

CHILTERN DISTRICT COUNCIL

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Licensing & Regulation Committee

Thursday, 3rd December, 2009 at 6.30 pm

Large & Small Committee Room - CDC

A G E N D A

1 Minutes

To sign the Minutes of the meeting held on 22 October 2009.

2 Declarations of Interest

Report of the Officers

3 Amendment to Current Taxi Licensing Procedures

4 Gambling Act 2005 - Statement of Principles

Note: All Reports will be updated orally at the meeting if appropriate and may be supplemented by additional reports at the Chairman's discretion.

Membership: Licensing & Regulation Committee

Councillors: Miss P A Appleby
Mrs E L Bamford
Mrs J A Burton
Mrs I A Darby (Vice-Chairman)
Mrs V G Head
L A Hodgkinson
P M Jones
M J King
D J Lacey
D G Meacock
S A Patel
G P Peters (Chairman)
J S Ryman
D C Schofield
G E Sussum

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On this Day in History (date):

Support Officer: Mathew Bloxham (; email)

Agenda Item 1

CHILTERN DISTRICT COUNCIL

MINUTES of the Meeting of the LICENSING AND REGULATION COMMITTEE held on 22 OCTOBER 2009

PRESENT:	Councillor	G P Peters	- Chairman
	"	Mrs I A Darby	- Vice-Chairman
	Councillor	Miss P A Appleby	
	"	Mrs E L Bamford	
	"	Mrs J A Burton	
	"	Mrs V Head	
	"	L A Hodgkinson	
	"	P M Jones	
	"	D J Lacey	
	"	J S Ryman	
	"	D C Schofield	
	"	G E Sussum	

APOLOGIES FOR ABSENCE were received from Councillors D G Meacock and S A Patel.

3. MINUTES

The Minutes of the meetings held on 16 October 2008, 27 November 2008, and 19 May 2009 were agreed by the Committee and signed by the Chairman as a correct record.

4. DECLARATION OF INTERESTS

There were no declarations of interest.

5. MINUTES OF THE MEETINGS OF THE LICENSING SUB-COMMITTEE

RESOLVED -

That the Minutes and Resolutions of the following meetings of the Licensing Sub Committee be approved and accepted:

- 24 July 2008
- 11 December 2008
- 28 January 2009
- 10 February 2009
- 26 February 2009
- 14 May 2009
- 18 August 2009

5. **YELLOW AND RED CARD APPROACH TO LICENSING REVIEWS**

The report before the Committee concerned the guidance issued by the Department of Culture, Media and Sport (DCMS) regarding a "yellow card / red card" system. This would ensure a firm response to problems, but provide an opportunity for businesses to reform. For example, a "yellow card" would involve the imposition of tough new conditions together with a warning of future revocation if there was no improvement.

The Licensing Officer advised that the DCMS had produced the guidance following their concerns that some businesses were not being dealt with as firmly as necessary. The Licensing Officer added that this had not been the case in Chiltern. One licence had been revoked in the District; however this had been restored by the Magistrates Court following significant changes at the premises.

It was noted that the "yellow card / red card system" was only guidance at present. The Licensing Officer suggested that the intention was to encourage responsible authorities to use the Review function under the Licensing Act 2003.

RESOLVED -

That the Department of Culture, Media and Sport guidance on adopting a "yellow card / red card" approach to licensing reviews be noted.

6. **MINOR VARIATIONS TO PREMISES LICENCES AND CLUB PREMISES CERTIFICATES**

Minor Variations

At the end of July new regulations were published under the Licensing Act 2003 permitting Licensing Authorities to accept "Minor Variations". These new provisions established procedures for Minor Variations of Premises Licences and Club Premises Certificates in cases where the Licensing Authority considered that none of the Minor Variations proposed had an adverse effect on the promotion of the four licensing objectives.

Although there was no formal definition of what constituted a Minor Variation in the Act, the Licensing Officer advised that guidance had been issued by Department of Culture, Media and Sport (DCMS) as summarised in the report.

The Licensing Officer added that applications for the extension to the sale of alcohol between 11.00pm and 7.00am were not classified as Minor Variations. Minor Variations were just that, minor changes. For example, minor changes to the structure or layout of a premises that would not increase the capacity for drinking; affect access / exits; or impact on noise reduction measures.

The purpose of Minor Variation applications was to save time, money and regulatory resources by allowing Minor Variations to be made through a

simplified, less time-consuming, and less costly determination procedure. The report outlined the procedure involved.

The Government recommended that decisions on minor variation applications should be delegated to licensing officers. Councillor Miss Appleby acknowledged that the delegations proposed related to minor changes but expressed concern regarding the number of delegations made to Officers, and suggested that the Committee could be kept better informed.

The Licensing Officer advised that details of the Minor Variations would be recorded on the Licensing Weekly List which could be accessed on the Council website. The importance of the Council not being seen to solicit representations was noted, however it was agreed that all Members should receive the weekly list via email to ensure they were aware of applications within their ward. It was also agreed that if there were no applications to report, the List should still be sent out stating that there had been no applications.

It was noted that Members would not be able to 'call-in' applications as under the Planning system. The Licensing Act 2003 was specific on the reasons Hearings were triggered and did not provide for call-ins. The Licensing Officer reminded Members that Minor Variations would only relate to minor changes.

After consideration of any relevant representations, if it was considered that the Minor Variation proposed did not have an adverse impact on the licensing objectives, it had to be granted. If it did have an adverse impact, the Minor Variation had to be refused. There was no right of appeal, but the applicant could then submit a full variation application.

It was not known what guidance the British Institute of Innkeeping – the professional body for the licensed retail sector – would be issuing to their members regarding Minor Variations.

Alternative Licence Condition for the supervision of alcohol sales in Community Premises

Normally a Premises Licence which authorised the sale of alcohol contained the Mandatory Conditions relating to alcohol which prohibited the supply of alcohol at any time when there was no Designated Premises Supervisor (DPS) specified on the Premises Licence, or at any time when the DPS did not hold a Personal Licence (or that licence was suspended) and also required that every sale of alcohol was made or authorised by a Personal Licence Holder.

The new Sections allowed the Management Committee of a Community Premises to be collectively responsible for the supervision of alcohol sales – instead of a DPS – by applying for the Alternative Licence Condition to be on the Premises Licence in place of the Mandatory Conditions. The report outlined the procedure involved.

It was noted that if there were objections the application would be determined by the Licensing Sub-Committee (unless the parties agreed that it was unnecessary or the objections were withdrawn).

Decision

The Committee considered whether the determination of applications for minor variations – including whether the variations applied for fell within the definition of “Minor Variations” taking into account DCMS Guidance – should be delegated to the Head of Health and Housing.

The Committee also considered whether the determination of applications – including whether an applicant met the statutory definition of “Management Committee” and whether a premises fell within the statutory definition of “Community Premises” taking into account DCMS Guidance – be delegated to the Head of Health and Housing. It was noted that references in the report to the “Director of Services” should read the “Head of Health and Housing”.

Following a vote, the Licensing and Regulation Committee agreed the proposed delegations contained in Paragraph 21 of the report.

RESOLVED -

That the scheme of delegation for the determination of applications consistent with the new minor variation provisions – as detailed in Paragraph 21 of the Officer’s Report – be agreed.

7. PROVISION OF LICENSING COURSES

The report before the Committee detailed an opportunity for Chiltern District Council to become an approved centre to deliver British Institute of Innkeeping (BII) accredited Level 1 and 2 courses.

The BII had indicated initial acceptance of the proposal subject to there being a policy in place that would remove any conflicts of interest with the authority's enforcement role. The report proposed a policy for adoption.

It was noted that providing the training would create an additional income stream for the Council, as well as building links with, and providing additional services, for local businesses. It was also noted that the content of the courses were prescribed by the BII, and would be available to both those in, and outside the district.

Councillor Jones expressed disappointment that there was no indication of costs or revenue streams in the report. The Licensing Officer advised that the purpose of the report was not to provide a business case but rather to overcome the issue of a potential conflict of interest. For example, if a person was found to require a qualification as part of an enforcement intervention, a conflict of interest could exist since Chiltern required the training to be undertaken, but also provided that training. As such, in these situations the

policy would require the qualification to be undertaken with a different provider.

The courses would be priced so that there would be no burden on the Council Tax payer. The Committee emphasised the need for the provision of Licensing courses to be self-financing.

Following a vote, the Committee endorsed the recommendations in the report.

RESOLVED -

- 1. That the proposal to provide British Institute of Innkeeping (BIAB) approved qualifications be noted.**
- 2. That the policy relating to removing any conflict of interest with the authority's enforcing role be approved.**

8. GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES

The Gambling Act 2005 required that local authorities prepared and published a Statement of Principles for determining applications and that the policy was reviewed every three years. The document had been updated in light of minor changes to legislation and Government guidance, and a consultation exercise was being undertaken with interested parties. The Committee were invited to comment on the draft Statement.

The draft Statement would also be presented to the Community and Environment Overview Committee on 24 November, with the results of the consultation presented to the Cabinet on 15 December. As an Executive function, the Statement of Principles would then be presented to Full Council for approval.

Regarding the determination of how close a person had to live to a premises to be affected by the authorised activities, Councillor Jones suggested that who could comment on an application was important, suggesting that those not living in the immediate area could also be impacted. The Licensing Officer confirmed that this issue would be included in the report going the Community and Environment Overview Committee.

RESOLVED -

That the comments of the Licensing and Regulation Committee regarding the draft Statement of Principles be noted.

9. REVIEW OF TAXI AND PRIVATE HIRE LICENSING SUB-COMMITTEE

Under the Council's Constitution membership of the Taxi and Private Hire Licensing Sub-Committee provided for seven members, and there was no

restriction on membership i.e. membership was not limited to membership of the Licensing and Regulation Committee.

The Committee received a report explaining that it was not clear historically why the Sub-Committee was larger than the Licensing Sub Committee (which had only three members, plus a Reserve) and why its membership was unrestricted unlike the Licensing Sub-Committee where membership was drawn from the parent committee, and where substitutes were only permitted to secure a quorum.

The report had been considered by the Constitution Review Committee (6 October, Minute 9 refers), who had agreed that the arrangements should be the same as those which applied to the Licensing Sub-Committee.

Councillor Miss Appleby noted the need for members of both the Taxi and Private Hire Licensing Sub Committee, and the Licensing Sub Committee, to undergo training. The Chairman advised that he had already raised this issue with officers and it was intended to hold a training session at the next full Committee meeting on 3 December.

The Licensing and Regulation Committee endorsed the recommendation of the Constitution Review Committee.

RECOMMENDED

That paragraphs 3.2 (Membership, Chairmanship and Quorum) – Section G, Part 3 of the Constitution, relating to the Taxi and Private Hire Licensing Sub Committee be amended and the appointment of substitutes be permitted so that the arrangements match those which currently apply to the Licensing Sub-Committee, such changes to take effect from the Annual Council Meeting in May 2010.

The meeting closed at 7.56pm

CHILTERN DISTRICT COUNCIL LICENSING AND REGULATION COMMITTEE 3rd DECEMBER 2009

Background Papers, if any, are specified at the end of the Report

1 AMENDMENT TO CURRENT TAXI LICENSING PROCEDURES

Contact Officer: Ben Coakley 01494 732060 Stewart Broome, 01494 732140

Matters for Consideration

- 1 As part of the Council's aim to deliver efficient and effective Customer Services a review of the licensing system has identified several areas where efficiencies can be made that will reduce costs, reduce the need for increases in fees and improve the customer service.
- 2 These proposals include the increased use of ITC to receive and process licence applications, and take online payments. Alongside these planned improvements there are opportunities to modernise the systems and reduce the costs further. The following recommendations support the provision of;
 1. on line knowledge tests
 2. a reduction in the number of vehicle testing stations and moving many of the vehicle checks further down the supply chain
 3. the introduction of a rolling year of licences to avoid all licences expiring at the same point in time.

Knowledge Test

- 3 Currently, applicants for Private Hire and Hackney Carriage Driver Licences must take a knowledge test as part of the application process. Applications are not accepted unless accompanied by a test pass certificate. Tests are currently held once a week in the Council Offices, at a set time. A member of staff is required to invigilate for a period of 1 hour, in addition to the preparation and marking of tests (this is currently done by hand). On average we have 6 applicants attending each week. The current officer time spent on knowledge testing is approximately half a day per week.
- 4 Applicants often fail a test and can be subject to repeat tests over a 3 month period without any additional charges being made.
- 5 To reduce the costs to the Council, it is proposed that the knowledge test procedure is automated allowing the electronic delivery of tests in customer services. Whilst providing greater flexibility for drivers, to take tests at different times in the day throughout the week, it will also create an electronic record of those taking tests, and automatically mark the test paper, providing a full audit trail. The system will test an applicant's ability to read English and

so previous proposals regarding a separate English test or qualification can be set aside.

- 6 The requirement for a member of the licensing team to supervise and mark papers would be removed, as supervision would be undertaken by Customer Services staff that can monitor the test at a computer in reception.
- 7 As part of the process applicants will be required to input their national insurance number as a means of proving identity and the system can be set up to make payments for the test on line.
- 8 Currently the Council incorporates the charge for the testing in the annual licence fee, and there are no charges for retesting. A survey of 23 other local authorities illustrated that it is typical for a fee to be charged for second and subsequent tests. The figure ranges from £15 in Three Rivers DC to £73 in East Hertfordshire. The average fee charged for retests being £25.
- 9 The Council has not increased its vehicle licence fees since 2007 and there are no proposals to make any major changes to the fees at this time; the Council is seeking to continually reduce the costs of the service in order to maintain the current level of fees. However, to reduce the number of retakes of the knowledge test, it is proposed that the first knowledge test will continue to incur no charge (included in application fee), but that applicants will have to pay for subsequent knowledge tests, at a fee of £25.
- 10 As part of the transformation process of the service, it is proposed that Officers will support the provision of training courses for drivers to enable drivers to pass their knowledge tests at the first occasion. Any charges made will be based on a full cost recovery basis (training and venue hire).

RECOMMENDATIONS

- **Members agree that the procedure for knowledge tests is updated and improved through the use of an electronic testing system.**
- **Members agree to introduce a charge £25 for the re-sitting of knowledge tests (after the initial test).**
- **Members agree to the provision of training sessions based on full cost recovery for drivers seeking to take a knowledge test.**

Hackney Carriage and Private Hire Vehicle Testing Stations

- 11 Currently garages are free to apply to Chiltern District Council to become a Hackney Carriage and Private Hire Vehicle Testing Station. The current criteria are that they are based on evidence that they are VOSA MOT registered and provide the list of charges they apply.

- 12 There are currently seven garages authorised to complete the compliance testing on our behalf and vehicle owners are charged the agreed rate for the work involved, by the garage.
- 13 However, there are no formalised standards between the licensing authority and the individual garages, except for the compliance checklist. This can therefore result in varying standards between individual testing stations and misinterpretation of our conditions.
- 14 At this time, test certificates are faxed to the Council and the original copy provided to the driver as a paper certificate. This certificate must be presented in person at the Council Offices, is scanned and sent to the licensing team for checking. In addition to this all new vehicles, entering the fleet, are required to submit to a visual vehicle inspection by Council staff to check; tyre depth, tax discs, appearance, taxi meter fitting etc.
- 15 The intention is to require testing stations to assess all documentation, ensuring that the vehicle is taxed and insured, holds a valid MOT, etc and that the appropriate signage is displayed at the point that the vehicle is checked for compliance by the garage. The garage will then scan the documentation and complete an electronic vehicle compliance record to be sent to the Council.
- 16 These steps will reduce the amount of inspection activity required to be undertaken by Council Officers. This transformation will facilitate a change to the greater use of electronic information and enable both a faster response to license applications and reduce the service delivery costs, reducing the need for increases to the vehicle licensing fees.
- 17 With a reduced number of garages involved in the process, officers will be able to work to raise standards and ensure greater compliance with conditions. By ensuring competitive tender based on price and quality there will be less potential for fraudulent checks to occur.
- 18 Following competitive tender the nominated garages will be subject to formal contract procedures agreed with the Council, failure to adhere to the conditions would invalidate the contract. The tender will be designed to ensure it is at no cost to the Council and that all charges are made to the vehicle owners.

RECOMMENDATIONS

Members agree to the tender process to nominate Hackney Carriage and Private Hire Vehicle Testing Stations.

Rolling Year

- 19 All Hackney Carriage and Private Hire licences are annual licenses issued with effect from 1st October each year. Annually over 700 licenses are issued

between July and October, this is in addition to vehicle owners regularly changing and transferring licences.

- 20 The scale of charges for all licences is detailed in *Appendix 1*, however applicants applying during the year for a licence are charged on a pro-rata basis for the remaining period of the calendar year. This has led to applicants deciding not to renew at the renewal period and then applying two or more months later. In this way applicants save a late application fee of £25 and £25 for each month they delay in applying.
- 21 The application fee charged is calculated on the basis of the administration costs of the licence. The amount of work remains the same for an application irrespective of the time of the year they apply. Officers would therefore request that the pro-rata fee previously agreed by Members is removed and that the full fee is charged at the time an application is made.
- 22 With all 700 licences renewed each year, between July and October, additional and unnecessary pressures are placed on the Licensing, Customer Services, and the Accounts Departments. In reviewing operational procedures Officers are of the opinion that by staggering the issuing of licences the process can be managed, assisting in the reduction of costs. This would reduce the need for temporary staff to be employed at the renewal period, spread the demand across the year and reduce the need for any increases to the fees charged on application.
- 23 By changing to a rolling year benefits would also accrue to the trade as well as the Council. With the current process, an applicant with a new vehicle applying in July would be required to attend the offices twice in a short period of time, once to apply for the initial licence and a second time to complete the renewal of that issued licence. Under the proposed process this would not happen.
- 24 Changing the operational procedures would also support the Council's desire to deliver on-line applications and payments.
- 25 During the last renewal period, the trade was asked via a questionnaire whether they would be in favour of switching to a rolling year for renewing their licences. The feedback was very much in favour of this proposal, both from a financial and convenience perspective.
- 26 It is therefore proposed that we move to a rolling year for all our licences on a staged basis, due to the numbers involved. The first stage being all vehicle licences, followed by driver licences and finally operator licences. This proposal also has the support of both Customer Services and the Accounts Department.

RECOMMENDATION

- **Members agree to proposal to migrate to a rolling year for all Hackney Carriage and Private Hire licences, in a staged manner.**

Background Papers: None

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Hackney Carriage and Private Hire Fees

Current Charges

Vehicle Licences

One-year Hackney Carriage Licence*£300.00
(Plus returnable plate deposit of £20.00)

Hackney Carriage using LPG or CNG Fuel*£135.00

One-year Private Hire Vehicle Licence (Standard Plate)*£200.00
(Plus returnable plate deposit of £20.00)

Private Hire Vehicle using LPG or CNG Fuel*£135.00

(Both excluding fee for test of mechanical fitness)

Driver's Licences

One-year Hackney Carriage Driver's Licence**£95.00
(Plus returnable badge deposit of £10.00)

One-year Private Hire Vehicle Driver's Licence**£95.00
(Plus returnable badge deposit of £10.00)

Operator's Licence

One-year Private Hire Vehicle Operator's Licence£100.00

* Includes Standard Plate and Internal Licence Cost

** Includes Drivers Badges

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**CHILTERN DISTRICT COUNCIL
LICENSING AND REGULATION COMMITTEE – 3rd DECEMBER 2009**

Background Papers, if any, are specified at the end of the Report

2 GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES

Contact Officer: Ian Snudden 01494 732057

RECOMMENDATIONS

That Members consider the amended Statement of principles and approval of the final statement and recommend it for approval by Full Council.

- 1 The draft Statement of Principles was presented to the Licensing and Regulation Committee on 22nd October 2009 and to Community and Environment Overview Committee on 25th November 2009 for their consideration. The Cabinet have also been consulted on the Statement and a verbal report will be provided on their deliberations.
- 2 The draft Statement of Principles is based on a template produced by the Local Authorities Coordinators of Regulatory Services which has been produced in consultation with national trade bodies and representatives to aid local authorities develop consistent 'high level' policy documents. However there is a requirement within the Gambling Act that requires licensing authorities to consult on the draft Statement of Principles to take into account any local issues. A review of the Statement of Principles has been undertaken in light of relatively small changes to the legislation and Government guidance.
- 3 There has been little response to the consultation from external bodies and support for the Statement from the Town and Parish Councils. The main concern from Members was the need to have a flexible approach to considering whether a person is an interested party, wishing to extend the definition to include the impact on those who may not be in the immediate locality of the application. The Gambling Commission guidance does allow for some flexibility on this issue and states that 'sufficiently close to the premises' can have a different meaning depending on the nature of the interested party. Ward Members of the area likely to be affected can also make representations as can Town or Parish Councils. In determining applications and representations, each case will be considered on its own merits so long as the representation is relevant and not frivolous or vexatious. The amended Statement of Principles is presented in **Appendix 2**.
- 4 On approval by Full Council, the Policy will be implemented and subsequently reviewed on a three yearly basis.

Background Papers: None

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CHILTERN District Council



CHILTERN
District Council

Health and Housing Division

GAMBLING ACT 2005

**STATEMENT OF
PRINCIPLES
2009**

FOREWORD

The Gambling Act 2005 ('the Act') requires Chiltern District Council ('the Council') to carry out its functions under the new legislation with a view to promoting three principal licensing objectives.

The Act requires the Council to prepare a Statement of Principle that set out its position in relation to its duties under the Act and to guide its work during the implementation period.

In developing a Statement of Principle that will deliver the licensing objectives locally, consultation has taken place in accordance with the Revised Code of Practice (which came into effect in April 2004) and the Cabinet Office Guidance on consultations by the public sector.

The Statement is published on the Council's website following formal adoption by the Council and takes effect one month from the date of publication.

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1. INTRODUCTION

- 1.1 The Gambling Act 2005, introduces a new regime for regulating gambling and betting throughout the United Kingdom from 1 September 2007. It imposes a statutory duty upon licensing authorities to publish a Statement of the Principles which they propose to apply when exercising their functions under the Act.
- 1.2 Chiltern District Council has a duty under the Act to licence premises where gambling is to take place, and to licence certain other activities. 'Gambling' is defined in the Act as either gaming, betting or taking part in a lottery. In particular, the licensing authority will be responsible for:
- a) the licensing of premises where gambling activities are to take place by issuing *Premises Licences*;
 - b) Issue *Provisional Statements*;
 - c) regulating *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits;
 - d) issuing *Club Machine Permits* to *Commercial Clubs*;
 - e) granting permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*;
 - f) receiving notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - g) issuing *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;
 - h) registering *small society lotteries* below prescribed thresholds;
 - i) issuing *Prize Gaming Permits*;
 - j) receiving and endorsing *Temporary Use Notices*;
 - k) receiving *Occasional Use Notices*;
 - l) providing information to the Gambling Commission regarding details of licences issued; and
 - m) maintaining registers of the permits and licences that are issued under these functions.
- 1.3 The Gambling Commission, will be responsible for the regulation of gambling and betting except for National Lottery and spread betting through the licensing the operators and individuals involved in providing gambling and betting facilities.
- 1.4 This policy provides information and guidance to license applicants, responsible authorities and interested parties on the general approach that Chiltern DC will take in terms of licensing.

- 1.5 In accordance with the statutory procedures, a review of this policy will take place every 3 years, to take into account information collated over a period of time, coupled with the outcomes of initiatives relating to gambling at central and local government level.
- 1.6 In preparing this statement Chiltern DC has consulted with and considered the views of a wide range of people and organisations including:
- a) Chief Officer for Thames Valley Police;
 - b) One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
 - c) 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 Gambling Act 2005.

A full list of consultees is attached in Appendix A

- 1.7 The Licensing Authority recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of all the responsible authorities, local businesses and residents.
- 1.8 Chiltern DC has also had regard to the licensing objectives of the Gambling Act 2005, the Guidance issued by the Gambling Commission, and any responses received from those consulted on the statement.
- 1.9 For those who are not familiar with the area, a profile of the district is attached in Appendix B

2. STATEMENT OF PRINCIPLES

2.1 Nothing in this Statement of Principles will:

- a) Undermine the right of any person to apply under the Act for a variety of permissions and have the application considered on its own merits; or
- b) over ride the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to grant the application with only mandatory and default conditions, so long as this can be achieved in a manner which is:

- a) in accordance with any relevant code of practice issued by the Gambling Commission;

- b) in accordance with any relevant guidance issued by the Gambling Commission;
 - c) reasonably consistent with the licensing objectives; and
 - d) in accordance with the licensing authority's Statement of Principle.
- 2.2 Licensing authorities are however, able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 2.3 It is appreciated that on the whole, "moral" objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.
- 2.4 In carrying out its licensing functions, the licensing authority will have regard to any guidance and codes of practice issued by the Gambling Commission from time to time.
- 2.5 The licensing authority will not seek to use the Act to resolve matters more readily dealt with under other legislation.
- 2.6 The overriding principle is that all applications and the circumstances prevailing at each premises will be considered on its own individual merits. When applying these principles, the licensing authority will consider, in the light of relevant representations, whether exceptions should be made in any particular case.

3. OBJECTIVES

- 3.1 The Gambling Act 2005 requires that licensing authorities must have regard to the following licensing objectives as set out in the Act:
- a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
 - b) Ensuring that gambling is conducted in a fair and open way;
 - c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 3.2 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime**
- 3.2.1 The Gambling Commission will take a leading role in preventing gambling from being a source of crime. Anyone applying to the Council for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. Therefore the licensing authority will not be concerned with the suitability of an applicant. However, where concerns about an applicant's suitability do arise, the

licensing authority will bring those concerns to the attention of the Commission.

3.2.2 In considering applications, the licensing authority will pay attention to the proposed location of gambling premises in terms of this licensing objective and in appropriate cases, will consider whether it is necessary to prevent particular premises becoming a source of crime or disorder.

3.2.3 Issues of disorder should only be dealt with under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance and it can be shown that gambling is the source of that disorder. Factors that will be considered will be whether police assistance was required and how threatening the behaviour was to those who could see it.

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

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

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

3.6.1 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) and the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling". Therefore, the licensing authority will consider 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.

3.6.2 When determining an application to grant a premises licence or review a premises licence, regard will be taken to the proximity of the premises to schools, vulnerable adult centres or residential areas where there may be a high concentration of families with children. The proximity of premises taken into consideration will vary depending on the size and scope of the gambling premises concerned. Each case will, however, be decided on its merits. Therefore, if an applicant can effectively demonstrate how they might overcome concerns relating to the licensing objectives, this will also be taken into account.

3.6.3 Although there is no clear definition, it will assume that for regulatory

purposes “vulnerable persons” includes people:

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

4. RESPONSIBLE AUTHORITIES

4.1 Responsible authorities are public bodies that must be notified of applications and who are entitled to make representations to the licensing authority if they are relevant to the licensing objectives.

4.2 These are:

- a) The Gambling Commission;
- b) Thames Valley Police;
- c) Buckingham Fire and Rescue Service;
- d) the local planning authority;
- e) An authority which has functions in relation to pollution to the environment or harm to human health;
- f) Anybody, designated in writing by the Licensing Authority as competent to advise about the protection of children from harm;
- g) HM Revenue and Customs;
- h) A licensing authority in whose area the premises is wholly or partly situated.

4.3 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:

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

4.4 Therefore, in accordance with the suggestion in the Gambling Commission’s Guidance to Licensing Authorities, this authority designates the Area Child Protection **Committee** at Buckinghamshire County Council for this purpose.

4.5 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council’s website at: www.chiltern.gov.uk

5. INTERESTED PARTIES

5.1 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 2005 as a person who:

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) has business interests that might be affected by the authorised activities or;
- c) represents persons as above.

5.2 In determining whether someone lives sufficiently close to a particular premises as to likely to be affected by the authorised activities, or has business interests likely to be affected, the Council may take account of:

- a) the size of the premises;
- b) the nature of the premises;
- c) the nature of the authorised activities and operating hours being proposed;
- d) the distance of the premises from the person making the representation;
- e) the characteristics of the complainant;
- f) the potential impact of the premises, including on those not in the immediate locality.

5.3 In determining whether a person has a business interest which could be affected the Licensing Authority will consider, among other things:

- a) the size of the premises;
- b) the catchment area of the premises; and
- c) whether the person making the representation has business interests in the catchment area that might be affected.

5.4 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:

- a) Each case will be decided upon its merits. The licensing authority will not apply a rigid rule to its decision making and it will consider the Gambling Commission's Guidance to Licensing Authorities.
- b) Interested parties could include trade associations and trade unions, and residents' and tenants' associations, providing that they can show they represent someone who can be classed as an interested person in their own right.

- c) Interested parties can also be persons who are democratically elected as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. An elected member of the Council must comply with the Council's code of conduct and if they have a specific interest or there is an issue of bias, they must declare this and seek advice on whether they are able to appear before a licensing panel.
- d) Other than these however, the licensing authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

6. REPRESENTATIONS

- 6.1 Any responsible authority or interested party (or person representing them) can make representations about a licence application to the licensing authority.
- 6.2 Representations must be relevant to the individual application and to one or more of the licensing objectives. Representations must also be made within prescribed timescales and be in writing. Anonymous representations cannot be taken into consideration. In relation to whether to grant a Premises Licence, the authority cannot consider representations which relate to the need or unmet demand for gambling premises, nor concerns which relate to general nuisance, which should be addressed by other legislation.
- 6.3 All representations will be considered on their own merits but the authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case and full reasons will be given where representations are rejected.
- 6.4 Where valid representations are made, the details of the person making the representation will be made available to the applicant for the purposes of mediation. Should the representation result in a formal hearing before the Licensing Sub-Committee, the details of the representation will form part of a public document. Anyone making representations will be

informed that their details will be disclosed.

7. PREMISES LICENCES

7.0.1 An application for a premises licence can only be made by a person or company who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, OR has made an application for an operating licence which has not yet been determined.

7.0.2 Applications for the grant, transfer or variation of a premises licence must be accompanied by an assessment that demonstrates how the applicant will promote all of the licensing objectives in the form of a written Operating Schedule. The applicant may ask the authority for advice as to the scope of information to be provided.

7.0.3 The level of detail to be provided will be advised by the authority and will be proportional to the scale and nature of the application made.

7.1 Location

7.1.1 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can. The authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

7.2 Duplication with other regulatory regimes

7.2.1 This licensing authority will seek 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 though, 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.

7.3 Conditions

7.3.1 Any conditions attached to licences will be proportionate and will be:

- a) relevant to the need to make the proposed building suitable as a gambling facility;
- b) directly related to the premises and the type of licence applied for;

- c) fairly and reasonably related to the scale and type of premises; and
 - d) reasonable in all other respects.
- 7.3.2 Decisions upon individual conditions will be made on a case by case basis. Although there will be a number of control measures this licensing authority will consider utilising should there be a perceived need, such as the use of door supervisor's, supervision of adult gaming machines, 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 way in which the licensing objectives can be met effectively.
- 7.3.3 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:
- a) any condition on the premises licence which makes it impossible to comply with an operating licence condition;
 - b) conditions relating to gaming machine categories, numbers, or method of operation;
 - c) conditions which provide that membership of a club or body be required (the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
 - d) conditions in relation to stakes, fees, winning or prizes.

7.4 Door Supervisors

- 7.4.1 Consideration should be given whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. It is noted though that in-house staff at casinos or bingo premises need not be licensed by the Security Industry Authority (SIA) although this would be preferable in helping meet the licensing objectives. Where operators and the licensing authority consider that supervision of entrances and machines is appropriate in particular cases, it will be decided whether these need to be SIA licensed on a case by case basis.

7.5 Multiple Premises Licenses

- 7.5.1 Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. Whether different parts of a building can properly be

regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.

- 7.5.2 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, entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- 7.5.3 The licensing authority will consider, amongst others, the factors outlined in the Gambling Commission guidance when deciding upon the extent of separation of licensable premises. In particular, due regard will be given to the specific requirements relating to entrances and exits to particular types of licensable premises.
- 7.5.4 It should also be noted 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. If the construction is not yet complete, or if they need alteration, or if the applicant does not yet have the right to occupy them, then an application for a provisional statement should be made instead.
- 7.5.5 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, applications will be determined on their merits, applying a two stage consideration process:
- a) Whether the premises ought to be permitted to be used for gambling;
 - b) Whether appropriate conditions can be applied to the situation whereby the premises are not yet in the condition in which they ought to be before gambling can take place.
- 7.5.6 Applicants should note that the licensing authority is entitled to decide whether it is appropriate to grant a licence subject to conditions, but is not obliged to grant such a licence.

7.6 Adult Gaming Centres

- 7.6.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.

This licensing authority may consider measures to meet the licensing objectives, for example:

- a) Proof of Age schemes;
- b) CCTV;
- c) Supervision of entrances / machine areas;
- d) Physical separation of areas;
- e) Location of entry;
- f) Notices / signage;
- g) Specific opening hours;
- h) Self-exclusion schemes on recommendation of police or families;
- i) Provision of information leaflets / helpline numbers for organisations such as GamCare.

7.7 (Licensed) Family Entertainment Centres

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

- 7.7.2 This licensing authority may consider measures to meet the licensing objectives such as:

- a) CCTV;
- b) Supervision of entrances / machine areas;
- c) Physical separation of areas;
- d) Location of entry;
- e) Notices / signage;
- f) Specific opening hours;
- g) Self-exclusion schemes on recommendation of police or families;
- h) Provision of information leaflets / helpline numbers for organisations such as GamCare. Also information on other diversionary leisure activities;
- i) Measures / training for staff on how to deal with suspected truant school children on the premises.

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

7.7.3 This licensing authority will refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

7.8 Casinos

7.8.1 Currently there are no casinos operating within the District. Section 166 of the Gambling Act 2005, enables a licensing authority to resolve not to issue casino licences. A resolution was passed by the Executive on 30th January 2007 and confirmed by Full Council on 27th February 2007 not to accept applications for casinos within Chiltern District.

7.9 Bingo premises

7.9.1 The Gambling Commission's Guidance states:

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that:

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

All current and future guidance provided by the Gambling Commission will also be taken into consideration when considering such applications.

7.10 Betting premises

7.10.1 This licensing authority 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, when considering the number/nature/circumstances of betting machines an operator wants to offer.

7.10.2 The authority recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact, who should be a senior individual, and whom the authority will contact first should any compliance queries or issues arise.

7.11 Tracks

7.11.1 Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The 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.

7.11.2 Applicants will be expected 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.

7.11.3 The licensing authority may consider measures to meet the licensing objectives such as:

- a) Plans of designated areas;
- b) Proof of age schemes;
- c) CCTV;
- d) Supervision of entrances / machine areas;
- e) Physical separation of areas;
- f) Location of entry;
- g) Notices / signage;
- h) Specific opening hours;
- i) Self-exclusion schemes on recommendation of police or families;
- j) Provision of information leaflets / helpline numbers for organisations such as GamCare. Also information on other diversionary leisure activities.

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

example measures.

- 7.11.4 *Gaming machines* - Applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.
- 7.11.5 *Betting machines* – Account will be taken of the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.
- 7.11.6 *Condition on rules being displayed* - The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."
- 7.11.7 *Applications and plans* –Although the precise location of where betting facilities are provided is not required to be shown on track plans, applicants should provide sufficient information so that the licensing authority can satisfy itself that the plan indicates the main areas where betting might take place. In particular, betting rings must be indicated on the plan
- 7.11.8 In circumstances where a perimeter is not defined, for example in point-to-point racing where an entry fee is levied, temporary structures restricting access to the premises can be used.
- 7.11.9 This licensing authority also notes that in the Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

7.12 Travelling Fairs

7.12.1 It will fall to this licensing authority to decide whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

7.12.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

7.12.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, 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.

7.13 Provisional Statements

7.13.1 This licensing authority notes the Guidance for the Gambling Commission which states that "it is a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence" and that "requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".

7.13.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or
- (b) which is in the authority's opinion reflect a change in the operator's circumstances.

7.13.3 This authority has noted the Gambling Commission's Guidance that "a licensing authority should not take into account irrelevant matters.... One example of which would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal."

8. PERMITS / TEMPORARY & OCCASIONAL USE NOTICE

8.1 Unlicensed Family Entertainment Centre (FEC) gaming machine permits

8.1.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.

8.1.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission.

8.1.3 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. Applicants will be expected to demonstrate:

- a) full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- b) that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; as demonstrated by producing an Enhanced Criminal Record Bureau check; and
- c) that staff are trained to have a full understanding of the maximum stakes and prizes.

8.1.4 A licensing authority cannot attach conditions to this type of permit although it will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

8.2 (Alcohol) Licensed premises gaming machine permits

8.2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D and as such, the premises merely need to notify the licensing authority. The licensing authority can remove the automatic

authorisation in respect of any particular premises if:

- a) provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- b) 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);
- c) the premises are mainly used for gaming; or
- d) an offence under the Gambling Act has been committed on the premises.

8.2.2 If an applicant wishes to have more than 2 machines, then they need to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*” This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

8.2.3 Some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Such an application would be considered and dealt with as an Adult Gaming Centre premises licence.

8.2.4 In such circumstances, the licensing authority may 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.

8.2.5 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.

8.3 Prize Gaming Permits

8.3.1 Applicants for these permits should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

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

8.3.2 In determining an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

8.3.3 Permit holders must comply with the following conditions specified in the Act:

- a) the limits on participation fees, as set out in regulations, must be complied with;
- b) 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;
- c) 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
- d) participation in the gaming must not entitle the player to take part in any other gambling.

8.4 Club Gaming and Club Machines Permits

8.4.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

8.4.2 Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not

established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

8.4.3 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 Commission or the police.

8.4.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003. However, there is no opportunity for objections to be made by the Commission or the police, and the grounds on which an application 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."

8.4.5 No child may use a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

8.5 Temporary Use Notices

8.5.1 These allow the use of premises for gambling where there is no premises licence but a person or company holding an operating licence wishes to use the premises temporarily for providing facilities for gambling. Currently this is restricted to the provision of facilities for equal chance gaming where the gaming is intended to produce a single winner, in essence, poker tournaments. 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. There are also a number of other statutory limits in relation to these notices. Notice must be given to the authority and other bodies, who may object to the grant of the notice having had regard to the licensing objectives. The

definition of "a set of premises" will be a question of fact in the particular circumstances of each notice. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the authority will need to consider, amongst other things, the ownership/occupation and control of the premises. The authority will take a strict view where it appears that the effect of notices appears to permit regular gambling at a particular place.

8.6 Occasional Use Notices:

- 8.6.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

9. EXCHANGE OF INFORMATION

- 9.1 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to 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 2005.
- 9.2 Details of applications and representations which are referred to a Licensing Sub-Committee for determination will be published in reports that are made publicly available in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of personal safety where the licensing authority is asked to do so.
- 9.3 Communication with other agencies will be by the most effective means, whether this be electronic or paper.

10. ENFORCEMENT

- 10.1 The licensing authority has an established enforcement policy, based upon the principles of consistency, targeting, transparency, accountability and proportionality set out in the Regulatory Compliance Code and which also takes into account the Attorney-General's Guidelines to Crown Prosecutors for bringing prosecutions.
- 10.2 The main enforcement and compliance role of the licensing authority is to ensure compliance with the premises licenses and other permissions

which it authorises. This will involve a targeted approach at those high risk premises that require greater attention, whilst operating a lighter touch in respect of low-risk premises

- 10.3 This Statement proposes that a graduated response is taken where offences against gambling legislation are found or where licence conditions have been contravened. An isolated administrative offence, may be dealt with purely by way of written warning whilst more serious offences which have either been committed over a period of time or which have a significant impact upon the licensing objectives, may result in a referral for prosecution.
- 10.4 The licensing authority will seek to work actively with the Police, the Gambling Commission and other responsible authorities in enforcing gambling legislation.
- 10.5 The licensing authority will continue to be a partner in the Buckinghamshire Licensing Liaison Group, and will establish a local forum for liaison between statutory agencies responsible for licensed premises.

11. COMPLAINTS AGAINST LICENCED PREMISES

- 11.1 The licensing authority will investigate relevant complaints against licensed premises of any description. In the first instance, complainants should raise the complaint directly with the licence holder or business concerned. All complaints will be investigated and enforcement action taken in accordance with the licensing authority's Enforcement Policy and Complaints Procedure. It is recognised that another agency may be the more appropriate body to investigate the complaint. In such circumstances, the licensing authority will maintain liaison with that agency.
- 11.2 Where necessary, the licensing authority will initially arrange a meeting with the licence holder to address, clarify and try to resolve the issues of concern.
- 11.3 This process will not override the right of any interested party or responsible authority to request a review of a licence by the Licensing Committee at any stage following the grant of a premises licence or if the particular concerns are not addressed in a way that fulfils the licensing objectives.

12. REVIEWS

- 12.1 The authority will carry out a review of a Premises Licence where it has received a formal, valid application for review in accordance with the Act

from either an interested party or a responsible authority and which relates to one or more of the licensing objectives. Due consideration will be given to all relevant representations. Decisions as to whether requests for review are irrelevant, frivolous or vexatious will be made by Council Officers in consultation with the Chair of the Licensing and Regulation Committee, who will also decide on whether such requests should be referred to the Licensing Committee or Sub-Committee. Where an application for review is rejected, the person making that application will be given written reasons for the rejection. There is no right of appeal against a determination that such an application is not admissible.

- 12.2 A premises licence may also be reviewed by the Licensing Authority of its own volition.
- 12.3 In determining what action, if any, should be taken following a review, the licensing authority will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

13. APPEALS

- 13.1 Any party aggrieved by a decision of the Licensing Sub Committee and with standing to appeal (as specified within the Act) may appeal against the decision to the local Magistrates Court. An appeal has to be started by the giving of a notice of appeal by the appellant to the justices' chief executive for the magistrates' court within a period of 21 days from the day on which the appellant was notified by the licensing authority of the decision appealed against. This will be either Wycombe and Beaconsfield or Central Buckinghamshire Magistrates' Court (Aylesbury) depending upon the location of the premises
- 13.2 The licensing authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant against the representations of a responsible authority or an interested party, the holder of the premises licence or club premises certificate will also be entitled to act as a respondent.
- 13.3 On determining an appeal, the court may:
- a) dismiss the appeal;
 - b) substitute for the decision appealed against any other decision which could have been made by the licensing authority; or
 - c) remit the case to the licensing authority to dispose of it in accordance with the direction of the court.
- 13.4 The court may make such order as to costs as it thinks fit, but will be

required to bear in mind guidance and legislation about the awarding of costs against a public body.

14. DELEGATION AND DECISION MAKING

- 14.1 One of the major principles underlying the Gambling Act 2005 is that the licensing functions contained within the Act should be delegated to an appropriate level so as to ensure speedy, efficient and cost effective service delivery.
- 14.2 The Authority is committed to the principle of delegating its powers to ensure that these objectives are met and has arranged for its licensing functions to be discharged in accordance with the Guidance issued by the Secretary of State, the Council's Constitution and procedures laid down for good governance.

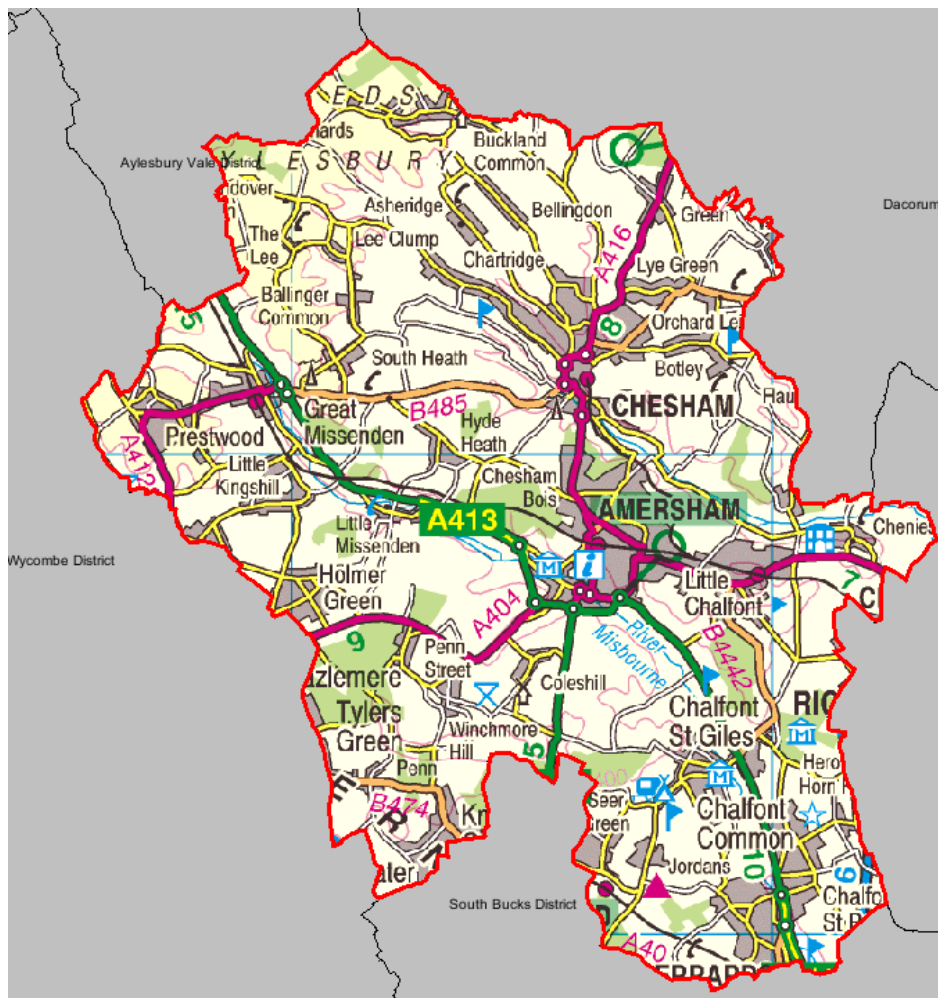
APPENDIX A LIST OF CONSULTEES

The Chief Officer of Police for the Council's area
Bodies representing the interests of persons carrying on gambling businesses within Chiltern District
Bodies representing the interests of persons who are likely to be affected by the exercise of the authority's function under this Act
The local Planning Authority
The local Health and Safety Authority
The Authority responsible for Control of Pollution
Bucks Fire and Rescue
Area Child Protection Committee
Local Primary Care Trusts
Bodies dealing with mental health issues
Citizens Advice Bureau
GamCare
Gamblers Anonymous
Debt Recovery Agencies
Bodies representing businesses and residents in the area
Parish Councils within the District
Other Councils, including Wycombe DC, South Bucks DC, Aylesbury Vale DC, Milton Keynes Council, Dacorum Borough Council, Three Rivers District Council and Buckinghamshire County Council
Wycombe and Beaconsfield Magistrates Court
Central Buckinghamshire Magistrates' Court (Aylesbury)

APPENDIX B

Area profile

The Chiltern District is located in the centre of the Chiltern Hills, approximately 25 miles North West of London. The District covers an area of 19,635 hectares and has a population of approximately 93,500. It is predominantly a rural area with towns and villages set in countryside which is part of the greenbelt around London. A considerable part of the countryside is also exceptionally high quality landscape of national reputation and forms part of the Chilterns Area of Outstanding Natural Beauty. Population projections show a probable decrease in the population of the Chiltern District of over 10,000 from 1996 to 2011. In particular, the 0-15 and 30-44 year age groups are expected to see the greatest decreases, with falls of 29% and 32% respectively. By 2011, over half the population of Chiltern is expected to be aged 45 years or above.¹²



¹² Buckinghamshire Population, Household and Dwelling Projections 1996 - 2011 (July 1998 update)

APPENDIX C

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB-COMMITTEE	OFFICERS
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting - when appropriate			X (in consultation with Chairman of Committee)
Application for premises licences and Application for a variation to a licence and Application for a provisional statement and Application for club gaming /club machine permits		Where representations have been received and not withdrawn. Where conditions are proposed to be attached or default conditions excluded under s.169(1) of the Act and the parties have not agreed to dispense with the requirement for a hearing	Where no representations received/ representations have been withdrawn Where conditions are proposed to be attached or default conditions excluded under s.169(1) of the Act and all parties have agreed to dispense with a hearing Determination as to whether representation made under s161 is vexatious, frivolous or irrelevant will not influence the authority's determination of the application Decision to make a representation as a responsible body in

			appropriate cases
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Review of a premises licence		X	
Cancellation of club gaming/ club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

APPENDIX D

TABLES OF PERMITTED ACTIVITIES / LOCATIONS

Premises Type	Machine Category						
	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to 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, within the total limit of 80 (subject to table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D or C or D machines instead					
Betting premises and tracks occupied by Pool Betting			Maximum of 4 machines categories B2 to D				
Bingo Premises				Maximum of 4 machines in category B3 or B4	No limit C or D machines		
Adult gaming centre				Maximum of 4 machines in category B3 or B4	No limit C or D machines		

Family entertainment centre (with premises licence)						No limit on Category C or D machines	
Family entertainment centre (with permit)							No limit on Category D machines
Clubs or miners' welfare institutes with permits					Maximum of 3 machines in categories B4 to D		
Qualifying alcohol licensed premises						1 or 2 machines of Category C or D automatic upon notification	
Qualifying alcohol licensed premises with gaming machine permit						Number as specified on permit	
Travelling fair							No limit on Category D machines
	A	B1	B2	B3	B4	C	D

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£2	£4,000
B2	£100	£500
B3	£1	£500
B4	£1	£250
C	50p	£35
D	10p or 30p when non-monetary prize	£5 cash or £8 non-monetary prize