of the same premises.

### Personal Licence process

- 4.27 Any premises licensed for the sale of alcohol must specify a Designated Premises Supervisor (DPS). This person must be a Personal Licence holder. In order to obtain a Personal Licence, the applicant must:
- Be aged 18 or over
  - Submit a completed application on the prescribed application form to Mid Devon District Council with the required fee.
  - Possess a licensing qualification accredited by the Secretary of State
  - Not have forfeited a Personal Licence within 5 years of his/her application
  - Produce a satisfactory 'Basic Disclosure' from the Disclosure and Barring Service (DBS), or the results of a subject access search of the police national computer by the National Identification Service (this check must be no more than one month old at the time of application)
  - Not have an objection notice from the Police about the grant of a Personal Licence following notification of any unspent relevant offence or foreign offence; OR must show that such an offence should not lead to refusal on crime prevention grounds
- 4.28 Photographs submitted with the application must be clearly endorsed on the reverse side with the person's name, date of birth and contact number in order to ensure they are correctly processed.
- 4.29 Applicants with unspent criminal convictions for relevant offences set out in the Licensing Act are strongly encouraged to first discuss their intention to apply for a Licence with the Police and Licensing Authority before making an application.
- 4.30 There is no longer a requirement to renew a Personal Licence and the Licence is portable, although changes of name and home address or updates to photos must be notified to the issuing Licensing Authority for a prescribed fee.

## Temporary Event Notices (TENs)

- 4.31 The Act sets out the legal requirements relating to TENs. A TEN is a notification given by an individual to the Licensing Authority where it is proposed to use a premises for one or more licensable activities during a period not exceeding 168 hours. They can be used to authorise relatively small-scale ad hoc events held in or on any premises involving no more than 499 people at any one time.
- 4.32 A TEN is typically used to:
- Authorise a licensable activity at a premises not currently licensed - e.g. selling alcohol at a fete
  - Temporarily extend the hours for providing a licensed activity at an existing licensed premises for a specific event
  - Provide for licensable activities not authorised by the existing licence
- 4.33 The organiser must submit a TEN to the Licensing Authority and where this TEN is submitted in writing, it is the responsibility of the notice giver to ensure that a copy is sent to the Police and Environmental Health as stipulated in the Act. Where a TEN has been submitted electronically copies of it will be forwarded to the Police and Environmental Health by the Licensing Authority.
- 4.34 The TEN must normally be submitted 10 clear working days' before the proposed event. This does not include the date of submission, the date of the event, weekends or bank holidays. It is recommended that TENs are submitted to the authority at least 28 days prior to the event to allow sufficient time for the organiser to liaise with relevant council officers and responsible authorities to ensure the event takes place with minimum problems.
- 4.35 Where relevant representations are received from the Police or Environmental Health, the matter will be referred to the Licensing Sub-Committee for a decision as to whether or not the event can take place. Where representations relate purely to the addition of conditions to the TEN which are consistent with an existing Premises Licence, a statement of conditions will be issued with the TEN without the need for a Licensing Sub-Committee hearing, unless the applicant disagrees.
- 4.36 Late TENs can be given up to five working days but no earlier than nine working days before the event is scheduled and, unless given electronically to the Licensing Authority, must also be sent by the notice giver to the Police and the Council's Environmental Health Section.

- 4.37 It should be noted that in case of any relevant objections to a late TEN a counter notice will be served and the event cannot take place.

### **Large Scale Public Events**

- 4.38 The Council strongly recommend that organisers of large scale public events (for example outdoor music concerts and beer festivals) consult the Safety Advisory Group (SAG) at the earliest opportunity to discuss arrangements for the licensing of those activities. This will help to ensure that they can obtain expert advice on how best to minimise the risk of injury and public nuisance.
- 4.39 The application may involve the preparation of a substantial Event Management Plan which may take some time to complete. We recommend applicants engage with the SAG process a minimum of 3 months prior to the proposed event starting date.

### **Disapplication of Certain Mandatory Conditions for Community Premises**

- 4.40 An amendment to the Act allows certain community premises which have or are applying for a premises licence that authorises alcohol sales to also apply to include the 'alternative licence condition' instead of the usual mandatory conditions in sections 19(2) and 19(3) of the Act (requirement for a DPS and for alcohol sales to be made or authorised by a personal licence holder). Such an application may only be made if the licence holder is, or is to be, a committee or board of individuals with responsibility for the management of the premises.
- 4.41 Where it is not clear whether premises are community premises, the Licensing Authority will approach the matter on a case by case basis. The main consideration will be how the premises are predominantly used. If they are genuinely made available for community benefit most of the time, and accessible by a broad range of persons and sectors of the local community for purposes which include purposes beneficial to the community as a whole, the premises will be likely to meet the definition.

### **Licence Reviews**

- 4.42 A Responsible Authority and any other person can, at any time following the grant of a premises licence or club premises certificate, apply to the Licensing Authority to review the licence/certificate because of concerns arising at the premises which may

have an adverse impact on any of the licensing objectives. The Authority regards this as a valuable protection for residents and businesses.

4.43 Following receipt of a review application, a 28 day consultation period will begin. The application will then be determined by the Licensing Sub-Committee who will focus any remedial action directly on the concerns identified in the representations. In all cases, action will be appropriate, reasonable and proportionate to the nature of the problems giving rise to the review. Options available to the Licensing Authority include:

- Take no further action
- Issue a warning to the licence holder
- Modify the conditions of the Premises Licence
- Exclude a licensable activity from the scope of the Licence
- Remove the Designated Premises Supervisor
- Suspend the Licence for up to 3 months
- Revoke the Licence

4.44 Any application for a review should be treated seriously. Responsible Authorities will aim to give licensees early warning of any concerns identified at a premises, and talk to the licence or certificate holder to establish whether there are any steps they may be willing to take to rectify the situation. Similarly, those seeking reviews that are not a Responsible Authority are encouraged to take initial steps such as:

- Asking the Licensing Authority to talk to the licence holder on their behalf
- Asking their local MP or Councillor to speak to the licence holder on their behalf
- Talking to the relevant Responsible Authority (e.g. Environmental Health in relation to noise nuisance or the police in relation to crime and disorder) to establish whether there is other action(s) that can be taken to resolve the problem.

4.45 The review process is not intended as a means of challenging the grant of a licence following the failure of representations to persuade the Licensing Authority on an earlier occasion. No more than one review from a person other than a Responsible Authority will be entertained in relation to a particular premises within a period of twelve months on similar grounds, except in compelling circumstances (e.g. where new problems have arisen) or where it arises following a closure order made under s.160 or s.161 of the Act.

- 4.46 When considering a review of a premises licence or club premises certificate, the Authority will expect the applicants for the review to provide evidence of infringements of licensing regulations, failure to comply with licence conditions and/or of failure to promote the licensing objectives.
- 4.47 In cases of serious crime and disorder at premises, the Police may apply for a summary review. On receipt of such an application, the Authority has 48 hours to determine whether any interim steps are required. Further information about this process can be seen in S182 guidance.
- 4.48 Any person aggrieved by the decision of the Authority has the right of appeal to the Magistrates' Court. An appeal must be made within 21 days of the Licensing Authority's decision.

### Licensing Fees

- 4.49 Following amendments that came into force in October 2012, the Act requires a Licensing Authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due.
- 4.50 It is the practice of this Authority to issue an invoice for annual fees approximately a month before the due date. Non-payment will then result in a suspension notice being served. Regulations state that the premises licence or club premises certificate holder will be given notice of a suspension that is at least 2 working days before the suspension is to take place.
- 4.51 No refund is payable for any withdrawn or refused application / notification. In accordance with the Act, the fee for a minor variation is refundable, but only when the application is not determined within the statutory time period.

### Late Night Levy (LNL)

- 4.52 A Late Night Levy (LNL) is an optional power available to Local Authorities to raise a contribution towards the costs of policing the night time economy. The power was introduced through the Police Reform and Social Responsibility Act and enables the authority to charge a levy to holders of Premises Licences and Club Premises Certificates authorised to sell alcohol. A LNL must apply across the whole of the local authority area and applies to all on and off licences. Temporary Event Notices are exempt.



- 4.53 A LNL would require that a levy be paid by those persons who are authorised to sell alcohol between the periods specified in the LNL (the late night supply period) regardless of whether they are actually open during that period. This can be no earlier than 00:00 hrs and no later than 06:00 hrs and must be the same period every day. The Licensing Authority has discretion to exempt certain premises - prescribed by regulations - from the levy and to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes.
- 4.54 At least 70% of the Levy must be paid to the Police and Crime Commissioner. The local authority's portion can be used to tackle alcohol related crime and disorder and to support management of the night time economy in line with the reduction of crime and disorder, promotion of public safety; prevention of public nuisance and street cleansing.
- 4.55 The implementation of a LNL is subject to public consultation and, if it is to be introduced, must be adopted at a meeting of the Council.
- 4.56 At the time of preparing this Policy, this authority has taken no decision and has no plans to implement a LNL but is aware that it is a power which it may use if it considers it appropriate for the promotion of the licensing objectives.
- 4.57 The authority will, however, consider the introduction of a LNL at any time if circumstances change and evidence supports this course of action.

### Early Morning Restrict Orders (EMROs)

- 4.58 Early Morning Restriction Orders (EMROs) enable a Licensing Authority to prohibit the sale of alcohol for a specified time period between 00:00 hrs and 06:00 hrs in the whole or part of its area if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 4.59 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times, serious public nuisance and other instances of alcohol-related anti-social behaviour which are not directly attributable to specific premises. Unlike the Late Night Levy there are no powers to charge a fee in connection with making an EMRO.
- 4.60 The decision to implement an EMRO must be evidence based. Evidence will be considered from partners including Responsible Authorities and the Community Safety Partnership alongside the authority's own evidence to determine whether an EMRO is appropriate for the promotion of the licensing objectives.

4.61 Measures that may be considered in advance of making an EMRO include:

- introducing a Cumulative Impact Policy
- reviewing licences of specific problem premises
- encouraging the creation of business-led practice schemes in the area
- other mechanisms designed for controlling cumulative impact
- encouraging licence or certificate holders to make variations with respect of hours for licensable activities.

4.62 The only exemptions relating to EMROs are premises which are authorised to sell alcohol between 00:00 hrs and 06:00 hrs on New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.

4.63 At the time of preparing this Policy, this authority has taken no decision to introduce an EMRO but is aware that it is a power which it can use if it considers it appropriate for the promotion of the licensing objectives.

### Cumulative Impact

4.64 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter which the Licensing Authority can take into account. This should not however, be equated with 'need' which relates more to the commercial demand for a particular type of premises. The issue of 'need' is a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.

4.65 A cumulative impact assessment (CIA) may be published by a Licensing Authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

4.66 Section 5A of the 2003 Act sets out what a Licensing Authority needs to do in order to publish a CIA and review it, including the requirement to consult with the persons

listed in section 5(3) of the 2003 Act. The 2003 Act does not stipulate how the CIA should be used once published, because the requirements for determining applications for new licences or variations are the same in areas with a CIA as they are elsewhere, as set out in sections 18, 35, 72 and 85 of the Act. However, any CIA published by a Licensing Authority must be summarised in its statement of licensing policy. Under section 5(6D) a Licensing Authority must also have regard to any CIA it has published when determining or revising its statement of licensing policy.

4.67 The Licensing Authority will not operate a quota of any kind, which would pre-determine any application, nor will it seek to impose general limitations on trading hours in particular areas. Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide entertainment, but with contrasting styles and characteristics. Proper regard will be made to those differences and the impact they are likely to have on the local community. This may result in the amenity of local residents being placed under severe pressure; it will not always be possible to attribute a particular problem to customers of particular premises. This means that whilst enforcement action to ensure conditions are complied with is taken, this may not resolve all problems.

4.68 Local Community Safety Partnerships and responsible authorities, such as the police and environmental health, may hold relevant information which would inform licensing authorities when establishing the evidence base for publishing a CIA. Evidence of cumulative impact on the promotion of the licensing objectives needs to relate to the relevant problems identified in the specific area to be covered by the CIA. Information which licensing authorities may be able to draw on includes:

- local crime and disorder statistics, including statistics on specific types of crime and crime hotspots
- statistics on local anti-social behaviour offences
- health-related statistics such as alcohol-related emergency attendances and hospital admissions
- environmental health complaints, particularly in relation to litter and noise
- complaints recorded by the local authority, which may include complaints raised by local residents or residents' associations
- residents' questionnaires

- evidence from local and parish councillors
  - evidence obtained through local consultation.
- 4.69 The Licensing Authority may consider this evidence, alongside its own evidence of the impact of licensable activities within its area, and consider in particular the times at which licensable activities are carried on. Information which may inform consideration of these issues includes:
- trends in licence applications, particularly trends in applications by types of premises and terminal hours
  - changes in terminal hours of premises;
  - premises' capacities at different times of night and the expected concentrations of drinkers who will be expected to be leaving premises at different times.
- 4.70 If a CIA is published the Licensing Authority must, within three years, consider whether it remains of the opinion set out in the assessment. In order to decide whether it remains of this opinion it must again consult the persons listed in section 5(3).
- 4.71 Having published a CIA a Licensing Authority must have regard to the assessment when determining or revising its statement of licensing policy. It is therefore expected that, in respect of each relevant application in the area concerned, the Licensing Authority will be considering whether it is appropriate to make a representation to its committee as a responsible authority in its own right. The CIA does not, however, change the fundamental way that licensing decisions are made. It is therefore open to the Licensing Authority to grant an application where it considers it is appropriate and where the applicant can demonstrate in the operating schedule that they would not be adding to the cumulative impact. Applications in areas covered by a CIA should therefore give consideration to potential cumulative impact issues when setting out the steps that will be taken to promote the licensing objectives.
- 4.72 The Licensing Authority recognises that as well as the licensing function there are a number of mechanisms for addressing issues of unruly behaviour that occurs away from licensed premises. These include:
- planning control

- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority, including best practise schemes such as Best Bar None, Pubwatch or Business Improvement District
- Community Protection Notices
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly
- the confiscation of alcohol from adults and children in designated areas
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale)
- Raising a contribution to policing the late night economy through the Late Night Levy
- Early Morning Alcohol Restriction Orders

4.73 Additional information on CIA can be found in S182 guidance. This Authority has not published a CIA at the time of writing this policy.

### **Public Spaces Protection Order (PSPOs)**

4.74 The Designated Public Place Order (DPPO) has been replaced by the Public Spaces Protection Order (PSPO) in the Anti-social Behaviour Crime and Policing Act 2014. PSPOs can be used to restrict the drinking of alcohol in a public space where this has or is likely to have a detrimental effect on the quality of life on those in the locality, be persistent or continuing in nature, and unreasonable. Before making a PSPO, a council must consult the local police.

4.75 At the time of preparing this policy, Mid Devon District Council have no PSPOs.

### Licensing register

- 4.76 The Act requires the Licensing Authority to keep a register containing a record of each premises licence, club premises certificate and personal licence issued, along with the temporary event notices received. Our register may be accessed online at the following link:

<https://www.middevon.gov.uk/business/licensing/online-licensing-register/>.

- 4.77 Alternatively, the register may be viewed at Phoenix House, Phoenix Lane, Tiverton, Devon, EX16 6PP during normal opening hours. It is recommended that any person wishing to view the register in person should contact the Licensing Team in advance to ensure that your request can be catered for at the time of visit.

## 5. Responsible Authorities and Representations

### Responsible Authorities

- 5.1 Responsible Authorities are public bodies that must be notified of applications under the Licensing Act 2003. All Responsible Authorities are entitled to make representations in respect of grant, variation and review applications.
- 5.2 The Responsible Authorities are as follows:
- Licensing Authority, Mid Devon District Council
  - Environmental Health Services, Mid Devon District Council
  - Planning Services, Mid Devon District Council
  - Devon & Cornwall Constabulary
  - Devon Fire & Rescue Service
  - Local Safeguarding Children's Board, Devon County Council
  - Devon Trading Standards (Weights and Measures)
  - Health and Safety Executive
  - Director of Public Health (Devon DAAT)
  - Home Office (Alcohol Licensing Team)
- 5.3 Complete details for Responsible Authorities, including contact addresses is available in Appendix A.

### Licensing Authority

- 5.4 Section 103 of the Police Reform and Social Responsibility Act 2011 amended the Act by making the Licensing Authority a 'Responsible Authority'. This enables the authority to make representations about an application for a premises licence or club premises certificate or to apply for a review of a premises licence or a club premises certificate.
- 5.5 In cases where the authority is acting in its capacity as a Responsible Authority, it has established a clear separation of responsibilities within the authority's licensing team in order to ensure procedural fairness and to avoid potential conflict of interest.
- 5.6 The Licensing Authority is unlikely to make representations on behalf of other parties such as individuals, local councillors etc., as these persons can make representations in their own right. Similarly, the Licensing Authority will expect other Responsible Authorities to make representations on issues falling within their own remit. For

example, the Licensing Authority is unlikely to make representations purely based on crime and disorder as this falls within the remit of the Police.

## **Other Persons**

- 5.7 The Licensing Act 2003 allows any “other person” to make representations about a licensing application provided that it is relevant to one or more of the licensing objectives.
- 5.8 “Other persons” means any individual, body or business affected by the operation of licensed premises regardless of their geographical location. The term also includes local councillors who can make representations in their own right or on behalf of a named “other person”, such as a resident or local business if specifically requested to do so.

## **Making Representations**

- 5.9 When an application is made for the grant or the variation of a premises licence or club premises certificate a Responsible Authority under the Act or any other person may make a representation about the application.
- 5.10 Representations must be made to the authority in writing within the 28 day consultation period. For this purpose, a representation can be made using the form available on our website or by letter or e-mail.
- 5.11 Section 18(6) of the Licensing Act 2003 defines what constitutes a ‘relevant’ representation. To be relevant, a representation must relate to the likely effect of the grant of a licence on the promotion of one or more of the following licensing objectives:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 5.12 There is nothing in the Act to say that a representation must be of a negative nature. The Act specifically refers to ‘representations’ rather than ‘objections’ recognising that representations may express positive support for an application. The authority will consider both positive and negative representations provided they are relevant.



- 5.13 Where no relevant representations are received, the application will be granted on the terms applied for. Where relevant representations are received, the application will be considered by a Licensing Sub Committee at a hearing as will any application to review a licence. The authority has established its own hearing procedures as provided for by regulations made under the Act and this is included as Appendix B.
- 5.14 Any party to a hearing may expand on their representation but may not introduce new or different representations.
- 5.15 Representations which are deemed by the authority to be repetitious, frivolous or vexatious will be disregarded.
- 5.16 Where relevant representations have been made against an application the Licensing Authority will normally try to see if any mediation is possible between the applicant and any objectors. The purpose of mediation is to allow each party to express their concerns or views in an attempt to come to an agreed position. A positive mediation result saves time and money as the Licensing Authority and parties involved may not have to attend a contested hearing before a licensing sub-committee.

### **Anonymous Representations and petitions**

- 5.17 The Licensing Authority cannot accept anonymous representations. Full details of all representations must be made available to the applicant, including names and addresses. However, in exceptional circumstances, a person wishing to make a representation may be reluctant to do so because of fears of intimidation or harassment if their personal details are disclosed.
- 5.18 Where the authority considers that the person has a genuine and well-founded fear of intimidation and may be deterred from making a representation, the authority may consider alternative approaches. For example, the authority may advise the individual to provide the relevant responsible authority with details of how they consider that the licensing objectives are being undermined so that the responsible authority can make representations, if appropriate and justified.
- 5.19 Alternatively, the authority may advise the individual to request their local councillor make a representation on their behalf. Where appropriate, the authority may decide to withhold some or all of the person's details from the applicant. The authority will only withhold such details where the circumstances justify such action.
- 5.20 Persons making representations should be aware that their personal details will normally be disclosed during the hearing process.

- 5.21 Any petitions received will be treated as one representation from the person sending it in, supported by the other signatories. Petitions will not be treated as individual representations from everyone who has signed them.

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## 6. Decision Making

### Determining applications

- 6.1 Where relevant representations are received about an application, a hearing will be held unless the Licensing Authority, the applicant and everyone who has made representations agree that a hearing is not necessary. Applicants and those making representations should seek in advance of any hearing to try and reach agreement or narrow the areas in dispute, particularly where both are professionally represented.
- 6.2 The authority has established its own hearing procedures as provided for by regulations made under the Act and this is included as Appendix B.
- 6.3 When determining a licence application, the overriding principle adopted by this authority will be that each application will be determined on its merits. The authority will have regard to any guidance issued by the Home Office, this Statement of Licensing Policy and any measures it deems necessary to promote the licensing objectives. The authority may depart from the guidelines in this Policy if it has justifiable and compelling reasons to do so. The authority will give reasons for any such departure from policy.
- 6.4 The authority will expect applicants to demonstrate in their applications active steps for the promotion of the licensing objectives. When determining an application, a key consideration for the authority will be the adequacy of measures proposed in the Operating Schedule to promote the licensing objectives having regard to the type of premises, the licensable activities to be provided, the nature of the location and the needs of the local community. It might be that the applicant has considered all of this and decides that no measures will be appropriate to cover the promotion of one or more of the licensing objectives but that consideration will need to be made by the applicant.
- 6.5 The authority will also have regard to wider considerations affecting the residential population, businesses and the amenity of an area. These include alcohol-related violence and disorder, antisocial behaviour, littering and noise, particularly late at night and in the early morning.
- 6.6 Since the introduction of the Act, the authority's experience is that the vast majority of complaints about licensed premises are caused by public nuisance, in particular excessive noise from live and recorded music and disturbance caused by customers congregating outside licensed premises. The authority will expect applicants to have

particular regard to these issues and, if considered appropriate, to include in their Operating Schedules adequate and effective steps to control noise and disturbance from their premises.

- 6.7 When determining an application, the authority will consider all relevant evidence, both oral and written, provided by parties to a hearing. Evidence which is irrelevant will be disregarded. The authority encourages applicants and persons making representations to attend hearings so that they can give evidence. Where an individual fails to attend the hearing, the authority will consider their application or representation but may attach less weight to it.
- 6.8 It should be noted that, when determining an application, the authority is making a judgment about risk. A key purpose of the licensing function is not to respond to crime and disorder, nuisance or public harm once it has happened but to make an informed assessment of the risk of such things occurring if a licence is granted and to take such steps as it considers appropriate to prevent or minimise such risks.
- 6.9 Licence conditions will be tailored to the individual application and only those considered appropriate to meet the licensing objectives will be imposed. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection, for example Health and safety at work, fire safety legislation etc.
- 6.10 The Licensing Authority will also take into account when making its decision that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour, especially once individuals have left licensed premises and are therefore beyond the direct control of licensees. However, when making a decision, the authority will focus on the direct impact of the activities taking place on the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 6.11 The 'need' or demand for a licensed premises of any kind or the commercial damage that competition from a new licensed premises would do to other licensed premises in an area will not be matters that the authority will consider when discharging its decision making function.
- 6.12 In the majority of hearings a summary of the decision will be given verbally on the day. A full written decision notice will be provided to the applicant and anyone who has made a relevant written representation within 5 working days of the hearing; this will include details on how to appeal a decision.

- 6.13 Any party to a hearing who is dissatisfied with the authority's decision may appeal to the Magistrates' Court. An appeal must be made within 21 days of formal notification of the decision.
- 6.14 In reaching a decision on whether or not to grant a licence, the Licensing Authority, if relevant representations are made, may take account of any non-compliance with other statutory requirements brought to its attention, if these undermine the licensing objectives. This is because any non-compliance with other statutory requirements may demonstrate that the premises are unsuitable for the activities proposed, or that the management of the premises is not adequate to protect the public from harm or nuisance.

### Licensing hours

- 6.15 The Licensing Authority will deal with the issue of licensing hours on the individual merits of each application. When the authority's discretion is engaged consideration will be given to the individual merits of an application but the presumption will be to grant the hours requested unless there are objections to those hours raised by Responsible Authorities or Other Persons on the basis of the licensing objectives.
- 6.16 In general, applications for licensed premises located in residential areas wishing to open beyond 23.00, and those operating a beer garden or outside area beyond 21:00, will be expected to have a higher standard of control included within their operating schedule to address any potential public nuisance issue.
- 6.17 Where representations are received, stricter conditions relating to noise control may be appropriate and necessary in sensitive locations such as residential areas.
- 6.18 Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide and promote a range of entertainment during their operating hours including live music, dancing and theatre for the wider cultural benefit of the community. It will be a matter for individual applicants to address the licensing objectives in their operational schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 6.19 In considering relevant representations, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or public disorder having regard to all the circumstances of the case.

- 6.20 The Licensing Authority recognises that fixed and artificially early closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Flexible licensing hours in relation to the sale of alcohol may therefore be considered as a potential means of reducing friction at late night food outlets, taxi ranks and other 'flashpoints' in areas where there have already been incidents of disorder and disturbance.

### Conditions

- 6.21 The Licensing Authority cannot impose conditions of its own volition. Conditions will only be attached in the following circumstances:

- Mandatory conditions under the Licensing Act 2003 or introduced by regulation under the Act which will have effect in all circumstances regardless of if they appear on the Licence
- If they are consistent with the applicant's operating schedule, or agreed/offered by the applicant during the application process
- When considered appropriate, reasonable and proportionate after relevant representations have been received and not withdrawn

- 6.22 Conditions are crucial in setting the parameters within which premises can lawfully operate. Any contravention of a condition on a premises licence or club premises certificate is a criminal offence so it is essential that conditions are worded clearly, precisely and unambiguously. In addition, conditions must:

- be appropriate, reasonable and proportionate
- be enforceable
- not duplicate other statutory requirements
- be relevant to the particular type, location and character of the premises concerned
- not be standardised
- should be justifiable and capable of being met

- not replicate offences set out in the Act or in other legislation
  - be written in a prescriptive format
- 6.23 The Authority encourages applicants to seek technical advice from the appropriate responsible authorities when preparing their Operating Schedules as this will enable any problems to be resolved at an early stage and will reduce the likelihood of representations.
- 6.24 Experience has shown that many of the conditions volunteered by applicants are poorly worded, unclear or ambiguous and therefore unenforceable. As an aid to applicants, this authority has compiled a Pool of Conditions and this is Appendix C.
- 6.25 The Pool of Conditions is not intended to form an exclusive or exhaustive list of conditions which should be included on a licence or certificate. Applicants should consider offering conditions that are appropriate, necessary and proportionate in the circumstances of their particular application. Moreover, the pool does not restrict any applicant, responsible authority, or other person from proposing any alternative conditions, nor does it restrict the Council's Licensing Sub-Committee from imposing any reasonable condition on a licence it considers appropriate for the promotion of the licensing objectives (after representations have been received to an application and by way of a hearing).
- 6.26 Any conditions offered in the Operating Schedule in wording that is not compliant with the principles outline above will be suitably reworded by the Licensing Authority.
- 6.27 The Authority will pay particular attention to the effect (or potential effect) of licensable activities on those living, working or otherwise engaged in the area concerned and, where relevant representations are received, may attach conditions if it considers it appropriate for the promotion of the licensing objectives.
- 6.28 Conditions attached by the Authority to Premises Licences and Club premises certificates will relate to matters falling within the control of individual licensees. It is recognised that the licensing function cannot be a mechanism for the control of disorderly behaviour by individuals once they are beyond the direct control of the licence holder. However, the Licensing Authority and Responsible Authorities may take action where it can be established that there is a clear linkage between disorderly behaviour and a specific premises.
- 6.29 The Authority will not impose inappropriate or over-burdensome conditions on licences. The Authority may, however, if its discretion is engaged, impose conditions

where existing legislation does not provide adequate controls and additional measures are considered to be appropriate for the promotion of the licensing objectives.

6.30 When determining the appropriate set of conditions the Licensing Authority will focus primarily on the individual style of the premises and the licensable activities proposed. Consideration should also be given to the following:

- The size, nature and style of operation
- Whether the premises is part of a multiple operator's chain and therefore more likely to have an operating schedule that is tried and tested
- The cumulative effect of conditions in terms of cost and practical implementation
- The likely cost of the condition(s) for the operator
- Whether a simpler or better way of dealing with a perceived problem could be found
- Whether there is an actual risk of undermining an objective, as opposed to a conceivable risk. In the latter case, there is no need for the condition
- Whether the condition will be enforceable, if it is not specific or could be considered subjective it may not be enforceable



## 7. Enforcement and Code of Good Practice

- 7.1 It is the role of the Licensing Authority to protect the public from any harm that might arise from the provision of licensable activities at licensed premises. As part of this role licensing officers conduct visits to licensed premises to monitor compliance with the requirements of the premises licence and ensure the promotion of the licensing objectives.
- 7.2 Enforcement may be carried out independently by these authorised persons or in partnership with other enforcement agencies and Responsible Authorities. Where joint enforcement work is envisaged, the Licensing Authority will establish appropriate protocols, which will be reviewed at regular intervals.
- 7.3 In general, action will be taken in accordance with the Authority's Environmental Health Enforcement Policy. This document can be viewed here:  
<https://www.middevon.gov.uk/residents/public-health/public-health-enforcement-policy/>
- 7.4 Each enforcement action will be considered on its own individual merits.
- 7.5 In Mid Devon we aim to visit all premises licensed under the Licensing Act 2003 in accordance with an allocated risk rating. The premises risk rating is based on factors such as the nature of the premises, the range of licensable activities authorised, the times of activities and confidence in the management of the business.
- 7.6 It is strongly recommended that those responsible for the day to day management of licensed premises carry out regular licence compliance checks themselves. To ensure compliance levels, the relevant person(s) should consider the following matters:
- Is the listed Designated Premises Supervisor (DPS) current?
  - Has the DPS authorised staff in writing to sell alcohol on their behalf?
  - Do you have a written age verification policy?
  - Are your staff familiar with, and trained in licensing requirements?
  - Can you show records of relevant staff training?
  - Are your staff training records up to date?
  - Is your Part A licence (or certified copy) available for inspection at the premises?
  - Is your Part B (licence summary) prominently displayed at the premises?
  - Is the premises plan accurate and up to date?

If the answer to any of these questions is 'no', remedial actions need to be taken.

## Code of good practice for licensed premises

- 7.7 In order to assist in the general management of licensed premises, the Licensing Authority has created a 'Code of good practice for licensed premises' which is available as Appendix D. It includes some templates of standard documents, as well as some links to useful information and resources. Completing these templates and using the resources provided will help premises to promote the licensing objectives.
- 7.8 The information in the Code of Good Practice should not be considered as standard requirements for all premises. It is very important that each premises is considered on its own individual merits and only relevant and required actions are requested and / or expected of them. Having said that, it is hoped that the document will be used by the following:

### Applicants and licence holders

- 7.9 It is important to take a proactive and preventative approach to managing a licensed premises as this will ensure problems either do not occur to begin with, or if they do, are dealt with quickly.
- 7.10 Applicants should therefore read this document before submitting an application. It is considered a good starting point in assessing the potential risks of your premises. The identification of a risk will not necessarily warrant a condition on a licence. Additionally, licence holders should be familiar with this document as it will highlight any additional operational measures they may need to put in place.

### The Licensing Authority and Responsible Authorities

- 7.11 This code is not a statutory document but it may be taken into consideration and used:
- When offering advice to applicants pre-application
  - When offering advice to licence holders in general
  - As a starting point to dealing with licensed premises encountering problems, in order to promote the licensing objectives and address issues
  - When enforcement action is required as a result of continued issues with premises not promoting the licensing objectives i.e. reviewing a premises licence

Dealing with premises not promoting the four licensing objectives

- 7.12 Where problems or concerns are identified at a licensed premises this will be addressed as early as possible by the Licensing Authority. We aim to work in partnership with licence holders to address issues and we will offer guidance and advice where we can.
- 7.13 The Licensing Authority and Responsible Authorities will agree appropriate measures with licensed premises and this may include points within this code of good practice. This may be in the form of an 'action plan' and will provide a clear framework for actions to be undertaken. The ultimate aim of this code and its application is to try and avoid the need for more formal enforcement action such as a prosecution or review.

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## 8. Promotion of the Licensing Objectives

### Introduction

- 8.1 When carrying out its functions and exercising its powers under the licensing Act the Licensing Authority will aim to promote the licensing objectives at all times. In promoting these licensing objectives, the authority aims to encourage a safe, crime free environment where everyone can enjoy the full range of licensable activities offered.
- 8.2 The licensing objectives are:
- The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance
  - The protection of children from harm
- 8.3 Each licensing objective is of equal importance and they are the only factors that can be taken into account in determining an application and any conditions attached to a licence.
- 8.4 The Authority will require applicants to take appropriate and proportionate measures to promote the licensing objectives. The Council has produced two documents to assist applicants (and existing licence holders) with this and these are the 'Pool of Conditions' (Appendix C) and a 'Code of Good Practice for licensed premises' (Appendix D). Both of these documents are split into different sections covering each of the different licensing objectives. Additional information can also be found in S182 Guidance.

### Prevention of Crime and Disorder

- 8.5 The Authority will endeavour to reduce crime and disorder throughout the district in accordance with its statutory duty under s.17 of the Crime and Disorder Act 1998.

### Partnership working

- 8.6 The Licensing Authority looks to the police as the main source of advice on crime and disorder, but where appropriate, we will also seek to involve the local Community Safety Partnership (CSP). It should be noted however that any responsible authority under the 2003 Act may make representations with regard to any of the licensing objectives if they have evidence to support such representations
- 8.7 In the exercise of its functions, the Licensing Authority seeks to co-operate with the Security Industry Authority ("SIA") as far as possible and will consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, appear intoxicated by drugs, drug dealers, known sex predators or people carrying firearms do not enter the premises and ensuring that the police are kept informed and / or paramedics called where there are health concerns.
- 8.8 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. The Licensing Authority will work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Licence conditions that are considered appropriate for the prevention of illegal working in licensed premises might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that a copy of any document checked as part of a right to work check are retained at the licensed premises.

### Public Safety

- 8.9 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the 2003 Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation.

### Fire Safety

- 8.10 Fire precautions and means of escape from licensed premises are particularly important. Large numbers of people, some of whom may be under the influence of alcohol, must be safely contained, managed and, if necessary, evacuated from premises. The attachment of conditions to a premises licence or club premises certificate will not in any way relieve employers of the statutory duty to comply with the requirements of other legislation including the Health and Safety at Work etc. Act 1974, associated regulations and especially the requirements under the Management of Health and Safety at Work Regulations 1999 and the Regulatory Reform Fire Safety Order 2005 to undertake risk assessments. Employers should assess the risks, including risks from fire, and take measures necessary to avoid and control these risks.

### Risk Assessments

- 8.11 When addressing public safety, an applicant or licence holder should initially identify any particular issues (having regard to their particular type of premises and/or activities), which are likely to adversely affect the promotion of the public safety objective. Such steps as are required to deal with these identified issues may be suitable to include within the applicant's Operating Schedule.
- 8.12 It is also recognised that special issues may arise in connection with outdoor and large scale events. Risk assessment must be used to assess whether any measures are necessary in the individual circumstances of any premises.

### Disability

- 8.13 Consideration should be given to matters to ensure that:
- when disabled people are present, adequate arrangements exist to enable their safe evacuation in the event of an emergency
  - disabled people on the premises are made aware of those arrangements
  - disabled people may have physical and / or mental problems which should be considered

## Hypnotism

- 8.14 The Licensee shall not allow or permit any person to give at the premises (otherwise than as provided by Section 5 of the Hypnotism Acts 1952) any exhibition, demonstration or performance of hypnotism, mesmerism or any similar act or process which produces or is intended to produce in any other person any form of induced sleep or trance in which the susceptibility of the mind of that person to suggestion or direction is increased or is intended to be increased.

## Prevention of Public nuisance

- 8.15 The Licensing Act 2003 covers a wide variety of premises, including cinemas, concert halls, theatres, nightclubs, public houses, cafes, restaurants, fast food outlets and takeaways. Each of these premises presents a mixture of risks, with many common to most premises and others unique to specific operations. It is important that premises are constructed or adapted and maintained so as to acknowledge and safeguard occupants and neighbours against these risks, as far as is practicable.
- 8.16 Public nuisance is not narrowly defined in the 2003 Act and retains its broad common law meaning. It may include issues around nuisance, noise, disturbance, light pollution, noxious smells, vermin and pest infestations and accumulations of rubbish and litter.
- 8.17 The Licensing Authority recommends that applicants and licensees apply a higher standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises where:
- They are located in a residential or noise sensitive area
  - They have or are proposing extended open hours
- 8.18 The Licensing Authority recognises that beyond the immediate vicinity of the premises the control that a licence holder can exert over its customers diminishes and individuals who engage in anti-social behaviour are accountable in their own right. The licensing regime is not a mechanism for the general control of nuisance and anti-social behaviour by individuals once they are beyond the direct control of the licence holder.

## Protection of Children from harm

- 8.19 The protection of children from harm includes the protection of children from moral, psychological and physical harm. This includes not only protecting children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives (for example, in the context of exposure to certain films or adult entertainment).
- 8.20 The council expects licensed businesses to work actively to prevent:
- Child sexual exploitation
  - The sale or supply of alcohol to persons under the age of 18
  - The sale or supply of alcohol to adults seeking to purchase on behalf of persons under the age of 18
  - The sale or supply of any other age restricted products to underage persons
  - Access by children to gambling activities
  - Access by children to any entertainment of a sexual nature

### Child Sexual Exploitation

- 8.21 Child sexual exploitation involves children being groomed and then sexually abused. The Council recognises that child sexual exploitation is a major child protection issue across the UK.
- 8.22 The council takes a strict “zero tolerance” approach in respect of child sexual exploitation and expects licensed businesses to do the same. Conditions may be added by way of review of a licence if there is a specific CSE issue at a premise.
- 8.23 Measures designed to prevent underage sales and other harmful activities will have the secondary effect of preventing child sexual exploitation by reducing or removing opportunities for abusers to groom children for sexual purposes.

### Underage Sales and Age Verification

- 8.24 The council expects licenced premises to work rigorously to prevent the sale or supply of alcohol to children. The mandatory licence conditions include a condition which requires all premises which are licensed to sell or supply alcohol to adopt an age verification policy whereby those who appear to be under 18 will be asked to provide photographic ID to prove their age before selling or supplying them with alcohol.



- 8.25 The council encourages licensed businesses to go further than the requirements of the mandatory conditions and asks premises which are licensed for the sale or supply of alcohol to adopt the voluntary “challenge 25” scheme. This scheme requires members of staff who carry out sales of alcohol to request photographic ID from anyone who appears to be under the age of 25 years. This does not preclude anyone over the age of 18 from purchasing alcohol, but does provide a much clearer framework for staff members in deciding when to ask for ID.
- 8.26 Applicants for premises licences or other permissions to sell or supply alcohol are encouraged to include the challenge 25 scheme within their operating schedule and it will be included as a condition, where appropriate.
- 8.27 Holders of premises licences and other permissions to sell or supply alcohol and their designated premises supervisors must ensure that all staff employed at their premises receive regular training. Training must include child protection issues and the prevention of underage sales and proxy sales.

#### Children in licensed premises

- 8.28 The Licensing Authority recognises the great variety of premises for which licences may be sought. Access by children to all types of premises will not be limited unless it is considered necessary to do so in order to protect them from physical, moral or psychological harm.
- 8.29 When deciding whether or not to limit access to children the Licensing Authority will judge each application on its own individual merits. Examples which may give rise to concern in respect of children include premises:
- where entertainment of an adult or sexual nature is provided
  - where there is a strong element of gambling taking place
  - with a known association with drug taking or dealing
  - where there have been convictions of the current management for serving alcohol to minors or with a reputation for allowing underage drinking
  - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- 8.30 In such circumstances as listed above the Licensing Authority would expect the applicant to suggest restrictions in relation to access for children. If such restrictions

are not contained within the operating schedule and if relevant representations are made, the Licensing Authority will consider applying conditions deemed necessary to meet the licensing objectives.

- 8.31 Conditions may be imposed, if not covered in other legislation, on licences for premises where children will be present at places of regulated entertainment to the effect that sufficient adult staff must be present to control the access and egress of children and to ensure their safety. Where children may be present at an event as entertainers there may be a requirement for there to be a nominated adult responsible for such child performers at such performances.
- 8.32 The options available for limiting access by children would include:
- a limit on the hours when children may be present
  - a limitation or exclusion when certain activities are taking place
  - the requirement to be accompanied by an adult
  - access may be limited to parts of the premises but not the whole
  - an age limitation (for under 18s).
- 8.33 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issue of access will remain a matter for the discretion of the individual licence holder or club.

#### Display of Films and theatrical entertainment

- 8.34 In the case of premises giving film exhibitions, the Licensing Authority expects the holders of premises licences or other permissions to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film Classification or the Licensing Authority itself.
- 8.35 In relation to theatrical entertainment, it may be necessary to impose a condition to restrict the admission of children to theatres which are incorporating adult entertainment in their productions. It may also be necessary where entertainment is provided specifically for children, to consider whether a condition should be attached requiring the presence of a sufficient number of adult staff to ensure the wellbeing of children during an emergency.

## Appendix A Responsible Authority Contact List

<b>Licensing Authority</b> <b>Mid Devon District Council</b> Licensing Section Phoenix House Phoenix Lane Tiverton Devon EX16 6PP Telephone: 01884 244617/8/9 Email: <a href="mailto:licensing@middevon.gov.uk">licensing@middevon.gov.uk</a>	<b>Devon &amp; Cornwall Constabulary</b> Licensing Department Devon & Cornwall Constabulary Launceston Police Station Moorland Road LAUNCESTON PL15 7HY <a href="mailto:licensing.team@devonandcornwall.pnn.police.uk">licensing.team@devonandcornwall.pnn.police.uk</a>
<b>Devon Fire &amp; Rescue Service</b> East Division Agriculture House Pynes Hill Rydon Lane Exeter Devon EX2 5AZ Telephone: 01392 266833 E-mail: <a href="mailto:tstreat@dsfire.gov.uk">tstreat@dsfire.gov.uk</a>	<b>Devon County Council - Local Safeguarding Children's Board</b> Follaton House Plymouth Road Totnes TQ9 5RS Telephone: 01392 383000 Email: <a href="mailto:cpchecks@devon.gcsx.gov.uk">cpchecks@devon.gcsx.gov.uk</a>
<b>Devon Trading Standards (Weights and Measures)</b> Trading Standards Service County Hall Topsham Road Exeter Devon EX2 4QH Tel: 01392 381381 Email: <a href="mailto:tsadvice@devon.gov.uk">tsadvice@devon.gov.uk</a>	<b>Health and Safety Executive</b> <del>North Quay House</del> <a href="#">1<sup>st</sup> Floor Cobourg House</a> <del>Sutton Harbour</del> <a href="#">32 Mayflower Street</a> Plymouth <del>PL4 0RA</del> <a href="#">PL1 1QX</a> Telephone: <del>01852 226024</del> <a href="#">0203 0284950</a> Tel: 08701 545500 E-mail: <del>formsadmin.bristol@hse.gsi.gov.uk</del> <a href="mailto:formsadmin.plymouth@hse.gov.uk">formsadmin.plymouth@hse.gov.uk</a>
<b>Mid Devon District Council</b> <b>Environmental Health Services</b> Phoenix House Phoenix Lane Tiverton Devon EX16 6PP <a href="http://www.middevon.gov.uk">http://www.middevon.gov.uk</a> Telephone: 01884 244600 E-mail <a href="mailto:Health@middevon.gov.uk">Health@middevon.gov.uk</a>	<b>Mid Devon District Council</b> <b>Planning Services</b> Phoenix House Phoenix Lane Tiverton Devon EX16 6PP Telephone: 01884 255255 Email: <a href="mailto:devcon@middevon.gov.uk">devcon@middevon.gov.uk</a>

<b>Director of Public Health</b> Devon DAAT NHS Devon Room 255 County Hall Topsham Road Exeter Devon EX2 4QL Tel. 0845 002 3456 Email: <a href="mailto:alcohollicensing-mailbox@devon.gov.uk">alcohollicensing-mailbox@devon.gov.uk</a>	<b>Home Office</b> Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY Email: <a href="mailto:Alcohol@homeoffice.gsi.gov.uk">Alcohol@homeoffice.gsi.gov.uk</a>
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## Appendix B      Hearing Procedures

### 1.0      Introduction

- 1.1      The role of the Sub-Committee is to determine Applications / Notices in an impartial manner in accordance with the relevant provisions of the Licensing Act 2003, national guidance and the Council's Policies.

### 2.0      Composition of Sub-Committee

- 2.1      The Sub-Committee shall usually consist of three Councillors drawn on a "panel" basis from the membership of the Licensing Committee.

- 2.2      In forming the Membership of the Licensing Sub-Committee for a hearing, and where Councillors availability permits, Members Services shall try to ensure that:

- There are at least two experienced Members in attendance
- Rotation of Membership

'Experienced' is defined as having previously taken part in two separate hearings.

- 2.3      Members may sit on a Hearing which relates to their own Ward as long as there is no conflict of interest 'and any relevant declarations are made at the beginning of the meeting.

- 2.4      The Chairman for a Hearing shall be selected from the Members that form the Sub-Committee.

- 2.5      When unforeseen circumstances require, or an urgent matter has arisen, the Sub-Committee may be made up of two Councillors as opposed to three.

### 3.0      Hearings to be held in public

- 3.1      Licensing Hearings shall take place in public. However, the Sub-Committee may exclude the public (including a party to the hearing) from all or part of a hearing where it considers that the public interest in so doing outweighs the public interest in the hearing, or that part of the hearing, taking place in public.

- 3.2      The Sub-Committee may require any person attending the hearing who is in their opinion behaving in a disruptive manner to leave the hearing and may:

- a)      refuse to permit that person to return, or

- b) permit him/her to return only on such conditions as the Sub-Committee may specify,

but such a person may, before the end of the hearing, submit to the Sub-Committee in writing any information which they would have been entitled to give orally had they not been required to leave.

#### **4.0 Time of Hearings**

- 4.1 Hearings of the Licensing Sub-Committee shall usually be held at the Council Offices during the day.

#### **5.0 Notice of Hearing**

- 5.1 The Licensing Authority shall give parties to the Hearing a notice stating the date, time and place where the Hearing is to be held. This is the 'Notice of Hearing' and must be given in accordance with the provisions of the regulations.
- 5.2 The Notice of Hearing shall be accompanied by information regarding the following:
  - a) the rights of a party provided for in regulations 15 and 16 of the Licensing Act 2003 (Hearings) Regulations 2005
  - b) the consequences if a party does not attend or is not represented at the Hearing
  - c) the procedure to be followed at the hearing; and
  - d) any particular points on which the Licensing Authority considers that it will want clarification from a party at the hearing.
- 5.3 Each party shall respond to the Notice of Hearing within the time prescribed by regulations which shall be stated on the Notice itself. The response must state:
  - a) whether he/she intends to attend or be represented at the hearing;
  - b) whether he/she considers a hearing to be unnecessary

#### **6.0 Right of Attendance, Assistance and Representation**

- 6.1 Subject to paragraphs 3.1 and 3.2, a party may attend the hearing and may be assisted or represented by any person whether or not that person is legally qualified. A party may be assisted or represented by their Ward Councillor. Any Councillor undertaking such a role would not take part in the determination of the matter before the Sub-Committee.

## **7.0 Hearings held on more than one day**

- 7.1 When a hearing is to be held on more than one day, the hearing must be arranged to take place on consecutive working days.

## **8.0 Right to dispense with a hearing**

- 8.1 If all parties agree that a hearing is unnecessary, then with the agreement of the Licensing Authority, the hearing may be dispensed with.

## **9.0 Right to postpone or adjourn a hearing**

- 9.1 The Sub-Committee may postpone or adjourn a hearing where it considers this to be necessary for its consideration of any representations or notice made by a party.

## **10.0 Report**

- 10.1 A report prepared by the Licensing Authority will be put before the Sub-Committee.
- 10.2 A copy of the report will be made available to all parties in advance of the hearing.

## **11.0 Detailed Procedural notes**

- 11.1 Detailed procedural notes for the most regularly heard hearings are available and will be circulated in advance of the relevant hearing. These procedural notes cover the following applications / notices:

- New Premises Licence / Variation of existing Premises Licence (or Club Premises Certificate)
- Temporary Event Notices
- Review of a Premises Licence or Club Premises Certificate

## **12.0 Procedure at hearing - General**

- 12.1 At the beginning of the hearing, the Chairman and members of the Sub-Committee will introduce themselves, invite parties to identify / introduce themselves and then explain the procedure that the Sub-Committee intends to follow.
- 12.2 If applicable, the Sub-Committee will then consider any request made by a party for any other person to appear at the hearing. Permission shall not be unreasonably withheld.
- 12.3 Where the written evidence or information provided by the applicant or any other party has raised legal issues or submissions, the Chairman may request that any legal

representatives present at the hearing and the legal representative of the authority address the Sub-Committee on the legal points raised.

- 12.4 The hearing shall take the form of a discussion led by the Sub-Committee on any matter that is relevant to the application, notice or review.
- 12.5 The Chairman should indicate that members of the Sub-Committee have read the circulated papers; therefore there is no need for parties to repeat points that have already been made in representations.
- 12.6 In circumstances where there are a number of parties who wish to make the same or similar representations the nomination of a single spokesperson will usually be encouraged, and would normally be expected. This does not prevent those who have made representations from speaking during the hearing.
- 12.7 Applicants and other parties will not usually be given a time limit to present their application / representations but the Sub-Committee may stop them should they begin to repeat themselves or stray from what is considered to be relevant matters.
- 12.8 In considering any representations or notice made by a party the Sub-Committee may take into account documentary or other information produced by a party either before the hearing or, with the consent of all other parties, at the hearing. A party introducing documentary evidence at a hearing should bring sufficient copies for all other parties and the Sub-Committee.
- 12.9 Members of the Sub-Committee may ask any question of any party or other person appearing at the hearing.
- 12.10 The Sub-Committee will disregard any information given by a party that is not relevant to the application, notice or representations made.
- 12.11 Parties may question any other party if permission is given by the Sub-Committee. Cross examination will not be allowed unless the Sub-Committee considers that it is required for it to consider the representations, application or notice as the case may require.
- 12.12 Hearsay evidence is admissible but consideration will always be given to the weight, if any, to be attached to such evidence, depending on the circumstances in which it arises.



### **13.0 Roles of Officers**

#### Representative of Legal Services

- 13.1 The role of the representative of Legal Services will be to deal with any questions of law, matters of practice and procedure and where appropriate assist the Sub-Committee in formulating the reasons for its decision. They may ask questions of parties and witnesses in order to clarify the evidence and any issues in the case.

#### Representative of Member Services

- 13.2 The role of the representative of Member Services will be to make a record of the proceedings both by way of notes of the evidence / information given and a minute of the decision reached, inclusive of the reasons for the decision.

#### Licensing Officer

- 13.3 The role of the Licensing Officer will be to introduce the application / notice, outline the relevant facts and any issues involved through the presentation of their report.

### **14.0 Determination of Applications / Notices**

- 14.1 Unless the matter being considered by the Sub-Committee falls within one of the categories listed in point 14.2, the Sub-Committee has five working days to make their determination beginning with the day, or the last day, on which the hearing was held.
- 14.2 In relation to the following matters, the Sub-Committee must make its decision at the conclusion of the hearing:
- a) A counter notice following an objection to a temporary event notice
  - b) Review of a premises licence following closure order

### **15.0 Record of proceedings**

- 15.1 A record of the hearing shall be made by the authority and kept for six years from the date of the determination or, where an appeal is brought against the determination of the authority, the record must be kept for six years from the date of disposal of the appeal. The authority may also record the proceeding through audio tape.

### **16.0 Appeals**

- 16.1 Either those who have made an application or those who have made a representation on an application may have the right to appeal the authorities decision to the Magistrates Court.

- 16.2 An appeal must be commenced within twenty one days beginning with the day on which the appellant was notified by the licensing authority of their decision.

#### **17.0 Irregularities**

- 17.1 Proceedings will not be rendered void only as a result of failure to comply with any provision of the Hearing Regulations.
- 17.2 Where the authority considers that any person may have been prejudiced as the result of an irregularity relating to the Hearing Regulations, it will take such steps, as it thinks fit to cure the irregularity, before reaching its determination.
- 17.3 Clerical mistakes in any document recording a determination of the authority, or errors arising in such a document as the result of an accidental slip or omission, may be corrected by the authority.

### **The following information and procedures are associated with this document**

#### **Legislation**

- The Licensing Act 2003 (Hearings) Regulations 2005:
  - [http://www.legislation.gov.uk/uksi/2005/44/pdfs/uksi\\_20050044\\_en.pdf](http://www.legislation.gov.uk/uksi/2005/44/pdfs/uksi_20050044_en.pdf)

#### **Hearing Procedures**

- New / Variation of Premises or Club
- Temporary Event Notices
- Review

#### **Hearing Guidance**

- General guidance to attendees

## **HEARING PROCEDURE: NEW / VARIATION OF PREMISES OR CLUB**

### **Introduction and Preliminary remarks**

1. The following parties will introduce themselves:
  - The Chairman of the Sub-Committee
  - Members of the Sub-Committee
  - Council Officers (legal advisor, member services officer and licensing officer)
2. The Chairman will ask for any declarations of interest.
3. The Chairman will announce if the hearing is to be held in public or private session.
4. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
  - Applicant and any person representing or assisting them
  - Responsible Authorities that have made a relevant representation
  - Other Parties who have made a relevant representation. If a spokesperson has been appointed / nominated for a group they should be identified.
5. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
6. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
7. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

### **Statement by the licensing officer**

8. The Chairman will ask the officer to summarise the matter under consideration and present the salient points of the report.
9. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:

- Applicant
- Responsible Authorities
- Other Parties
- Sub-Committee

10. The licensing officer may respond to any new issues raised.

**Case for the applicant**

11. The applicant (or their representative) to present case in support of the application.

12. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Responsible Authorities
- Other Parties
- Sub-Committee

13. The applicant (or their representative) may then respond to any new issues raised

**Case for responsible authorities (i.e. Police, Environmental Health)**

14. The representative of each responsible authority will be invited in turn to present the views of their organisation.

15. Each other party (if permitted by, and via the Chairman) may then ask questions of the representative based on what they have heard. This will be in the following order:

- Applicant
- Other Parties
- Sub-Committee

16. The representative may then respond to any new issues raised.

**Case for the 'other parties'**

17. Those who have made representations will be invited to present their views.

18. If a spokesperson has agreed to speak on behalf of several people, all of those he/she represents may add any further points after.

19. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Responsible Authorities
- Other Parties
- Sub-Committee

20. The other party may then respond to any new issues raised.

### **Discussion about conditions**

21. If it appears to any party that one or more of the issues raised during the hearing could be dealt with by means of a condition attached to the licence, that person may put forward the suggestion(s) to the Chairman at this stage. All other parties are to be given an opportunity to comment and express a view on any proposed condition.

### **Summary**

22. Any party wishing to summarise his or her views may do so, in the order in which they presented their case. This will usually be as follows:

- Applicant
- Responsible Authorities
- Other Parties

### **The decision**

23. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from legal and member services.

24. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.

25. The Chairman to announce the Sub-Committee's decision if one has been made. This can include giving reasons (if finalised). If the Sub-Committee is minded to grant with the addition of conditions they may give the generals of the condition and the intention of them. Specific wording in line with the Sub-Committees direction may then be delegated to the Licensing Officer to prepare and send out in the decision notice.

26. The Council's legal officer will then outline the rights of appeal.

27. The decision and rights of appeal will be confirmed in writing by the licensing officer.

## **HEARING PROCEDURE: TEMPORARY EVENT NOTICES (TENS)**

### **Introduction and Preliminary remarks**

1. The following parties will introduce themselves:
  - The Chairman of the Sub-Committee
  - Members of the Sub-Committee
  - Council Officers (legal advisor, member services officer and licensing officer)
2. The Chairman will ask for any declarations of interest.
3. The Chairman will announce if the hearing is to be held in public or private session.
4. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
  - Premises User (the person who has submitted the TEN) and any person representing or assisting them
  - Responsible Authorities that have made a relevant representation
5. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
6. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
7. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

### **Statement by the licensing officer**

8. The Chairman will ask the officer to summarise the matter under consideration and present the salient points of the report.
9. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:
  - Premises User

- Responsible Authorities
- Sub-Committee

10. The licensing officer may respond to any new issues raised.

**Case for the premises user (the person who has submitted the TEN)**

11. The premises user (or their representative) to present case in support of the TEN.

12. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Responsible Authorities
- Sub-Committee

13. The premises user (or their representative) may then respond to any new issues raised.

**Case for responsible authorities (Police / Environmental Health)**

14. The representative of each responsible authority will be invited in turn to present the views of their organisation.

15. Each other party (if permitted by, and via the Chairman) may then ask questions of the representative based on what they have heard. This will be in the following order:

- Premises user
- Sub-Committee

16. The representative may then respond to any new issues raised.

**Summary**

17. Any party wishing to summarise his or her views may do so, in the order in which they presented their case. This will usually be as follows:

- Premises User
- Responsible Authorities

**The decision**

18. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from legal and member services.



19. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.
20. The Chairman to announce the Sub-Committee's decision and the reason for the decision.
21. The Council's legal officer will then outline the rights of appeal.
22. The decision and rights of appeal will be confirmed in writing by the licensing officer.

## **HEARING PROCEDURE: REVIEW OF PREMISES**

### **Introduction and Preliminary remarks**

1. The following parties will introduce themselves:
  - The Chairman of the Sub-Committee
  - Members of the Sub-Committee
  - Council Officers (legal advisor, member services officer and licensing officer)
2. The Chairman will ask for any declarations of interest.
3. The Chairman will announce if the hearing is to be held in public or private session.
4. The Chairman will ask those present to introduce themselves. This will be the order in which they present their case and is as follows:
  - Applicant for review and any person representing or assisting them
  - The holder of the premises licence and any person representing or assisting them
  - Responsible Authorities that have made a relevant representation
  - Other Parties who have made a relevant representation. If a spokesperson has been appointed / nominated for a group they should be identified.
5. The Sub-Committee will consider any requests by a party for any other person to appear at the hearing. Such permission shall not be unreasonably withheld provided proper notice has been given in response to the Notice of Hearing.
6. The Chairman will confirm that members of the Sub-Committee have received and read the paperwork and as such, parties will not need to repeat verbatim what they have already submitted.
7. The Chairman will state that time limits will not be set for speakers but if it is felt that matters are being repeated or are irrelevant, they or the legal advisor may move the discussion on.

### **Statement by the licensing officer**

8. The Chairman will ask the officer to summarise the matter under consideration and present the salient points of the report.

9. Each other party (if permitted by, and via the Chairman) may then ask questions of the licensing officer based on what they have heard. This will be in the following order:

- Applicant for review
- Holder of premises licence
- Responsible authorities
- Other parties
- Sub-Committee

10. The licensing officer may respond to any new issues raised.

**Case for the applicant of the review**

11. The applicant (or their representative) to present case in support of the application.

12. Each other party (if permitted by, and via the Chairman) may then ask questions of the applicant (or their representative) based on what they have heard. This will be in the following order:

- Holder of the premises licence
- Responsible authorities
- Other Parties
- Sub-Committee

13. The applicant (or their representative) may then respond to any new issues raised

**Case for the premises licence holder**

14. The premises licence holder (or their representative) will be invited to present their response to the review application.

15. Each other party (if permitted by, and via the Chairman) may then ask questions of the premises licence holder (or their representative) based on what they have heard. This will be in the following order:

- Applicant
- Responsible authorities
- Other Parties

- Sub-Committee

16. The premises licence holder may then respond to any new issues raised.

**Case for responsible authorities (i.e. Police, Environmental Health)**

17. The representative of each responsible authority will be invited in turn to present the views of their organisation.

18. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Premises licence holder
- Other Parties
- Sub-Committee

19. The representative may then respond to any new issues raised.

**Case for the 'other parties'**

20. Those who have made representations will be invited to present their views.

21. If a spokesperson has agreed to speak on behalf of several people, all of those he/she represents may add any further points after.

22. Each other party (if permitted by, and via the Chairman) may then ask questions of the other party based on what they have heard. This will be in the following order:

- Applicant
- Premises licence holder
- Sub-Committee

23. The other party may then respond to any new issues raised.

**Discussion about conditions**

24. If it appears to any party that one or more of the issues raised during the hearing could be dealt with by means of a condition attached to the licence, that person may put forward the suggestion(s) to the Chairman at this stage. All other parties are to be given an opportunity to comment and express a view on any proposed condition.

## **Summary**

25. Any party wishing to summarise his or her views may do so, in the order in which they presented their case. This will usually be as follows:

- Applicant
- Premises licence holder
- Responsible Authorities
- Other Parties

## **The decision**

26. The Sub-Committee will retire to reach a decision in private, accompanied by the Council's representatives from legal and member services.

27. Members of the Sub-Committee return. Any legal advice given in the absence of the parties will be repeated in public and all parties given an opportunity to respond before a decision is announced.

28. The Chairman to announce the Sub-Committee's decision if one has been made. This can include giving reasons (if finalised). If the Sub-Committee is minded to place on the licence additional conditions they may give the generals of the condition and the intention of them. Specific wording in line with the Sub-Committees direction may then be deferred to the Licensing Officer to prepare and send out in the decision notice.

29. The Council's legal officer will then outline the rights of appeal.

30. The decision and rights of appeal will be confirmed in writing by the licensing officer.

## **General guidance to attendees**

### **RIGHTS OF A PARTY**

As a party to the hearing, you are entitled to:

- Attend the hearing
- Be assisted or represented at the hearing by another person, whether or not that person is legally qualified
- Give further information in support of your application or representation in circumstances where the Licensing Authority has given you notice that clarification on a point is required
- Question any other party if given permission to do so by the Licensing Authority
- Address the Licensing Authority

### **FAILURE TO ATTEND THE HEARING**

- If you or your representative are unable to attend the hearing, the hearing may proceed in your absence (in which case the Licensing Authority will consider the application, representation or notice made by you)
- Alternatively, the Licensing Authority may, where it is in the public interest, adjourn the hearing to another date and notify all parties

### **HEARING PROCEDURE**

- The procedure to be followed at the hearing is contained in the document 'Protocol and Procedure for Licensing Sub-Committee Hearings'.

### **ADDITIONAL INFORMATION**

#### **Documents**

- You may produce documents or other information in support of your application, representation or notice (as applicable) either before the hearing, or with the consent of all the other parties, at the hearing
- In considering the representations or notice made by you, the Licensing Authority may take into account any documents produced in accordance with this provision.

### Submissions

- You must confine your submission at the hearing to the representations you have made within the statutory prescribed period. You may not raise new representations at the hearing.

### Time

- There is no set time limit for verbal submissions at the hearing. The Chairman or Councils legal advisor may move the discussion on if you begin to repeat yourself or introduce points that are not relevant.
- Where a number of parties attending a hearing wish to make the same or similar points, the Chairman may invite parties to appoint a spokesperson (if they have not done so already). You will then be entitled to add anything you consider the spokesperson has omitted.

### Disruptive behaviour

- Any person attending the hearing who is deemed by the Licensing Authority to be behaving in a disruptive manner will be required to leave the hearing.

### **DETERMINATION AND NOTIFICATION OF DECISION**

- The Licensing Authority will try to make its decision on the same day as the hearing whenever possible
- The Licensing Authority will notify each party in writing of its determination and the rights of appeal

### **ADDITIONAL INFORMATION**

Should you require any further information about the hearing process please contact the Licensing Authority on 01884 255255

## Appendix C

## Pool of Licensing Conditions Licensing Act 2003

When preparing a new or variation application for a premises licence or club premises certificate, applicants are required to describe the steps they intend to take to promote the following four licensing objectives:

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

Mid Devon District Council has produced this pool of licensing conditions to assist applicants in completing this section of their application and to promote a consistent approach in the wording of conditions. It is intended to provide a broad range of conditions that should cover most eventualities, however it is recommended that those persons wishing to host large one off events e.g. festivals, refer to the Council's Safety Advisory Group website: [www.middevon.gov.uk/residents/community-safety/safety-advisory-group/](http://www.middevon.gov.uk/residents/community-safety/safety-advisory-group/) for specific information.

All premises licences and club premise certificates will be subject of mandatory conditions prescribed by the Licensing Act 2003. It is suggested that applicants examine the list of these which can be found on [www.middevon.gov.uk/business/licensing/](http://www.middevon.gov.uk/business/licensing/).

All further conditions imposed should be tailored to the particular circumstances of individual premises and determined on a case-by-case basis. They should reflect how applicants will promote these licensing objectives having regard to the nature and type of venue, proposed licensable activities, location, operating times, anticipated clientele etc. For example, if an application relates to a restaurant, the measures or controls required will be less than a nightclub or music festival.

The measures and controls which are appropriate to promote the licensing objectives should initially emerge from an applicant's own risk assessment. If it is then considered appropriate and necessary to apply these as conditions they should be translated to form part of the operating schedule for the premises. Any conditions, controls or restrictions that are offered by applicants in their operating schedule will be added to a licence or certificate and as such will govern the way in which licensed premises are managed. In the circumstances where words or phrases used in an operating schedule



are confusing, unenforceable etc., minor amendments will be made by the Licensing Authority to ensure conditions are clear and enforceable. Furthermore, the Licensing Authority will not impose conditions which it believes are duplicated in other legislation.

This pool of conditions is not intended to form an exclusive or exhaustive list of conditions which should be included on a licence or certificate. Applicants should consider offering conditions that are appropriate, necessary and proportionate in the circumstances of their particular application. Moreover, the pool does not restrict any applicant, responsible authority, or other person from proposing any alternative conditions, nor does it restrict the Council's Licensing Sub-Committee from imposing any reasonable condition on a licence it considers appropriate for the promotion of the licensing objectives (after representations have been received to an application and by way of a hearing).

Guidance states that conditions are important in setting the parameters under which premises can lawfully operate. As such applicants should consider whether conditions can be met and be mindful as to whether what they have offered is practical, realistic and enforceable. A breach of condition constitutes an offence for which those found guilty may face an unlimited fine and/or six months imprisonment.

Before an application is submitted we recommend that applicants contact any relevant responsible authorities (see [www.middevon.gov.uk/business/licensing/](http://www.middevon.gov.uk/business/licensing/) for contact details) to discuss their application. They may suggest conditions that should be considered prior to submission, which may reduce the likelihood of a responsible authority or member of the public submitting a representation (objection). Responsible authorities may contact you after the submission of your application to suggest amendments to your operating schedule, particularly if you have not contacted them previously.

Additional information on conditions can be found in the Section 182 guidance to the Licensing Act 2003 ([www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003](http://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003)). Comments on the content and use of this pool of conditions are welcomed. Please contact the Licensing Team on 01884 255255 or alternatively email [licensing@middevon.gov.uk](mailto:licensing@middevon.gov.uk).

# CONTENTS

CONTENTS		
		Page
CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER		
1	Training	4
2	Incident Log	4
3	Alcohol Consumption	4
4	Management Controls	5
5	Nature of Alcohol Sales	5
6	Door Supervisors	5
7	Substance Misuse	6
8	CCTV	7
CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE		
9	Restrictions on Live Music	9
10	Dispersal	9
11	Speakers	9
12	Equipment and Deliveries	9
13	Noise Levels	9
14	Point of Contact	10
15	Noise Limiting Devices	10
16	Doors, Windows, & Lobbies	11
17	Noise Monitoring	11
18	Smoking Areas	11
19	Restrictions on Outside Areas	12
20	Taxi Provision	12
21	Reports & Schemes	13
22	Litter & Waste	13
23	Lighting	13
CONDITIONS RELATING TO PUBLIC SAFETY		
24	Occupancy/Capacity Limits	14
25	Sanitary Facilities	14
26	Lighting	14
27	Air Conditioning	14
28	Queues	14
29	Glassware and Bottles	14
CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM		
30	Proof of Age Scheme	16
31	Refusals Register	16
32	Unaccompanied children	16
33	Till Prompt System	16
34	Films	16
35	Nudity and Sexual Entertainment	16
CONDITIONS RELATING TO ONLINE SALES OF ALCOHOL		
36	Ordering	18
37	Delivery	18
38	General	18
GENERAL CONDITIONS		
39	Duplicate licences	20
40	Seasonal timings	20

## CONDITIONS RELATING TO THE PREVENTION OF CRIME AND DISORDER

<b>I.Training</b>	<b>D1</b>	<p>All staff engaged in licensable activity at the premises will receive training and information in relation to the following (<i>select from the following</i>):</p> <ul style="list-style-type: none"> <li>i. The <i>Challenge 21/25*</i> (<i>delete as appropriate</i>) scheme in operation at the premises, including the forms of identification that are acceptable.</li> <li>ii. The hours and activities permitted by the <i>premises licence / club premises certificate*</i> (<i>delete as appropriate</i>) issued under the Licensing Act 2003 and conditions attached to the <i>licence/certificate*</i>(<i>delete as appropriate</i>).</li> <li>iii. How to complete and maintain the refusal register in operation at the premises (in relation to the sale of alcohol).</li> <li>iv. Recognising the signs of drunkenness.</li> <li>v. The operating procedures for refusing service to any person who is drunk, under-age or appears to be under-age, or appears to be making a proxy purchase.</li> <li>vi. Action to be taken in the event of an emergency, including reporting an incident to the emergency services.</li> </ul> <p>Training shall be recorded in documentary form and shall be regularly refreshed at no greater than (<i>insert</i>) intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.</p> <p>Training records will be retained for at least 12 months.</p>
<b>2.Incident log</b>	<b>D2</b>	<p>An incident log shall be kept and maintained at the premises which will include a log of the following, including pertinent details (<i>select from the following</i>):</p> <ul style="list-style-type: none"> <li>i. Any incidents of disorder or of a violent or anti-social nature</li> <li>ii. All crimes reported to the venue, or by the venue to the police</li> <li>iii. All ejections of patrons</li> <li>iv. Any complaints received</li> <li>v. Seizures of drugs or offensive weapons</li> <li>vi. Any faults in the CCTV system</li> <li>vii. Any visits by a responsible authority (under the Licensing Act 2003) or emergency service.</li> </ul> <p>Records must be completed within 24 hours of any incident, and will contain the time and date, the nature of the incident, the people involved, the action taken and details of the person responsible for the management of the premises at the time of the incident.</p> <p>The logs shall be kept for at least 12 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.</p>
<b>3.Alcohol Consumption</b>	<b>D3</b>	With the exception of residents and their bona fide guests, no alcohol shall be consumed more than ( <i>insert</i> ) minutes after the permitted terminal hour for the supply of alcohol.
	<b>D4</b>	The consumption of alcohol on the premises shall cease at ( <i>insert hour</i> ).
	<b>D5</b>	Open containers of alcohol shall not be removed from the premises, except for consumption in any delineated external area as shown on the plan attached to the licence.
	<b>D6</b>	The sale and supply of alcohol for consumption in any <i>outdoor area of the premises/off the premises*</i> ( <i>delete as appropriate</i> ) shall be restricted to alcohol consumed at the outside tables and chairs shown on the licence plan, shall be by waiter or waitress service, served only to a person taking a table meal there and be for consumption by such a person as ancillary to their meal.
	<b>D7</b>	There shall be no consumption of beverages purchased from the premises in the

		designated smoking area.
	<b>D8</b>	There shall be no consumption of beverages purchased from the premises outside the premises.
	<b>D9</b>	There shall be no consumption of beverages outside the premises after <i>(insert)</i> hours.
	<b>D10</b>	After <i>(insert)</i> hours no drinks are to be taken to the outside area and no consumption of drinks will occur after <i>(insert)</i> hours.
	<b>D11</b>	Clear and legible signage must be prominently displayed in the outside area specifying that no drinks are to be taken into this area after <i>(insert)</i> hours.
	<b>D12</b>	Customers will not be permitted to remove from the premises any drinks supplied by the premises (alcoholic or otherwise) in open containers.
<b>4.Management Controls</b>	<b>D13</b>	There shall be no admissions or re-admission to the premises after <i>(insert)</i> hours.
	<b>D14</b>	There shall be a personal licence holder on duty on the premises at all times when the premises are authorised to sell alcohol.
	<b>D15</b>	Outside of the hours authorised for the retail sale of alcohol and whilst the premises are open to the public, all alcohol within the premises (including alcohol behind the counter) must be secured in a locked store room or behind locked grilles, locked screens or locked cabinet doors so as to prevent access to the alcohol by both customers and staff.
	<b>D16</b>	All alcohol on display will be in such a position so as not to be obscured from the constant view of the cashier / staff.
	<b>D17</b>	An attendant shall be on duty in the cloakroom the whole time that it is in use.
<b>5.Nature of Alcohol Sales</b>	<b>D18</b>	No super-strength beer, lagers, ciders or spirit mixtures of 5.5% ABV (alcohol by volume) or above shall be sold at the premises, except for premium beers and ciders supplied in glass bottles.
	<b>D19</b>	There shall be no self-service of alcohol on the premises.
	<b>D20</b>	There shall be no self-service of spirits on the premises, save for spirit mixtures less than 5.5% ABV (alcohol by volume).
	<b>D21</b>	No single cans or bottles of beer or cider or spirit mixtures shall be sold at the premises.
	<b>D22</b>	No miniature bottles of spirits of 20cl or less shall be sold from the premises.
	<b>D23</b>	Retail sale of alcohol shall only take place from a fixed bar, no mobile dispense sales will take place.
<b>6.Door Supervisors</b>	<b>D24</b>	The number of SIA licensed door supervisors employed shall be in accordance with the following ratio: A minimum of <i>(insert number)</i> door supervisors will be employed for the first <i>(insert number)</i> customers and one door supervisor for every <i>(insert number)</i> thereafter.
	<b>D25</b>	A minimum of <i>(insert number)</i> SIA licensed door supervisors shall be on duty at the premises at all times whilst it is open for business.
	<b>D26</b>	A minimum of <i>(insert number)</i> SIA licensed door supervisors shall be positioned at the exit(s) from the premises at closing time.
	<b>D27</b>	A minimum of <i>(insert number)</i> SIA licensed door supervisors shall be on duty at the entrance of the premises at all times until the premises have closed and all customers have left.
	<b>D28</b>	All SIA licensed door supervisors shall wear distinctive clothing or insignia to clearly identify them as door supervisors. Door supervisors on duty at the entrance(s) shall wear 'high visibility' clothing (such as a jacket or waistcoat).
	<b>D29</b>	All persons entering or re-entering the premises shall be searched by a SIA licensed door supervisor.
	<b>D30</b>	SIA licensed door supervisors engaged in searching persons shall be fully trained in the use of their powers to do so.
	<b>D31</b>	Where searches of persons are undertaken SIA licensed door supervisors of both sexes will be on duty.
	<b>D32</b>	The following details for each door supervisor will be contemporaneously entered into a register kept for that purpose: <ul style="list-style-type: none"> <li>I. Full name</li> <li>II. SIA licence/badge number, and registration number of any accreditation scheme recognised by the Licensing Authority (including expiry date of that registration</li> </ul>

		<p>or accreditation)</p> <p>III. The date and time they began their duty</p> <p>IV. The date and time they completed their duty</p> <p>V. The full details of any agency through which they have been allocated to work at the premises if appropriate</p> <p>The register shall be available for inspection and copying at all reasonable times by an authorised officer of a responsible authority.</p> <p>The register shall be kept at the premises at all times and be so maintained as to enable an authorised officer to establish the particulars of all door supervisors engaged at the premises during the period of not less than 12 months prior to the request.</p>
	<b>D33</b>	All SIA licensed door supervisors will be provided with working radios to enable them to contact each other and the duty manager at the premises at all times whilst on duty.
	<b>D34</b>	SIA licensed door supervisors will be responsible for ensuring the safe, quiet and orderly dispersal of customers from the premises and the immediate vicinity of the premises.
	<b>D35</b>	Any queue to enter the premises which forms outside the premises must be supervised by SIA licensed door supervisors so as to ensure that it is orderly, there is no associated public nuisance, or obstruction to the public highway/footpath.
<b>7.Substance Misuse</b>	<b>D36</b>	A written drugs policy shall be in place and operated at the premises. It must detail the actions taken to minimise the opportunity to use or supply illegal substances within the premises. The policy must be made available for inspection and copying upon request by an authorised officer of a responsible authority.
	<b>D37</b>	Where door supervisors are used to search patrons as a condition of entry, a written drugs policy formulated in consultation with the Police will be in place. The policy will include an agreed procedure for the handling and retention of any article seized.
	<b>D38</b>	<p>A structured training programme surrounding substance misuse will be in place. Training will be undertaken at (<i>regular intervals/annually/ _ monthly intervals*</i>) (<i>delete as appropriate</i>) for all staff that deal with persons who are in the possession of/or incapacitated through the use of drugs or the combined effect of drugs and alcohol.</p> <p>Records will be maintained detailing the time and date of substance misuse training, the people who received the training, and the name of the person delivering the training.</p> <p>Records will be available for inspection by an authorised officer of a responsible authority at all reasonable times. The records will be retained for at least 12 months.</p>
	<b>D39</b>	A senior member of the management team at the premises must hold a National Certificate of Drugs Awareness qualification, run by the British Institute of Innkeeping or similar accredited body.
	<b>D40</b>	There must be at the premises a lockable drugs safe to which no member of staff, save the DPS or ( <i>insert</i> ) shall have access. All controlled drugs (or items suspected to be or to contain controlled drugs) found at the premises must be placed in this safe as soon as practicable. Whenever this box is emptied, all of its contents must be given to the police for appropriate disposal.
	<b>D41</b>	<p>Where a drug safe is available on the premises to deposit finds there will be in place a clear policy for the handling and packaging of seized items.</p> <p><i>Note: For premises with a suitable 'Drug Safe' the items secured within that safe are not considered as being in their possession</i></p>
	<b>D42</b>	A clear and legible notice must be prominently displayed at all entrances to the premises advising those attending, that the Police will be informed if anyone is found in possession of controlled substances or weapons.
	<b>D43</b>	Appropriate security arrangements will be in place including toilet areas and other similar areas being regularly checked for evidence of drugs. The date and times of all checks will be recorded in a register kept for that purpose and be available for inspection and copying on request of an authorised officer of a responsible authority.

	<b>D44</b>	Signage must be prominently displayed in the toilet areas advising patrons that checks for evidence of drugs are conducted regularly.
<b>8.CCTV</b>	<p><b>NOTE FROM LICENSING AUTHORITY ON IMPOSITION OF CONDITIONS SURROUNDING CCTV:</b></p> <p>When considering the use of surveillance camera systems as part of the conditions attached to a licence or certificate, applicants and responsible authorities should have particular regard to Guiding Principle One in the Surveillance Camera Code of Practice (June 2013) issued by the Home Office which can be found at:</p> <p><a href="https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf">https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/204775/Surveillance_Camera_Code_of_Practice_WEB.pdf</a></p> <p>A blanket attachment of surveillance camera conditions is likely to give rise to concerns about the proportionality of such an approach and will require an appropriately strong justification and be kept under regular review. Applications in relation to licensed premises must take into account whether a requirement to have a surveillance camera system is appropriate in the particular circumstances of the case. For example, it is unlikely that a trouble-free community pub would present a pressing need such that a surveillance camera condition would be justified.</p> <p><b>Guiding Principle One is shown below for information:</b></p> <p>Surveillance camera systems operating in public places must always have a clearly defined purpose or purposes in pursuit of a legitimate aim and be necessary to address a pressing need (or needs). Such a legitimate aim and pressing need might include national security, public safety, the economic well-being of the country, the prevention of disorder or crime, the protection of health or morals, or the protection of the rights and freedoms of others. That purpose (or purposes) should be capable of translation into clearly articulated objectives against which the on-going requirement for operation or use of the systems and any images or other information obtained can be assessed.</p> <p>In assessing whether a system will meet its objectives, and in designing the appropriate technological solution to do so, a system operator should always consider the requirements of the end user of the images, particularly where the objective can be characterised as the prevention, detection and investigation of crime and the end user is likely to be the police and the criminal justice system.</p> <p>A surveillance camera system should only be used in a public place for the specific purpose or purposes it was established to address. It should not be used for other purposes that would not have justified its establishment in the first place. Any proposed extension to the purposes for which a system was established and images and information are collected should be subject to consultation before any decision is taken.</p>	
	<b>D45</b>	<p><del>The premises shall install operate and maintain a comprehensive digital colour CCTV system to the satisfaction of the Police and Local Authority. As a minimum, the system must: (delete / amend as appropriate)</del></p> <ul style="list-style-type: none"> <li><del>I. — Cover all public areas of the licensed premises including entry and exit points (the location of cameras can also be specified on the plan attached to the premises licence).</del></li> <li><del>II. — Record clear images permitting the identification of individuals, and in particular enable facial recognition images (a clear head and shoulder image) of every person entering and leaving in any light condition.</del></li> <li><del>III. — Continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises.</del></li> <li><del>IV. — Have a constant and accurate time and date generation.</del></li> <li><del>V. — Store recordings for a minimum period of 31 days with date and time stamping.</del></li> </ul>

	<p><del>VI. Viewable copies of recordings will be provided on request to police and local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 1998 (or any replacement legislation).</del></p> <p><del>VII. The CCTV system will be capable of downloading images to a recognisable viewable format.</del></p> <p><del>VIII. The CCTV system will capture a minimum of 4 frames per second.</del></p> <p><del>I. The CCTV system will be fitted with security functions to prevent recordings being tampered with, i.e. be password protected.</del></p> <p><u>The premises shall install, operate and maintain a digital colour CCTV system to the satisfaction of the Police and Local Authority. As a minimum, the system must: (delete / amend as appropriate):</u></p> <p><u>i. Cover all public areas of the licensed premises, including entry and exit points. This also includes any outside areas under the control of the premises licence holder. (The location of cameras can also be specified on the plan attached to the premises licence).</u></p> <p><u>ii. Record clear images permitting the identification of individuals and in particular enable facial recognition images (a clear head and shoulder image) of every person entering and leaving in any light condition.</u></p> <p><u>iii. Continually record whilst the premises are open for licensable activities and during all times when customers remain on the premises.</u></p> <p><u>iv. Have a constant and accurate time and date generation.</u></p> <p><u>v. Store recordings for a minimum period of 14 days with date and time stamping.</u></p> <p><u>vi. Viewable copies of recordings will be provided on request to the police and local authority officers as soon as is reasonably practicable and in accordance with the Data Protection Act 1998 (or any replacement legislation)</u></p> <p><u>vii. The CCTV system will be capable of downloading images to a recognisable viewable format.</u></p> <p><u>viii. The CCTV system will capture a minimum of 4 frames per second.</u></p> <p><u>ix. The CCTV system will be fitted with security functions to ensure the integrity of the system and to prevent the tampering with and deletion of images (i.e. password protection).</u></p> <p><del>ix.</del></p>
D46	The CCTV system will be fully compliant with the guidance contained in the Information Commissioner's Office (ICO) guidance document <a href="https://ico.org.uk/for-organisations/guide-to-data-protection/cctv/">https://ico.org.uk/for-organisations/guide-to-data-protection/cctv/</a> (or any renewed equivalent guidance which is subsequently issued).
D47	If the CCTV equipment (including any mobile units in use at the premises) breaks down

		the Licensing Authority and the Police must be informed as soon as is reasonably practicable. This information shall be contemporaneously recorded in an incident report register and shall include the time, date and means this was done and to whom the information was reported. Immediate steps must be taken to put the equipment back into action. The Licensing Authority and the Police shall be informed when faults are rectified.
	<b>D48</b>	A staff member from the premises who is conversant with the operation of the CCTV system shall be on the premises at all times when the premises are open. This staff member must be able to provide an authorised officer of a responsible authority copies of recent CCTV images or data with the absolute minimum of delay when requested (in accordance with the Data Protection Act 1998 or any replacement legislation).

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CONDITIONS RELATING TO THE PREVENTION OF PUBLIC NUISANCE		
<b>9. Restrictions on Live Music</b>	<b>N1</b>	The performance of live entertainment will be limited to a maximum duration of <i>(insert)</i> hours inclusive of any breaks.
	<b>N2</b>	The performance of live entertainment will be limited to <i>(one/two)</i> evenings per <i>(week / month)</i> .
<b>10. Dispersal</b>	<b>N3</b>	A written dispersal policy shall be in place and implemented at the premises to move customers from the premises and the immediate vicinity in such a way as to cause minimum disturbance or nuisance to neighbours.
	<b>N4</b>	Clear and legible notices shall be prominently displayed at all exits requesting patrons to respect the needs of local residents and businesses and to leave the vicinity as quickly and quietly as possible.
	<b>N5</b>	When issues are identified approaches will be made to patrons, who will be asked not to stand around talking in the street outside the premises or any car park; and asked to leave the vicinity as quickly and quietly as possible.
	<b>N6</b>	Clear and legible notices shall be prominently displayed at the entrances to the premises advising that if patrons cause any disturbance or disorder admission will be refused as a result.
	<b>N7</b>	During the final hour of trading appropriate announcements will be made or images projected to remind patrons of the need to leave the premises quietly without causing annoyance, nuisance or disturbance to local residents and to advise patrons of any taxi free-phone or collection arrangements available upon the premises.
<b>11. Speakers</b>	<b>N8</b>	No speakers for amplification of music shall be placed on the outside of the premises or on the outside of any building forming a part of the premises.
	<b>N9</b>	The location and orientation of loudspeakers must be as specified on the attached premises plan.
	<b>N10</b>	Speakers will not be located in the entrance lobby or <i>(specify another location if appropriate)</i> or outside the premises.
	<b>N11</b>	No music or speech shall be relayed via external speakers other than for events where the prior approval of the Licensing Authority has been obtained.
	<b>N12</b>	All internal speakers shall be attached to independent wall linings and not to the ceiling.
	<b>N13</b>	All speakers shall be mounted on speaker brackets that incorporate isolating rubber mounts.
<b>12. Equipment &amp; Deliveries</b>	<b>N14</b>	Pneumatic tyres (or equivalent) will be fitted to any moving work equipment to be used outside (e.g. bins, trolleys, roll cages etc.).
	<b>N15</b>	Any moveable furniture will be fitted with rubber (or equivalent) feet.
	<b>N16</b>	Regular maintenance will be carried out on all plant and machinery to ensure that noise disturbance from such sources is kept to a minimum.
	<b>N17</b>	Any generator will be positioned away from residential premises and in the case of a mobile van positioned so that the vehicle acts as a screen.
	<b>N18</b>	Where plant and machinery is likely to cause a noise problem it will be positioned in such a way that the building structure provides as much screening as possible for nearby noise-sensitive properties. <i>Alternatively, or additionally, control measures such as acoustic enclosures, acoustic louvers, silencers, or additional acoustic screening will be considered.</i>
	<b>N19</b>	The handling of kegs, bottles cleaning equipment, bottle disposal and similar items shall not take place before <i>(insert)</i> hours or after <i>(insert)</i> hours.
	<b>N20</b>	No deliveries (in relation to licensable activities) to the premises shall take place between <i>(insert)</i> hours and <i>(insert)</i> hours.
	<p><b>13. Noise Levels</b></p> <p><b>NOTE FROM LICENSING AUTHORITY ON IMPOSITION OF CONDITIONS SURROUNDING NOISE CONTROLS</b></p> <p><i>“Inaudibility” conditions have been popular in the past but have faced sufficient criticism in the courts to be quashed as invalid for lack of precision. Noise conditions are notoriously difficult to pre-empt and should be applied only where professional advice has been obtained from Mid Devon District Council’s Public Health Team. Such conditions will be strictly tailored to the premises in question and the concerns to hand in relation to noise attenuation and resultant nuisance. An example of the type of inclusion that</i></p>	

		<i>may be appropriate follows:</i>
	<b>N21</b>	Between ( <i>specify hours/ days</i> ), the noise climate of the surrounding area must be protected such that the A- weighted equivalent continuous noise level (LAeq) emanating from the application site, as measured ( <i>specified distance (usually in metres, between the noise source and the receiver location(s))</i> ) from any facade of any noise sensitive premises over any [ <i>specify no. of minutes</i> ] period with entertainment taking place, must not increase by more than [ <i>specify dB tolerance (e.g. +3 dB, +5 dB, etc.)</i> ] as compared to the same measure, from the same position, and over a comparable period, with no entertainment taking place; and the un-weighted (i.e. linear) equivalent noise level (LZeq) in the 63Hz 1/1-Octave band, measured using the "fast" time constant, inside any noise sensitive premises, with the windows open or closed, over any ( <i>specify no. of minutes</i> ) period with entertainment taking place, should show no increase as compared to the same measure, from the same location(s), and over a comparable period, with no entertainment taking place.
<b>14. Point of Contact</b>	<b>N22</b>	A telephone number shall be made available and displayed in a prominent location where it can be conveniently read from the exterior of the premises for local residents to contact in the case of noise-nuisance or anti-social behaviour by persons or activities associated with the premises. The telephone number will be a direct number to the management who are in control during opening hours. A record will be kept by management of all calls received, including the time, date and information of the caller, including action taken following the call. Records will be made available for inspection and copying by an authorised officer of a responsible authority throughout the trading hours of the premises.
	<b>N23</b>	The Premises Licence Holder or Designated Premises Supervisor shall be available at all times during regulated entertainment and be responsible for cooperating and liaising with any responsible authority.
<b>15. Noise Limiting Devices</b>	<b>N24</b>	A noise limiting device ( <i>the specification and design to be agreed with Mid Devon District Council's Environmental Protection Team</i> ) shall be fitted so that all live and recorded music is channelled through the device(s). The maximum noise levels will be set by agreement with Mid Devon District Council's Public Health Team and will be reviewed from time to time as appropriate.
	<b>N25</b>	The noise limiting device must be fully functional and in proper working order at all times during performances of live and recorded music.
	<b>N26</b>	If the noise limiting device breaks Mid Devon District Council's Public Health Team will be informed as soon as reasonably practicable. Equipment failures shall be repaired or replaced as soon as is reasonably practicable and without undue delay.
	<b>N27</b>	No performances of live and recorded music will proceed without the noise limiting device in proper working order.
	<b>N28</b>	All amplified sound sources (including live performances) from the premises will go through a noise limiting device.
	<b>N29</b>	The Premises Licence Holder or nominated person shall control the sound levels of the music/entertainment.
	<b>N30</b>	The Premises Licence Holder or nominated person shall ensure that the noise limiting device is sealed after commissioning, so that sound operators cannot override the system during the performance of live and recorded music.
	<b>N31</b>	A noise limiting device shall be used in relation to all sound amplification equipment used in line with the following: <ul style="list-style-type: none"> <li>I. The noise limiting device shall be kept at the settings approved by the Council through an authorised officer of the Mid Devon District Council's Public Health Team on (<i>Date</i>)</li> <li>II. The noise limiting device shall be properly secured so that it cannot be tampered with</li> <li>III. The noise limiting device shall only be reset with the authority of Mid Devon District Council through an authorised officer of Mid Devon District Council's Public Health Team.</li> <li>IV. If deemed necessary, the noise limiting device shall be reset to a level approved</li> </ul>

		by the Council through an authorised officer of Mid Devon District Council's Public Health Team within <i>(insert)</i> days of notification.
<b>16. Doors, Windows, &amp; Lobbies</b>	<b>N32</b>	All external doors and windows shall be kept shut at all times when the premises are open/during regulated entertainment. Doors may be opened for normal entrance and egress of people but must be shut immediately after.
	<b>N33</b>	All external emergency exit doors shall be fitted with sensor alarms and visible indicators to alert staff when doors have been opened.
	<b>N34</b>	Customers shall not enter or leave the premises from/by <i>(insert specific entrances or exits)</i> except in the event of an emergency.
	<b>N35</b>	An <i>(acoustic lobby / acoustic door / acoustic curtains/ acoustic door seals / automatic door closer)</i> must be installed <i>(specify the location / define on plan)</i> .
	<b>N36</b>	All external doors and windows shall be maintained in good order.
	<b>N37</b>	All external doors and windows shall be acoustically glazed or suitably insulated to minimise noise breakout from the premises. <i>(Details of any such works will be specified to Mid Devon District Council's Public Health Team.)</i>
	<b>N38</b>	Staff shall check prior to the commencement of regulated entertainment, and periodically during regulated entertainment that all external windows and doors are shut.
	<b>N39</b>	The entrance/exit door(s) shall be fitted with a suitably constructed lobby and doors with automatic door-closers that are maintained in good working order to minimise noise break out from the premises.
	<b>N40</b>	Staff shall check that self-closing doors are not wedged open during regulated entertainment.
<b>17. Noise Monitoring</b>	<b>N41</b>	<p>While live or recorded music takes place regular monitoring of noise levels at the nearest noise-sensitive locations shall take place. A record shall be kept of any monitoring, including:</p> <ul style="list-style-type: none"> <li>• the date, time and location of the monitoring</li> <li>• the name of the person monitoring</li> <li>• any action taken</li> </ul> <p>Records shall be kept for at least 6 months following the date of entry and be made available for inspection and copying upon request of an authorised officer of a responsible authority.</p>
	<b>N42</b>	<p>Observations in the vicinity of the properties at <i>(insert location)</i>, on at least <i>(insert time period e.g. hourly)</i> intervals between <i>(insert)</i> and <i>(insert)</i> whilst live music, karaoke or DJ's playing recorded music is taking place will be undertaken to establish whether there is a noise breakout from the premises.</p> <ol style="list-style-type: none"> <li>If the observation reveals noise breakout at a level likely to cause disturbance to the occupants of properties in the vicinity then the volume of music shall be reduced to a level that does not cause disturbance.</li> <li>A record of such observations shall be kept in a log for that purpose, the log shall be completed immediately after the observation detailing the time, location and duration of the observation, the level of noise break out and any action taken to reduce noise breakout.</li> <li>Such records must be made available for inspection and copying at all times upon request to an authorised officer of a responsible authority.</li> </ol>
	<b>N43</b>	After <i>(insert)</i> hours noise levels in outside areas will be monitored and controlled to minimise any potential impact on local residents. Customers will be advised of the need to respect local residents where appropriate. Any patrons continuing to cause any disturbance or disorder will be asked to leave the premises.
	<b>N44</b>	A designated and de-lined smoking area will be allocated outside the premises.
<b>18. Smoking Areas</b>	<b>N45</b>	Suitable receptacles will be provided for cigarette litter within the designated smoking area.
	<b>N46</b>	The smoking area shall be regularly cleaned to ensure that all discarded smoking litter is removed and properly disposed.
	<b>N47</b>	The designated smoking area shall be for 'smoking only' and reasonable steps will be

		taken to prevent the consumption of any drinks in this area.
	<b>N48</b>	Steps shall be taken ensure that any patrons drinking and/or smoking outside the premises do so in an orderly manner and are supervised by staff so as to ensure that there is no public nuisance or obstruction of the public highway.
	<b>N49</b>	Clear and legible notices shall be prominently displayed at any area used for smoking requesting patrons to respect the needs of local residents and use the area quietly.
	<b>N50</b>	Customers permitted to temporarily leave and then re-enter the premises to smoke must be restricted to a designated smoking area defined as ( <i>specify location / mark on plan</i> ). No more than ( <i>insert number</i> ) of customers will be permitted to remain in the designated smoking area at any one time.
	<b>N51</b>	<p>The following conditions apply to the management of smoking areas within curtilage of the premises (<i>select from the following</i>):</p> <ol style="list-style-type: none"> <li>I. The area must be adequately monitored by SIA licensed door supervisors and CCTV to ensure that patrons do not cause a nuisance, patrons do not obstruct access to adjoining premises and risk of crime and disorder in this area is controlled.</li> <li>II. Patrons must not be allowed to take drinks into the smoking area.</li> <li>III. The area must be provided with an adequate number of suitable ashtrays/bins, the use of which must be monitored by door staff.</li> <li>IV. The area must be regularly swept to remove cigarette ends.</li> <li>V. Arrangements must be made to prevent overcrowding or disorder on the (<i>insert location</i>), particularly if patrons exiting towards the smoking area whilst others are queuing for entrance in/on the (<i>insert location</i>).</li> <li>VI. A safety netting, mesh or screen (of a gauge that satisfies the enclosed space requirements as specified within the smoking legislation), shall be fitted and maintained in order to prevent objects being passed from the outside into the smoking area.</li> <li>VII. Any bottle or bin stores located near an external smoking facility shall be enclosed and secured.</li> <li>VIII. There shall be no furniture in the outside areas, with the exception of the appropriate wall mounted receptacles for tobacco waste materials.</li> <li>IX. The smoking area shall be thoroughly cleaned, provided with adequate lighting and painted so as to clearly designate this area as the smoking area.</li> <li>X. Staff shall be instructed to clean the smoking area and adjacent pavements of smoking-related litter before and after each period of use.</li> </ol>
	<b>N52</b>	The smoking area shall be permanently monitored by SIA licensed door supervisors during opening hours. The amount of patrons in this area will not exceed ( <i>insert occupancy number</i> ) persons; and shall be monitored with ( <i>insert method of monitoring occupancy number</i> ) from a position ( <i>insert positions from which monitoring is to take place</i> ).
<b>19. Restrictions on Outside Areas</b>	<b>N53</b>	Any outdoor areas to ( <i>the front/rear of</i> ) the premises must not be used by customers or staff after ( <i>insert</i> ) hours.
	<b>N54</b>	Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall be limited to ( <i>insert number</i> ) persons at any one time.
	<b>N55</b>	The ( <i>insert name of area i.e. beer garden, upper patio, etc.</i> ) shall only be open to customers ( <i>insert days</i> ) from ( <i>insert commencement time</i> ) until ( <i>insert end time</i> ). Clear and legible notices shall be prominently displayed in appropriate locations to ensure that this information is brought to the attention of patrons.
	<b>N56</b>	All outside areas must be closed and cleared of customers by ( <i>insert</i> ) hours. Adequate notices shall be displayed to inform patrons of this requirement.
	<b>N57</b>	After ( <i>insert</i> ) hours a SIA licensed door supervisor will be permanently placed in the ( <i>insert</i> ) area to monitor customers and prevent noise disturbance.
	<b>N58</b>	After ( <i>insert</i> ) hours the capacity in the outside rear area is limited to ( <i>insert</i> ) persons.
<b>20. Taxi Provision</b>	<b>N59</b>	Where a specific taxi operator has been nominated for customers use the company's telephone number will be advertised to customers. The operator will be advised that drivers should arrive and depart as quietly as possible, should not sound vehicle horns as

		a signal of their arrival or leave engines idling unnecessarily.
<b>21. Reports &amp; Schemes</b>	<b>N62</b>	A detailed scheme of sound insulation works shall be submitted to and approved in writing by Mid Devon District Council's Public Health Team. The approved details shall be implemented in full prior to the commencement of the premises licence/club premises certificate* (delete as appropriate).
	<b>N63</b>	A report shall be submitted detailing and recommending a scheme of sound insulation works for the separating structure between the licensed premises and the (adjacent) residential use (above). The report shall consider: the potential for noise breakout from the building and the volume and nature of the music likely to be desired by the premises. The report shall be approved in writing by Mid Devon District Council's Public Health Team. All recommended works shall be completed prior to the commencement of the premises licence/club premises certificate* (delete as appropriate)..
	<b>N64</b>	A report shall be submitted detailing the potential for noise from specify: (amplified music) (refrigeration) (heating) (ventilation) (air conditioning plant) (other)* (delete as appropriate) at the premises from affecting neighbouring noise sensitive properties at (insert address). If the assessment indicates that noise from the premises is likely to affect neighbouring noise sensitive properties then the report shall include a detailed scheme of noise mitigation measures. The report shall be approved in writing by Mid Devon District Council's Public Health Team. All recommended works shall be completed prior to the commencement of the premises licence/club premises certificate* (delete as appropriate)..
<b>22. Litter &amp; Waste</b>	<b>N65</b>	All the rubbish produced by the premises shall be stored securely in a designated area or in a bin with a tight fitting and lockable lid.
	<b>N66</b>	No advertisements of any kind (including placard, poster, sticker, flyer, picture, letter, sign or other mark) that advertises or promotes the establishment, its premises, or any of its events, facilities, goods or services shall be inscribed or affixed upon the surface of the highway or street furniture, or upon any building, structure, works, tree etc. not in the ownership or control of the Premises Licence Holder, or be distributed to the public.
	<b>N67</b>	All waste shall be properly presented and placed out for collection. No waste or recyclable materials, including bottles, shall be moved, removed from or placed in outside areas between (insert) hours and (insert) hours on the following day.
	<b>N68</b>	During the hours of operation of the premises, sufficient measures will be taken to remove and prevent litter and waste arising or accumulating from customers in the area immediately outside the premises (from building to edge of kerb *adjust as appropriate). This area shall be swept and/or washed, and litter and sweepings collected and stored in accordance with the approved refuse storage arrangements by close of business.
	<b>N69</b>	No collections of waste or recycling materials (including bottles) from the premises shall take place between (insert) hours and (insert) hours on the following day.
	<b>N70</b>	Sufficient measures must be in place to remove litter or waste arising from customers and to prevent such litter/waste accumulating in the immediate vicinity of their premises. Where necessary adequate measures must be in place to provide customers with sufficient receptacles for the depositing of waste materials such as food wrappings, drinks containers, smoking related litter etc.
	<b>N71</b>	
	<b>N72</b>	All packaging provided with takeaway food must be marked in some way as to show its point of origin (i.e. the premises it is brought from).
	<b>N73</b>	Where a mobile unit is regularly removed from site, steps must be taken to ensure that site is properly cleaned and that any accumulations, surface grease etc. is properly cleansed and removed from the site.
<b>23. Lighting</b>	<b>N74</b>	The use of lighting in (specify area) shall cease at (insert) hours except for health and safety or security reasons.
	<b>N75</b>	The windows and other glazed areas shall be fitted with heavy duty curtains or similar to prevent light breakout from strobe or other flashing lights equipment.

CONDITIONS RELATING TO PUBLIC SAFETY		
<b>24. Occupancy/ Capacity Limits</b>	<b>S1</b>	No licensable activities shall take at the premises until the capacity of the premises has been determined by the Premises Licence Holder and the Licensing Authority has replaced this condition on the licence with a condition detailing the capacity so determined.
	<b>S2</b>	The maximum number of persons (including staff and entertainers) allowed at the premises shall not exceed ( <i>number</i> ).
	<b>S3</b>	The maximum number of persons (including staff and entertainers) allowed at the premises shall not exceed ( <i>number</i> ), subject to the following maximum occupancies: <i>For example</i> [First Floor] [ <i>number</i> ] persons [Ground Floor] [ <i>number</i> ] persons [Basement] [ <i>number</i> ] persons
	<b>S4</b>	Seating for no less than ( <i>insert number</i> ) persons shall be provided in the premises at all times the premises are in operation.
	<b>S5</b>	Seating for no less than ( <i>insert</i> ) % of the maximum occupancy shall be provided in the premises at all times the premises are in operation.
	<b>S6</b>	The Premises Licence Holder or nominated person shall ensure that the accommodation limit(s) specified on the licence is/are not exceeded and shall be aware of the number of the people on the premises at all reasonable times. This information shall be immediately available on the request of an authorised officer of a responsible authority.
	<b>S7</b>	A suitable system must be in place to accurately indicate the number of customers (including staff, entertainers etc.) on the premises at any time.
	<b>S8</b>	Adequate procedures must be implemented to ensure overcrowding (such as that which may cause injury through crushing) does not occur in any part of the premises.
	<b>S9</b>	Manual and automatic electronic number control systems shall be installed, used and maintained at the premises at all times the premises is open to the public. The number of persons permitted in the premises at any one time (including staff) shall not exceed (X) persons.
<b>25. Sanitary Facilities</b>	<b>S10</b>	In respect of temporary sanitary facilities the servicing of sanitary accommodation must take place on a continuous basis throughout the event to ensure the sanitary accommodation is kept in a usable condition at all times when the public require it to be available.
	<b>S11</b>	In respect of temporary sanitary facilities the removal of sewage must take place hygienically and appropriately at the conclusion of the event or as required.
<b>26. Lighting</b>	<b>S12</b>	In the absence of adequate daylight, artificial lighting in any area accessible to the public shall be fully operational whilst the public are present.
<b>27. Air Conditioning</b>	<b>S13</b>	A suitable and sufficient air circulation and management system must be installed within the premises which will be used during regulated entertainment. (The purpose of this condition is to maintain a reasonable internal air temperature so as to avoid patrons or staff opening windows and doors to ventilate the premises. Additional conditions are in place to prevent the opening of windows and doors to minimise noise breakout).
<b>28. Queuing</b>	<b>S14</b>	Barriers / guards will be available where queues for entry can be envisaged. These must be arranged so as to control patrons, keep the pavements clear, and ensure that queues do not impact on means of escape in case of fire.
	<b>S15</b>	Queuing outside the premises shall be restricted to a designated area located at ( <i>specify location</i> ).
	<b>S16</b>	Door supervisors will be properly briefed and trained to manage queues in a safe and efficient manner.
<b>29. Glassware &amp; Bottles</b>	<b>S17</b>	All drinks shall be served in plastic/paper/toughened glass or polycarbonate containers.
	<b>S18</b>	All drinks shall be served in plastic/paper/toughened glass or polycarbonate containers from the ( <i>specify areas</i> ).
	<b>S19</b>	All drinks shall be served in plastic/paper/toughened glass or polycarbonate containers during the following events or occasions ( <i>enter specified events</i> ).
	<b>S20</b>	Except for the sale of a bottle of wine for consumption with a meal in the ( <i>designate area</i>

		<i>of the premises</i> ), no bottles containing beverages of any kind, whether open or sealed, shall be given to customers on the premises whether at the bar or by staff service away from the bar.
	<b>S21</b>	No drinking vessel, glass or bottle may be taken from the premises.
	<b>S22</b>	No customers carrying open or sealed bottles cans or other receptacles containing alcoholic liquor shall be admitted to the premises at any time that the premises are open to the public.
	<b>S23</b>	The collection of glasses and bottles shall be undertaken at regular intervals to ensure there is no build-up of empties in and around the premises.
	<b>S24</b>	Bottle bins shall be provided at the exit doors and staff shall take steps to prevent bottles and glasses being taken from the premises.
	<b>S25</b>	Patrons permitted to temporarily leave and then re-enter the premises, e.g. to smoke, shall not be permitted to take drinks or glass containers with them.

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CONDITIONS RELATING TO THE PROTECTION OF CHILDREN FROM HARM		
<b>30. Proof of Age Scheme</b>	<b>C1</b>	All bar staff, supervisors and managers must be trained in the legality and procedure of alcohol sales, using the SWERCOTS on-line training pack (or equivalent), prior to undertaking the sale of alcohol and then at least every <i>(insert)</i> months. Training shall be signed and documented. Training records must be kept on the premises and be made available for inspection and copying to an authorised officer of a responsible authority on request. The documentation relating to training should extend back to a period of three years and should specify the time, date and details of the persons both providing the training and receiving the training.
	<b>C2</b>	<p>There will be in place a written age verification policy in relation to the sale or supply of alcohol, which will specify a <i>Challenge 21 / 25*</i> (<i>delete as appropriate</i>) proof of age requirement. This means that staff working at the premises must ask individuals who appear to be under <i>(21/25)*</i> years of age, attempting to purchase alcohol, to produce identification. The only acceptable identification documents will be:</p> <ul style="list-style-type: none"> <li>- A photo driving licence</li> <li>- A passport</li> <li>- An identification card carrying the PASS hologram</li> </ul> <p>Unless such identification is produced the sale of alcohol must be refused.</p> <p>This policy will include documented steps taken to prevent adults from purchasing alcohol for or on behalf of children under 18.</p>
	<b>C3</b>	The premises shall display prominent signage indicating <i>(at any point of sale/ at the entrance to the premises/ in all areas where alcohol is located)*</i> ( <i>delete as appropriate</i> ) that a Challenge <i>(21/25)</i> scheme is in operation.
<b>31. Refusals Register</b>	<b>C4</b>	<p>An alcohol sales refusal register shall be kept at the premises and be maintained to include details of all alcohol sales refused. The register will include:</p> <ul style="list-style-type: none"> <li>i. the date and time of refusal</li> <li>ii. the reason for refusal</li> <li>iii. details of the person refusing the sale</li> <li>iv. description of the customer</li> <li>v. any other relevant observations.</li> </ul> <p>The refusals register will be made available for inspection and copying on the request of an authorised officer of a responsible authority.</p> <p>All entries must be made within 24 hours of the refusal.</p>
<b>32. Unaccompanied Children</b>	<b>C5</b>	Unaccompanied children (under <i>insert age</i> ) will not be allowed upon the premises at any time.
	<b>C6</b>	Accompanied children (under <i>insert age</i> ) will only be allowed to remain on the premises between <i>(insert)</i> hours and <i>(insert)</i> hours.
	<b>C7</b>	No person under the age of <i>(insert age)</i> years of age is permitted to enter or remain on the licensed premises when alcohol is being sold or supplied
<b>33. Till Prompt System</b>	<b>C8</b>	All tills shall automatically prompt staff to ask for age verification identification when presented with an alcohol sale.
<b>34. Films</b>	<b>C9</b>	Notwithstanding the mandatory condition imposed by Section 20 of the Licensing Act 2003 (above) the exhibition of films pursuant to this <i>licence/certificate*</i> ( <i>delete as appropriate</i> ) will be restricted to films that have been classified as Universal (U) or Parental Guidance (PG) by the designated film classification body.
<b>35. Nudity and Sexual Entertainment</b>	<b>C10</b>	<i>(Other than in hotel bedrooms)</i> there shall be no striptease or nudity, except when the premises are operating under the authority of a Sexual Entertainment Venue licence.
	<b>C11</b>	No person under the age of 18 will be permitted to enter or remain on the premises when any “specified activity” is taking place. Specified activities are:



		<ul style="list-style-type: none"> <li>• Any live performance; or</li> <li>• Any live display of nudity;</li> <li>• Which is of such a nature that, ignoring financial gain, it must reasonably be assumed to be provided solely or principally for the purpose of sexually stimulating any member of the audience (whether by verbal or other means).</li> </ul> <p>Display of nudity means:</p> <ul style="list-style-type: none"> <li>• In the case of a women, exposure of her nipples, pubic area, genitals or anus; and</li> <li>• In the case of a man, exposure of his pubic area, genitals or anus</li> </ul>
	<b>C12</b>	When any specified activity ( <i>as defined in condition C11</i> ) is taking place, all windows and doors of the premises which would allow those outside to see inside where the activity is to take place, must be blocked out.

CONDITIONS RELATING TO ONLINE SALES OF ALCOHOL		
<b>36. Ordering</b>	<b>O1</b>	Alcohol can only be ordered for delivery to a residential or business address and not to a public place.
	<b>O2</b>	Alcohol can only be ordered for delivery to the person placing the order.
	<b>O3</b>	Full address details, including postcode, must be given when placing an online order for alcohol.
	<b>O4</b>	At the time an online order for alcohol is placed a declaration will be required from the person placing the order that the person is over 18 years of age.
	<b>O5</b>	Customers will be reminded that it is a criminal offence for a person under 18 to purchase or attempt to purchase alcohol and that it is also an offence to purchase alcohol on behalf of a person under 18.
	<b>O6</b>	All licence conditions pertaining to the online sale of alcohol must be part of the 'Terms and Conditions' which must be displayed on the website or any other promotional material and expressly brought to the attention of the buyer at the time of ordering in particular the right and obligation of the driver to refuse delivery in specified circumstances.
<b>37. Delivery</b>	<b>O7</b>	Delivery times for delivery of online orders of alcohol will be restricted between the following hours ( <i>insert hours</i> ).
	<b>O8</b>	Drivers will not deliver alcohol to any person anywhere other than at the residential address given when the order was placed.
	<b>O9</b>	Alcohol will only be delivered to the person who placed the order and whose name appears on the credit/debit card (if used).
	<b>O10</b>	Alcohol delivery will be refused if the driver considers the person receiving the delivery to be under the influence of alcohol or drugs.
	<b>O11</b>	If a delivery driver considers the recipient of alcohol to appear under 25, recognised photographic identification (refer to mandatory conditions) will be requested and must be provided evidencing the recipient to be at least 18 years of age before any alcohol is handed over.
	<b>O12</b>	Alcohol delivery will be refused if the delivery driver believes that the alcohol was purchased on behalf of another person who is not 18 years or over.
	<b>O13</b>	When executing a delivery of alcohol only pre-ordered alcohol may be carried by the delivery vehicle.
<b>38. General</b>	<b>O14</b>	All alcohol delivery drivers will be 18 years or over.
	<b>O15</b>	All alcohol deliveries must be recorded contemporaneously by the driver in a legible log (kept at the premises for 12 months and available for inspection and copying on request of an authorised officer of a responsible authority) to contain: <ul style="list-style-type: none"> <li>i. Name and address of person placing an order for alcohol</li> <li>ii. Full delivery address</li> <li>iii. Time and date alcohol delivered</li> <li>iv. Signature of the person taking delivery of alcohol</li> <li>v. Form of proof of age (where applicable)</li> <li>vi. If delivery refused, basis for refusal</li> <li>vii. Delivery person's name and signature</li> </ul>
	<b>O16</b>	A refusal/incident/accident book(s) must be kept at the licensed premises and in each delivery vehicle.
	<b>O17</b>	Training surrounding the procedures for online alcohol orders and alcohol deliveries will be undertaken.  Training shall be recorded in documentary form and shall be regularly refreshed at no greater than ( <i>insert</i> ) intervals. Training records shall be made available for inspection and copying at reasonable times upon request of an authorised officer of a responsible authority.

		Training records will be retained for at least 12 months.
	<b>O20</b>	No cash sales for alcohol purchased by an online method will be made.  OR  i. Cash orders for alcohol ordered by an online method will be limited to a maximum of £50 per order. ii. Alcohol delivery drivers will make only one delivery per trip. Having made a delivery the driver will return to ( <i>insert location</i> ). This will ensure that the driver never has more than £50 cash at any time. iii. Cash will be put into the glove/fix security box of the delivery vehicle which will be locked by a key. iv. A photo will be taken by the driver of the customer's photo ID on all cash transactions. A record of the photos will be kept on a computer database. Terms and conditions will state that a picture will be taken of the ID provided on cash payments only and that there will be full compliance with the Data Protection Act (or subsequent relevant legislation).

GENERAL CONDITIONS		
<b>39. Duplicate licences</b>	<b>G1</b>	No licensable activities shall take place at the premises until <i>premises licence/club premises certificate*</i> ( <i>delete as appropriate and insert number</i> ) has been surrendered (and is incapable of resurrection).
<b>40. Seasonal Timings</b>	<b>G2</b>	The premises may remain open for the sale of alcohol and the provision of late night refreshment from the terminal hour for those activities on New Year's Eve through to the commencement time for those activities on New Year's Day.
	<b>G3</b>	On the morning that Greenwich Mean Time changes to British Summer Time one hour will be added to the terminal hour of any activities and to the closing time for the premises where the existing terminal hour for the activities and/or closing hour for the premises ends after 01.00hrs.



## **LICENSING ACT 2003**

### **Code of good practice for licensed premises**

## **Contents**

1.0	Introduction	Page 3
2.0	The Licensing Act 2003	Page 3
3.0	Risks identified at your licensed premises	Page 4
4.0	Conditions on a licence	Page 4
5.0	How this code will be used and by who?	Page 4
6.0	Due diligence, working practices and records to keep	Page 6
7.0	Best practice: General – all four licensing objectives	Page 7
8.0	Best practice: Prevention of crime and disorder	Page 8
9.0	Best practice: Public safety	Page 14
10.0	Best practice: Prevention of public nuisance	Page 18
11.0	Best Practice: Protection of children from harm	Page 23

## **Annexes (examples of documents)**

Annex 1:	DPS Sale of alcohol staff authorisation form	Page 27
Annex 2:	Example Refusal / Incident Book	Page 28
Annex 3:	Premises Age Verification Policy	Page 29
Annex 4:	Training log	Page 30

## **1.0 Introduction**

1.1 As the Licensing Authority, we wish to assist applicants and licence holders in operating safe and enjoyable premises. We fully appreciate the positive impact that your premises can have on residents and visitors to Mid Devon and we are committed to:

- Providing help and advice if you need it during the application process
- Providing help and advice once a licence has been granted
- Providing clear feedback to premises when issues have been identified (this may be following a complaint or an inspection) which sets out actions or processes that would be beneficial
- Taking appropriate and required action in order to promote the four licensing objectives

1.2 We licence a variety of premises in Mid Devon, including breweries, village halls, pubs, off-licences, restaurants, members clubs, takeaways and night-clubs. The potential risks associated with these premises are all different and it is important to remember that your business is specific to you. Because of this, not all of the suggestions and advice in this document will apply to you directly. However, by reading this document, you will have a better idea of the potential issues you need to be aware of.

## **2.0 The Licensing Act 2003**

2.1 The Licensing Act 2003 requires that all premises promote the four licensing objectives and although this code of good practice is not statutory, it does include practical information on how premises can demonstrate they are promoting the four licensing objectives. The four licensing objectives are:

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

### **3.0 Risks identified at your licensed premises**

- 3.1 This document identifies some of the potential risks that you should consider and offers suggestions of good practice methods. It is important to remember that all premises are different and we recommend that you risk assess your own premises to decide what specific measures are relevant to you.
- 3.2 Additionally, you should also consider any one off or less frequent events you may hold that require additional safeguards in place to promote the licensing objectives.

### **4.0 Conditions on a licence**

- 4.1 Since the introduction of the Licensing Act, knowledge on conditions has developed and it may be that some existing conditions on licences are no longer considered enforceable. However, it is important to remember that premises must still operate in a way that promotes the four licensing objectives, regardless of whether or not specific conditions are on the licence itself.
- 4.2 Conditions on a licence must be appropriate, precise, enforceable, proportionate and clear. Additionally, they must be tailored to the premises and cannot duplicate other statutory requirements.
- 4.3 The information in this document is not worded in such a way as to be applied directly on to a licence as conditions. The idea of this document is to promote good practice within premises regardless of conditions applied to a licence. However, you should be aware that if any of the best practice advice in this document is reflective of actual conditions on your licence then you need to comply with them.

### **5.0 How this code will be used and by who?**

- 5.1 The information in this code of good practice should not be considered as standard requirements for all premises. It is very important that each premises is considered on its own individual merits and only relevant and required actions are requested and / or expected of them.
- 5.2 The document is broken down in to sections that cover each of the four licensing objectives. It is hoped that this allows specific areas of interest to be identified quickly.

Within these sections areas of risk are identified within a table, next to which are measures you may wish to consider addressing or implementing. Each potential good practice measure is then numbered to enable users of the document to reference.

### **Applicants and licence holders**

- 5.3 It is important to take a proactive and preventative approach to managing a licensed premises as this will ensure problems either do not occur to begin with, or if they do, are dealt with quickly.
- 5.4 Applicants should therefore read this document before submitting an application. It is considered a good starting point in assessing the potential risks of your premises. The identification of a risk will not necessarily warrant a condition on a licence. Additionally, licence holders should be familiar with this document as it will highlight any additional operational measures they may need to put in place.

### **The Licensing Authority and Responsible Authorities**

- 5.5 This code is not a statutory document but it may be taken into consideration and used:
- When offering advice to applicants pre-application
  - When offering advice to licence holders in general
  - As a starting point to dealing with licensed premises encountering problems, in order to promote the licensing objectives and address issues
  - When enforcement action is required as a result of continued issues with premises not promoting the licensing objectives i.e. reviewing a premises licence

### **Dealing with premises not promoting the four licensing objectives**

- 5.6 Where problems or concerns are identified at a licensed premises this will be addressed as early as possible by the licensing authority. We aim to work in partnership with licence holders to address issues and we will offer guidance and advice where we can.
- 5.7 The Licensing Authority and Responsible Authorities will agree appropriate measures with licensed premises and this may include points within this code of good practice. This may be in the form of an 'action plan' and will provide a clear framework for actions to be



undertaken. The ultimate aim of this code and its application is to try and avoid the need for formal enforcement action such as a prosecution or review.

## **6.0 Due diligence, working practices and records to keep**

6.1 In brief, due diligence is your ability to show that all reasonable steps to avoid committing an offence were taken. If you can demonstrate the positive action you have taken preventing the offence from occurring, you can site this as a defence should you need to.

6.2 One way to help demonstrate this can be through keeping (and maintaining) documents and records of certain safeguards that are in place. These include (but are not limited to):

- Designated Premises Supervisor (DPS) sale of alcohol authorisation (example attached to this document as **Annex 1**)
- Refusal / incident book (example attached to this document as **Annex 2**)
- Age verification policy (example attached to this document as **Annex 3**)
- Training log (example attached to this document as **Annex 4**)

## 7.0 General – all four licensing objectives

7.1 This section provides guidance on good practice for the general promotion of all four licensing objectives. Licensees and their staff have responsibility for the effective and safe management of their premises and training is a key element of this.

Risk	Good practice measure
<b>Lack of knowledge or understanding of the Licensing Act 2003</b>	<ol style="list-style-type: none"><li><b>1. Well trained staff</b> will contribute to well-run premises and ensure a responsible approach to the sale of alcohol, provision of entertainment and late night refreshment.</li><li><b>2. Formal qualifications</b> for your staff, either to a Personal licence level or to another appropriate standard recognised by bodies would be preferential.</li><li><b>3.</b> All staff should be advised of licensing law in writing before they are allowed to serve alcohol.</li><li><b>4.</b> Training should also be provided on premises specific policies relevant to the operation of the business.</li><li><b>5.</b> Staff should be briefed on licensing conditions that are attached to the premises licence and fully understand the terms of the licence.</li><li><b>6.</b> Records should be kept documenting the above training, including the names of people undertaking it and the date. These records should be made available for inspection by the Police and Licensing Authority.</li></ol>
<b>Sharing of information locally</b>	<ol style="list-style-type: none"><li><b>1. Participation in local Pubwatch</b> schemes enables licence holders to share best practice and information about individuals that they should consider refusing entry to.</li></ol>

## 8.0 Prevention of crime and disorder

- 8.1 This section provides guidance on good practice for the prevention of crime and disorder from licensed premises.
- 8.2 The main causes of crime and disorder in licensed premises arise from inadequate security provisions, poor design and layout, the type of event being promoted, overcrowding and customers being drunk or under the influence of drugs. This can result in theft, conflict, violence and anti-social behaviour.
- 8.3 Alcohol can be a significant contributory factor to levels of crime and disorder in an area. Good management and good practice along with adequate physical controls can make an important difference to the level of alcohol related crime at premises. Such measures should be reflected in the operating schedule.

Risk	Good practice measure
Security in and around the premises	<p><u>1. Emergency exits</u> should be alarmed when the premises are open to the public so that staff are immediately notified of unauthorised opening or tampering.</p> <p><u>2. CCTV should be installed on the premises. The cameras should cover all public areas of the licensed premises, including entry and exit points. Additionally:</u></p> <p><u>a) The system should record the correct date and time of images</u></p> <p><u>b) Images should be in real time and stored on hard drive with the ability to copy disks for other agencies, such as the police (in accordance with the Data Protection Act 1998 or any replacement legislation)</u></p> <p><u>c) Images should be stored and accessible for a minimum period of 14 days</u></p> <p><u>d) Relevant staff should be trained in the</u></p>

maintenance and operation of such systems with a record of kept of the date and name of the person trained. Records should be made available for inspection by the police or licensing authority

e) A trained member of staff should be on duty to operate the system whenever the premises are open

~~1.~~

~~2. CCTV should be installed inside and outside the premises. The cameras should cover all internal areas accessible to the public and areas immediately outside the premises. Additionally:~~

~~a) The system should record the correct date and time of images~~

~~b) Images should be in real time and on hard drive with the availability to copy disks for other agencies, such as the police~~

~~— Images should be stored and accessible for a minimum period of 28 days~~

~~c) Relevant staff should be trained in the maintenance and operation of such systems with a record of kept of the date and name of the person trained. Records should be made available for inspection by the police or licensing authority~~

~~d) A trained member of staff should be on duty to operate the system whenever the premises are open~~

**3. External lighting** provides an obvious means of crime deterrence. Care should be taken so that lighting does not impact on neighbours.

**4. Door staff and / or stewards** should be employed at the venue to supervise admissions and customers

	<p>inside the venue. Additionally:</p> <ol style="list-style-type: none"> <li>5. Any person performing the role of door supervisor must be licensed with the Security Industry Authority (SIA) and SIA badges must be clearly displayed when they are working</li> <li>6. Door staff should be easily identifiable by wearing a uniform, high visibility clothes or arm bands.</li> <li>7. Door staff should sign in to a register detailing their full SIA licence number, their name, contact details and the time and date that their duty commenced and concluded.</li> <li>8. Stewards and other staff at the premises should also be easily identifiable. Stewards should not be used for supervision of the door.</li> <li>9. <b>Daily staff briefing and debriefing</b> will enable licence holders to improve working practices in their premises. These briefings can be informal but any problems identified and remedial action taken should be recorded with records kept on the premises.</li> </ol>
<p><b>Crime including conflict, violence or aggression in and around the premises</b></p>	<ol style="list-style-type: none"> <li>1. <b>Proper management of the door</b> will depend on the size and type of venue. The number of door supervisors should be determined by a risk assessment, taking into account the size of the premises and the type of crowd that the venue is likely to attract. If door staff are required, a minimum of two should be employed.</li> <li>2. <b>A door admissions policy</b> including any age restrictions and searches should be well publicised on any promotional material and at the entrance of the premises itself.</li> <li>3. <b>Ejecting or refusing entry to persons</b> from the premises if they do not meet your admissions</li> </ol>

	<p>standards or if they are known to be violent or aggressive. In such cases, an entry should be made in the incident log book.</p> <p><b>4. Policy to manage capacity</b> should be adopted to prevent overcrowding and patrons possibly becoming aggressive through accidental jostling.</p> <p><b>5. Alternatives to glass drinking vessels</b> should be considered to prevent glassware being used as an assault weapon. Where alternatives are not used, a robust glass collection policy should be in place. This should include regular collections by staff and the prevention of glassware being removed from the premises.</p> <p><b>6. Staff training</b> in conflict management should be provided to give them the knowledge and confidence to deal with difficult situations. Training should also cover dealing with, logging and reporting incidents if they occur.</p> <p>Records should be kept of the date and name of the person trained. Records should be made available for inspection by the police and licensing authority.</p>
<b>Drugs and weapons being brought into the premises</b>	<p><b>1. A zero tolerance policy</b> to the use of drugs and carrying weapons in the premises should be adopted. Posters can be displayed throughout the premises to remind customers of the zero tolerance policy, especially in the toilet areas of the premises.</p> <p><b>2. Effective search policies</b> will minimise the opportunity for drugs and weapons to be brought into licensed premises.</p> <p><b>3. Calling the police</b> if customers are suspected of being in possession of drugs or weapons. All staff must be made aware of this requirement.</p>

	<p><b>4. Supervising toilet areas</b> can be effective in discouraging drug selling or use. This could be checks by security or staff every 30 to 60 minutes and may include swabbing of surfaces. Where checks are conducted the time, date and findings should be recorded.</p> <p>Removal of flat surfaces in toilet areas can reduce the likeliness of drug misuse.</p> <p><b>5. Drug awareness training</b> should be provided to all staff. A record should be kept of the date and name of the person trained. Records should be made available for inspection by the police or licensing authority.</p>
Disorder from customers queuing to enter the premises or when leaving the premises	<p><b>1. Reduce the potential for excessive queue lines</b> with a well-managed and efficient door policy. Long queuing times can cause people to become agitated or aggressive. If searches are required, they should be conducted as quickly and effectively as possible.</p> <p><b>2. A customer dispersal</b> policy can minimise the potential for disorder from customers leaving the premises. The policy should clearly set out measures to avoid a mass exit at the end of the evening such as a gradual change in music style and increasing lighting levels.</p> <p><b>3. Sufficient numbers of staff</b> should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</p> <p><b>4. Staff training</b> in preventing disorder should be provided to give them the knowledge and confidence to deal with difficult situations. Records should be kept of the date and name of person trained. Records</p>

	<p>should be made available for inspection by the police or licensing authority.</p>
<p><b>Customers getting drunk and drunken customers</b></p>	<ol style="list-style-type: none"> <li>1. <b>Drinks promotions</b> should be socially responsible and not encourage excessive drinking. A documented policy on responsible drinks promotions should be in place at the premises and should adhere to industry codes (i.e. the British Beer and Pub Association (BBPA) and The Portman Group). This is in addition to adherence with the mandatory licensing condition regarding irresponsible promotions.</li> <li>2. <b>Staff training</b> on the effects of alcohol and how to spot early signs of customers becoming drunk should be provided to give them the knowledge and confidence to deal with drunken patrons.</li> <li>3. <b>Staff should be aware of their responsibilities under the Licensing Act 2003</b> and be able to recognise appropriate 'cut off' points for serving potentially drunken customers, so as to reduce the likelihood of fights or aggressive behaviour.</li> <li>4. <b>Duty of care policy</b> regarding persons suffering adversely from the effects of drink should be in place at the premises. The policy should clearly express that every effort will be made by staff to prevent patrons from deteriorating to an uncontrolled intoxicated extent. All staff must be briefed on the policy.</li> <li>5. <b>Drink-aware posters</b> can be displayed in the premises to remind customers of the unit content in alcoholic drinks and the safe alcohol consumption limits.</li> </ol>



## 9.0 **Public safety**

9.1 This section provides guidance on good practice for the promotion of public safety at licensed premises.

9.2 The carrying on of licensable activities, in particular the sale of alcohol and certain forms of entertainment can increase the risks to the safety of the public (including performers) attending licensed premises.

Risk	Good practice measure
<b>General safety of staff and customers</b>	<p><b>1. A Full risk assessment</b> taking into account public safety should be carried out at the premises to identify potential hazards posed to staff or customers and setting out precautions to manage the hazards. Templates can be found on the Health and Safety Executive website and on the Communities and Local Government website. Furthermore:</p> <ul style="list-style-type: none"><li>a) The risk assessment should be regularly reviewed, (at least every 12 months)</li><li>b) All staff should be made aware of the risk assessment and precautionary measures to take</li><li>c) A copy of the risk assessment should be kept at the premises and made available for inspection</li></ul> <p><b>2. Trained first aider(s)</b> with a recognised qualification should be on duty when the premises licence is in use.</p> <p><b>3. First aid room or quiet room</b> should be made available to anyone requiring medical attention.</p> <p><b>4. Temperature levels</b> and humidity in venues should be controlled for the comfort and safety of customers. An environment that is too hot or too cold can make customers irritable. In larger venues where people are dancing air condition can be used.</p>

<b>Overcrowding</b>	<ol style="list-style-type: none"> <li><b>1. A policy to manage the capacity</b> should be adopted to prevent overcrowding and localised overcrowding. Additionally: <ol style="list-style-type: none"> <li>a) The use of electronic clocking systems, clickers, ticket sales or head counts may be appropriate</li> <li>b) Consideration should be given to deliberately running below capacity to afford a comfort factor to your patrons.</li> </ol> </li> </ol>
<b>Accumulation and disposal of glasses / drinking vessels</b>	<ol style="list-style-type: none"> <li><b>1. A glass collection policy</b> (if glass is used) should include provisions for regular collection of glassware by staff and the prevention of glassware from being taken into external areas. Glassware should not be allowed to accumulate or cause obstruction.</li> <li><b>2. Perimeter checks</b> should be made outside the premises for any glasses or bottles. All staff must be made aware of the glass collection policy and their responsibility for the task.</li> <li><b>3. Spillages and broken glass</b> should be cleaned up immediately to prevent floors from becoming slippery and unsafe.</li> <li><b>4. The use of plastic or polycarbonate glasses</b> may be appropriate.</li> </ol>
<b>Drug use or drink spiking</b>	<ol style="list-style-type: none"> <li><b>1. A zero tolerance policy</b> to the use of drugs in the premises should be adopted.</li> <li><b>2. Posters</b> can be displayed throughout the premises to remind customers of the zero tolerance policy.</li> <li><b>3. A duty of care policy</b> regarding persons suffering adversely from the effects of drugs should be in place at the premises. The policy should include drug awareness training for all staff so that they can recognise the effects of controlled drugs and provide</li> </ol>

	<p>medical attention where necessary. All staff must be briefed on the policy. A record should be kept of the date and name of person trained.</p> <p><b>4. Prevent the possibility of drink spiking</b> by offering various anti drink spiking products to customers.</p> <p><b>5.</b> If a customer suspects that their drink has been spiked, you should report it to the police immediately. A process for this should be clearly set out in your duty of care policy.</p>
<p><b>Safety of customers when leaving the premises</b></p>	<p><b>1. ‘Chill out’ area</b> should be provided. This should be cooler and quieter than the rest of the venue.</p> <p><b>2. First Aid Room</b> may also be made available.</p> <p><b>3. A ‘chill out’ or wind down period</b> at the end of an evening can ensure a slow dispersal from the premises allowing door staff to gain a handle on problem individuals.</p> <p><b>4. Provision of food and non-alcoholic drinks</b> during a chill out period can be effective in allowing customers to sober up before leaving the premises.</p> <p><b>5. Increased lighting inside the premises</b> should be considered towards the end of an evening to affect the alertness of customers before they leave the premises.</p> <p><b>6. Increased external lighting</b> particularly in car parks under the direct control of the licence holder will provide added safety for customers as they leave the premises. Care should be taken so that lighting does not impact on neighbours.</p>

## 10.0 Prevention of public nuisance

- 10.1 This section provides guidance on good practice for the prevention and management of public nuisance from licensed premises.
- 10.2 Where entertainment or other potentially noisy activity is planned, a noise assessment should be carried out. For some premises, the assessment will need to be carried out by a suitably qualified consultant.
- 10.3 Consideration should be given to the structure and layout of the premises and equipment both internally and externally, to ensure that the premises are fit for purpose. Sound attenuation measures can include wall linings, acoustic curtains and acoustic treatment to mechanical ventilation or air conditioning systems. Consideration should also be given to historical noise problems at the premises with measures put in place to prevent them from recurring.
- 10.4 Licence holders should have clear documented policies and procedures in place which identify all public nuisance risks associated with their premises and measures implemented to prevent, manage and respond to those risks. Licence holders should also engage with local residents and businesses on a regular basis to ensure that they are being good neighbours and dealing with problems as they arise.

Risk	Good practice measure
Entertainment and crowd noise	<ol style="list-style-type: none"><li><b>1. A noise management policy</b> should be in place that sets out sound attenuation measures to prevent or control music, singing and speech noise breakout from the premises.</li><li><b>2. It may be necessary to have an assessment undertaken by an acoustic consultant</b> and base the policy on this.</li><li><b>3. All staff should be trained</b> on the content of the policy to ensure a commitment to good noise management. A record should be kept of the date and name of person trained and made available for inspection by</li></ol>

	<p>the licensing authority or environmental health responsible authority.</p> <p><b>4.</b> DJs, event promoters or other entertainment providers should be made aware of the policy in advance of any performance.</p> <p><b>5. Windows and doors should be kept closed</b> whilst the premises licence is in use to prevent noise breakout. Ventilation should be provided by mechanical means.</p> <p><b>6. Windows should be sound insulated.</b> Emergency exits should be sealed acoustic doors. A lobbied area should be provided at the entrance and exit to the premises. Doors should be fitted with self-closing devices.</p> <p><b>7. Sound limiting device</b> should be installed, set and sealed at a level approved by an acoustic consultant. The sound limiting device should be used at all times that relevant regulated entertainment is taking place, including all externally promoted events. Only the premises licence holder or a nominated deputy and the designated premises supervisor should have access to the sound limiting device.</p> <p><b>8. Locate entertainment facilities</b> such as DJ booth, stage and loud speakers away from doors and windows. Rubber speaker mounts can be used to minimise structure borne noise.</p> <p><b>9. Methods for monitoring noise</b> should be included in a noise policy. Methods could range from simple perimeter checks and listening tests by the licence holder/staff to a detailed measurement taken by a qualified consultant using sound measuring equipment. Noise monitoring should actively be carried out on a regular basis and in particular when a</p>
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	<p>new form of entertainment is introduced at the premises, when alterations are made to the premises or when a complaint is made about the venue.</p> <p><b>10. A log book</b> should be kept of any noise monitoring carried out, the findings and any action taken. The log should indicate whether it was routine noise monitoring or the result of a complaint. The log book should be made available for inspection by the licensing authority or environmental health as a responsible authority.</p> <p><b>11. A contact telephone number</b> should be made available to local residents and businesses which they can use to report noise disturbances to a responsible person at the venue. The phone line should be available at all times the premises are open.</p> <p><b>12. Reduce the potential for excessive queue lines</b> with a well-managed and efficient door policy.</p> <p><b>13. Long queues</b> should be avoided and any queues should be directed away from residential properties.</p> <p><b>14. Queues should be actively managed by door staff</b>, especially later in the evening, to keep noise to a minimum. Rowdy behaviour from people outside should not be tolerated. Door staff should refuse entry to anyone behaving in an anti-social way.</p>
Noise in external areas such as beer gardens or smoking areas	<p><b>1. Customer dispersal policy</b> can minimise noise disturbance to local residents from customers leaving the premises. A policy should clearly set out measures to avoid a mass exit at the end of the evening.</p> <p><b>2. A gradual change in music style and reduction in volume</b>, for example quiet or mellow music towards</p>

	<p>the end of an evening and increasing lighting levels can help to reduce the potential for rowdy behaviour.</p> <ol style="list-style-type: none"> <li><b>3. Sufficient staff</b> should be available at the end of the evening to manage a controlled shut down of the premises and maintain good order as customers leave.</li> <li><b>4. Display prominent notices</b> close to the exit doors, requesting patrons to leave the premises quickly and quietly.</li> <li><b>5. Display notices</b> in car parks reminding patrons that they are in a residential area and to leave quickly and quietly and not to slam doors, rev engines, sound horns or play loud music.</li> <li><b>6. Make announcements</b> at the end of an evening, requesting patrons to leave the premises and area quickly and quietly.</li> <li><b>7.</b> Steps should be taken to ensure that any taxi operators used and all their drivers are aware that they should arrive and depart as quietly as possible and should not sound their horns or leave engines idling unnecessarily.</li> <li><b>8. Display prominent signs</b> in external areas such as beer gardens and forecourts asking customers to keep noise to a minimum.</li> <li><b>9. Restrict the use of external areas</b> after a certain time if premises are in a residential area.</li> <li><b>10. Door supervisors or staff</b> should regularly monitor and manage external areas to ensure that customers are not causing a disturbance to local residents.</li> <li><b>11. Limit the number of smokers</b> permitted outside at any one time after a certain time.</li> </ol>
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	<p><b>12. Discourage smokers</b> from loitering outside by not permitting them to take their drinks with them and removing external furniture after a certain time.</p> <p><b>13.</b> Locate smoking areas away from residential premises.</p> <p><b>14.</b> Do not permit customers to congregate on and block the public highway to passers-by.</p>
Noise and disturbance caused by deliveries, collections and waste disposal	<p><b>1. Commercial deliveries, collections and storage/ disposal of waste</b>, including beer deliveries, refuse collections and storage / disposal of waste and recyclables in external areas should be restricted to normal working hours between 8am and 7pm Monday to Friday.</p>
Litter and waste around the premises	<p><b>1. Flyers should not be distributed outside the premises</b> by the licence holder or any staff employed by the licence holder.</p> <p><b>2. If flyers are distributed</b> they should be littered picked at the end of trading.</p> <p><b>3. Procedures should be in place</b> for the prompt collection of street litter generated by the premises for example flyers, cigarette butts or food wrappers.</p> <p><b>4. Regular patrols</b> of the area outside the premises should be undertaken by staff to clear any litter attributable to the premises.</p> <p><b>5.</b> Use wall or floor mounted cigarette bins in designated smoking areas for customers.</p>



## 11.0 Protection of children from harm

- 11.1 This section provides guidance on good practice for the protection of children from harm at licensed premises.
- 11.2 The carrying on of licensable activities in particular the provision of alcohol and some types of entertainment can increase risks of harm to children attending licensed premises or in the local vicinity.
- 11.3 Licence holders should have clear documented policies and procedures in place which identify all age restricted risks at their premises and measures implemented to prevent, manage and respond to those risks.

Risk	Good practice measure
<b>Children accessing licensed premises</b>	<p><b>1. A documented policy</b> setting out measures to protect children from harm should be in place at the premises. The policy should consider all activities associated with the premises including the sale of alcohol and the provision of regulated entertainment and when children should be allowed on or restricted from the premises. All staff including door staff and bar staff should be trained on the policy.</p> <p><b>2. Restrict access to children</b> depending on the nature of the business and / or circumstances. The admission of children can be restricted up until a specified time in the evening. The admittance of children can only be permitted if they are accompanied by an adult.</p>
<b>Underage sales of alcohol</b>	<p><b>1. Operate a strict ‘No ID – No Sale’ policy. A ‘Challenge XX’ scheme</b> serves as a reminder to staff of the need to be vigilant in preventing underage sales and to customers that it is against the law for anyone under 18 to purchase alcohol.</p>

	<p>2. <b>‘Challenge 25’</b> scheme gives staff additional support and encouragement to ask for ID from any person appearing to be under 25 years of age to prove that they are over 18.</p> <p>3. <b>Only accept photographic</b> driving licences, passports or PASS (Proof of Age Standards Scheme) cards approved as means of ID.</p> <p>4. <b>Use till prompts</b> to remind staff to ask for proof of age.</p> <p>5. <b>Prominently advertise the scheme</b> in your premises so that customers are aware, in particular, display proof of age signs at the point of sale.</p> <p>6. <b>Display posters at the premises</b> stating that it is an offence to purchase alcohol on behalf of an underage person (proxy sales).</p> <p>7. <b>Keep a refusals book</b> (or refusal button on EPOS – Electronic Point of Sale) on the premises and ensure it is completed whenever a sale is refused to a person who cannot prove they are over the age of 18.</p> <p>8. The book should contain the date and time of the incident, a description of the customer, the name of the staff member who refused the sale, and the reason the sale was refused. The book should be made available to Police and Licensing Authority on request. The book should be reviewed on a regular basis to see if any patterns emerge.</p> <p>9. <b>Staff training</b> in the age related sections of the Licensing Act 2003 should be provided to all door, bar and till staff. This includes the ability to competently check customers’ identification where necessary. A</p>
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	record should be kept of the date and name of person trained.
<b>Access to age restricted films.</b>	<b>1. Adequate provisions for restricting children</b> from viewing age restricted films should be in place at the premises. Staff should be trained to check ages at point of sale and prior to entry to a screening room to ensure that admission of children to films is in accordance with the recommendations of the British Board of Film Classifications (BBFC) or the Local Authorities classification.

## **ANNEX 1: Designated Premises Supervisor (DPS)**

### **Sale of alcohol - staff authorisation form (example)**

I, ....., DPS of .....  
hereby authorise the following person(s) to sell alcohol under the Licensing Act 2003 on these premises at any time during the permitted hours and in accordance with the premises licence. This authority applies whether or not I, or any other Personal Licence holder, are present on the premises at the time of the sale or supply of alcohol. I can confirm these persons have been made aware of his/her legal responsibilities under the Act.

Signed: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

We sign below in the knowledge that it is an offence to:

- Knowingly sell, attempt to sell or allow the sale of alcohol to a person who is drunk.
- Sell alcohol to a person under 18 years of age.
- Allow licensable activities to be conducted otherwise than in accordance with the premises licence and the conditions it contains.

I also understand that I require individuals who appear to me to be under *18 years of age (or any older age as may be specified in the premises licence holders age verification policy)* to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

Signed: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signed: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

Signed: \_\_\_\_\_ Print Name: \_\_\_\_\_ Date: \_\_\_\_\_

## **ANNEX 2: Refusal / Incident Book (example)**

<b>Date</b>	<b>Time</b>	<b>Product</b>	<b>Reason for Refusal / Description of incident</b>	<b>Description of Person / Action taken</b>	<b>Name and Signature</b>	<b>Date record checked and signed by DPS</b>
<i>Example</i> 01.01.2018	19:32	<i>Pint of Carlsberg</i>	<i>Refused sale: Customer unable to supply proof of age on request.</i>	<i>Female, blonde approx. 16 years of age, red jacket.</i>	<i>John Smith (Signature)</i>	<i>05.01.2018 (signature)</i>
<i>Example</i> 13.02.2018	16:52	<i>Double Whiskey</i>	<i>Refused sale to customer who was drunk. Customer reacted to refusal by shouting at staff members. Was asked to leave store and police called.</i>	<i>Male, early 40's, Grey t- shirt, jeans and beard.</i>	<i>Sarah Jones (signature)</i>	<i>15.02.2018 (signature)</i>

### **ANNEX 3: Premises Age Verification Policy (example)**

Name and address of premises: .....  
.....  
.....

Name of premises licence holder: .....

Name of designated premises supervisor: .....

**1.** The premises licence holder must ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol. This must as a minimum require individuals who appear to the responsible person to be under the age of 18 years of age (or under the age specified in any applicable Challenge 21 / 25 policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth, and a holographic mark. This can include, for example:

- A photo card driving licence
- A passport
- A proof of age card bearing the PASS hologram

**2.** For the purposes of this policy the following are considered to be responsible persons:

- the holder of the premises licence;
- the designated premises supervisor;
- a person aged 18 or over who is authorised to allow the sale or supply of alcohol by an under 18; or
- a member or officer of a club present on the club premises in a capacity which enables him or her to prevent the supply in question.

**3.** The premises licence holder must ensure that staff (in particular staff who are involved in the supply of alcohol) are made aware of the existence and content of this age verification policy.

Signed ..... (Premises licence holder)

Date .....

### **ANNEX 4: Training log (example)**

<b>NAME:</b>		
<b>SUBJECT:</b>	<ul style="list-style-type: none"> <li>The Licensing Act 2003</li> <li>The promotion of the licensing objectives</li> <li>The premises licence activities</li> <li>The premises licence conditions</li> <li>DPS Authorisations</li> <li>The premises age verification policy</li> <li>The refusals/incident book</li> <li>Offences under the Licensing Act 2003</li> </ul>	<ul style="list-style-type: none"> <li>How to deal with difficult customers</li> <li>Noise Impact Assessment</li> <li>Drugs Policy</li> <li>Dispersal Policy</li> <li>Health and Safety in the workplace</li> <li>First Aid</li> <li>Emergency Evacuation Procedures</li> </ul>
<b>Relevant training material:</b>	<i>List any documents or policies that have been included in the training. Examples may include:</i>	
	<ul style="list-style-type: none"> <li><i>Any internal policies / documents</i></li> <li><i>Section 182 Licensing Act Guidance</i></li> </ul>	<ul style="list-style-type: none"> <li><i>The Licensing Act (relevant parts)</i></li> <li><i>Best practice advice</i></li> </ul>

I, ..... have read and fully understand the attached documents.

Date ..... Managers signature .....

Training review information:

<b>Review 1 Notes:</b>		
<b>Date:</b>	<b>Staff signature:</b>	<b>Managers signature:</b>
<b>Review 2 Notes:</b>		
<b>Date:</b>	<b>Staff signature:</b>	<b>Managers signature:</b>

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