





## **Declarations of Interest**

Any Member attending the meeting is reminded of the requirement to declare if he/she has a personal interest in any item of business, as defined in the Code of Conduct. If that interest is a prejudicial interest as defined in the Code the Member should also withdraw from the meeting.

### **SUPPLEMENTARY AGENDA**

	(Pages)
<b>5. Business Rates Pooling</b>	
To consider report of the Director of Resources.	<b>(1 - 14)</b>
<b>10. Healthy Communities</b>	
To note the minutes of the meeting of the PAG held on 17 September 2015 and consider the Portfolio Holder's recommendations (SEE MAIN AGENDA)	<b>(15 - 20)</b>
<b>15. Neighbourhood Planning - Revision to the Scheme of Delegation</b>	
To consider report of Head of Legal and Democratic Services.	<b>(21 - 28)</b>
<b>15a. Gambling Act 2005 Licensing Statement of Principles - 2015 Revision</b>	
To consider report of the Director of Services.	<b>(29 - 30)</b>
<i>Appendix 1</i>	<b>(31 - 34)</b>
<i>Appendix 2</i>	<b>(35 - 76)</b>

The next meeting is due to take place on Tuesday, 24 November 2015

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<b>SUBJECT:</b>	<b>BUSINESS RATES POOLING</b>
<b>REPORT OF:</b>	Director of Resources
<b>RESPONSIBLE OFFICER</b>	Director of Resources
<b>REPORT AUTHOR</b>	Jim Burness email: jim.burness@southbucks.gov.uk
<b>WARD/S AFFECTED</b>	All

## 1. Purpose of Report

The report seeks agreement to proceed to be part of an expression of interest for business rate pooling for 2016/17, if the Government determines pooling is to continue.

### RECOMMENDATION

1. To agree to be part of an expression of interest for forming a business rate pool for 2016/17, if the pooling arrangements continue.
2. To indicate which pooling options from Table 1 would be acceptable to the Council, and if any are unacceptable.
3. To delegate to the Director of Resources, in consultation with the Leader and the Resources Portfolio Holder, authority to make the final decision to be part of any pool, and any subsequent decision to confirm intention to pool and the signing of an Inter Authority Agreement.

## 2. Executive Summary

The report explains the background and mechanics of business rate pooling. It sets out the issues that need to be considered before finally committing to a pooling arrangement. The report illustrates the various pooling combinations and their financial effects.

## 3. Reasons for Recommendations

The information available on the likely level of business rates collectable in 2016/17 across Buckinghamshire indicates there are benefits from pooling. There are various pooling combination options which have differing levels of financial benefits.

**4. Business Rate Pooling**

- 4.1 The Business Rates Retention scheme came into force from April 2013 and changed the way that income from Business Rates was distributed between Central Government and local authorities. The details of how the current system works is shown in Appendix 1.
- 4.2 The benefit from pooling arises from being able to reduce the amount of any overall excess of business rates collected in the pooling area that is paid over to the Government. The authorities in the pooling area are committed to make the same overall payment to Government as they would if they had not joined a pool. Therefore the risk of business rate income falling below the Government forecast rests with the pool, and although safety net arrangements still apply they would only become payable if the combined pool income fell below 92.5% of the combined baseline.
- 4.3 In 2015/16 there are 27 business rate pools covering 193 authorities. Pooling arrangements are reviewed annually with a positive decision required from each authority every year to either continue or not, therefore there is no long term commitment or risk from pooling.
- 4.4 The decision on the actual composition of any pool would be based on an assessment of each authorities forecast of its business rates income for the year ahead, and consideration of the robustness of those forecasts. In the first three years of the new system there was not sufficient confidence among the Bucks authorities about their business rate forecasts due to uncertainties about the level of provisions that need to be made for valuation appeals and write offs. It is felt that for 2016/17 the authorities' positions will be much more certain.
- 4.5 When considering whether to enter into a business rate pool a number of issues need to be considered and these are as follows:
- What are the risks to the various authorities' forecasts of business rates that could affect a) the choice of best combination of authorities, and b) avoid the risk of falling below the Government's forecasts.
  - How it will be ensured that no participant in the pool is worse off as a result of pooling.
  - How will any net gain from pooling be used or distributed.
  - What are the governance arrangements for pooling that would be contained an inter-authority agreement that provides the legal basis of the pooling.
- 4.6 The first point will be informed by collection experience in 2014/15 and the current year's position. It will also be influenced by the level of provision made in the authorities' accounts for appeals, and information from the Valuation Office on outstanding appeals. From the table in Appendix 1 it can be seen that in the current year South Bucks is forecasting to have growth above the Government's

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assumed baseline and therefore would be subject to a levy. This position is anticipated to be repeated in 2016/17.

- 4.7 The remaining points will be covered in the Inter Authority Agreement that will be required for the pooling arrangement. This will provide that:
- Every participant in the pool must financially be at least in the same position through pooling as they would have been if they had remained independent, and that no extra funding is distributed until this is achieved.
  - In respect of use of any additional resources the simplest way approach is allow these to be distributed back to the authorities in the pool, and they separately decide how to use the resources, i.e. it does not form part of the Inter Authority Agreement.
- 4.8 A draft Inter Authority Agreement based on models used by other pools is attached as Appendix 2, and cover:
- The accountable body for the pooling arrangement
  - Arrangements for the provision of information to the accountable body
  - How the net position of the pool will be calculated and how financial adjustments between authorities will be made.
  - A dispute resolution mechanism

This would be worked up with specific details once agreement has been reached regarding which authorities will be part of the pool.

- 4.9 The recent announcements by the Chancellor on the devolution of business rates fully to local authorities by 2020 have raised the question of whether there will be any future invitations from Government to form pools. It is officers understanding that this matter is currently with Ministers for consideration, and it is unknown when there will be any announcements.

## 5. Options

- 5.1 The Buckinghamshire authorities have commissioned independent advisers to model the various pooling options for 2016/17. These are set out in the table below and show the pooling gain as the total amount of business rates retained within the pooling authorities compared to if they remain separate for business rate retention purposes.
- 5.2 If South Bucks was not part of any pool it would pass over £800k additional in business rates to the Government, pooling would reduce this figure.

Table 1: Financial Gains from the Various Pooling Options

	Option	Top Up / (Tariff) £m	Levy Rate	Pooling Gain £m	Rank by Gain
1	AVDC	10.9	0%	1.1	5 <sup>th</sup>
2	SBDC	16.2	0%	0.8	=8 <sup>th</sup>
3	CDC	20.3	0%	0.5	10 <sup>th</sup>
4	WDC	2.0	0%	0.9	=7 <sup>th</sup>
5	AVDC, SBDC	(0.2)	0%	1.9	1 <sup>st</sup>
6	AVDC, CDC	3.9	0%	1.6	=2 <sup>nd</sup>
7	AVDC, WDC	(14.4)	21%	0.8	=8 <sup>th</sup>
8	SBDC, CDC	9.2	0%	1.3	4 <sup>th</sup>
9	SBDC, WDC	(9.2)	15%	0.9	=7 <sup>th</sup>
10	CDC, WDC	(5.0)	9%	1.0	6 <sup>th</sup>
11	AVDC, SBDC, CDC	(7.2)	12%	1.6	=2 <sup>nd</sup>
12	AVDC, SBDC, WDC	(25.5)	32%	0.4	11 <sup>th</sup>
13	AVDC, CDC, WDC	(21.4)	28%	0.6	9 <sup>th</sup>
14	SBDC, CDC, WDC	(16.2)	24%	0.8	=8 <sup>th</sup>
15	AVDC, SBDC, CDC, WDC	(32.5)	37%	0.2	12 <sup>th</sup>

Note: All pooling options include Bucks CC and Bucks Fire.

- 5.3 The options give a range of overall financial gains from £200k (Option 15) to £1,900k (Option 5). For South Bucks the potential benefit would be between 15% and 20% of the total depending on the option, giving a range of additionally retained business rates of £30k (Option 15) to £400k (Option 5).
- 5.4 At this stage pending knowing the preferences of all the authorities, Members can only express any preferred options, or any identify any options that are unacceptable.
- 5.5 Not being part of a pool will mean that there is the likelihood that some of the business rate growth in South Bucks will be taken by the Government via a levy arrangement in accordance with the basic operations of the business rates retention scheme.



**6. Corporate Implications**

Pooling arrangements are reviewed annually therefore there is no long term financial commitment or risk to the Council. Any financial benefits will be estimated in advance of committing to any pooling arrangements.

Any additional business rates income that may be retained will not be used to support recurring revenue expenditure, and will not be factored into to the financing of budgets for council tax purposes. Any additional income would be used for one off expenditure.

The legal arrangements for any business rates pool will be contained in an inter-authority agreement.

**7. Links to Council Policy Objectives**

Consideration of Business Rates Pooling is part of good financial management.

**8. Next Step**

- Councils submit expressions of interest by deadline to be set by Government, dependant on the Government confirming the continuation of pooling.
- Confirmation to Government of intention to be a business rate pool, late January 2016.

<b>Background Papers:</b>	None
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## The Business Rates Retention Scheme

Prior to April 2013, billing authorities such as South Bucks District Council received business rates income from businesses and paid all amounts collected over to a Central Government 'pool' in full. They then received a grant back from Central Government from this pool.

From 2013/14 billing authorities continue to collect all business rates income into the Collection Fund, but this is now directly distributed to each preceptor using the following percentages.

- |                                    |     |
|------------------------------------|-----|
| • Central Government               | 50% |
| • Billing Authority (e.g. SBDC)    | 40% |
| • County (e.g. BCC)                | 9%  |
| • Fire Authority (i.e. Bucks Fire) | 1%  |

As business rates are still part of the overall system for funding local authorities the income from business rates is taken into account in the Government's assessment of what funding should be made available to individual authorities based on their assessment of the spending needs of authorities. Where the business rates income is greater than the assessed need the authority is required to pay over to the Government the excess as a tariff payment, where the income is less the authority will receive additional funding from Government as a top up payment. In two tier areas district councils will be subject to tariffs, and counties will receive top ups.

### The Business Rates Baseline

When Central Government implemented the Business Rate Retention Scheme, it set out:

- What it expected each authority would receive in Business Rates, and
- Its expectation of what each authority would need from Business Rates to fund services (the 'baseline').

Any excess over what was deemed to be needed, is payable to Central Government as a 'Tariff'.

The figures for SBDC are shown in the following tables.

### Growth / Reduction in Amounts Collected

The actual amount collected in Business Rates income will of course differ from the estimated amounts.

- Additional Business Rates income represents growth, and SBDC get to keep 50% of any additional income over and above its Baseline position. The other 50% is payable to Central Government as a Levy.
- On the other hand a reduction in Business Rates income results in a loss to SBDC. However this loss is limited to 92.5% of the Baseline position. Any loss greater than this is covered by a 'Safety Net' payment from Central Government.

### Effect of new Business Rate Compensation Grants

Working out whether local authorities have collected more from Business Rates than the Baseline has also been complicated by Central Government making changes to the Business Rates scheme.

Central Government has:

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- Limited the annual increase in Business Rates to 2%, whereas the Baseline figures were calculated based on the normal RPI increase.
- Extended the Small Business Rate Discount Scheme, whereas the Baseline figures did not take this extension into account.
- Announced in the Autumn Statement, a new relief for retail premises and further relief for businesses that take on retail premises that have been empty for 18 months or more.

This means that local authorities are now collecting less than they otherwise would have done. Central Government is therefore paying local authorities additional grants to compensate for the lost Business Rates income.

The comparison to Baseline is therefore now based on Business Rates income plus Business Rates Compensation Grants.

**SBDC Figures**

	2013/14 Actual £'000	2014/15 Actual £'000	2015/16 Estimate £'000
Bus Rates Income	10,854	10,666	12,614
Bus Rates Compensation Grants	171	248	455
Tariff	(10,511)	(10,716)	(10,921)
Total Before Safety Net / Levy (A)	514	198	2,148
Baseline	966	985	1,004
Safety Net Payment / (Levy) B	380 Income is <u>below</u> baseline so get a safety net payment	713 Income is <u>below</u> baseline so get a safety net payment	(572) Income is <u>above</u> baseline so pay 50% levy
Retained NDR Income (A+B)	894	911	1,576

## **Draft Inter Authority Agreement for Pooling of Business Rates**

### **Buckinghamshire Rates Pool**

This Agreement is made between: XXX Councils

#### **1. Purpose**

1.1 It is the intention of the Pool Members to improve the well-being of the communities they serve. By working together they can retain a greater proportion of any business rate growth within the Pool area for the benefit of residents and businesses.,

#### **2. Key Principles**

2.1 The Pool Members agree that they will operate the Pool in accordance with the following principles:

##### **Increase in Resources**

The Pool Members recognise that the fundamental objective of the Pool is to generate increased BRRS income for Pool Members.

##### **Fairness**

The Pool Members agree to share the costs, risks and benefits of local business rate retention. Pool Members should be no worse off than if they were outside the Pool subject to meeting any Safety Net commitments across the Pool should they arise.

##### **Information sharing**

Pool Members will make available all information and analysis required by the Lead Authority to administer the Pool. This also includes sharing data and intelligence outside of the formal reporting mechanisms on any substantive issues relating to business rate retention within their area including the award of any discretionary reliefs.

##### **Reasonableness of Decision-Making**

Pool Members agree that all decisions made in relation to this Agreement shall be made by them acting reasonably and in good faith.

#### **3. Buckinghamshire Business Rates Pool Board**

3.1 The governing Board for the pool will consist of the S151 Officers, or their nominated deputies from each authority within the pool. The Board will meet at least twice a year, but a meeting can be called at any time by mutual agreement. The board will meet to:

- Agree a schedule of payments;
- Receive an initial forecast of financial benefits arising from the completion of NNDR1 by each member authority;

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- To discuss any statutory requirements and to either re-affirm membership of the pool for the following financial year, or to agree to dissolve the pool;
- To determine the Lead Authority for the following financial year and agree any changes required to these governance arrangements;
- To receive in year and end of year monitoring statements;
- To discuss matters arising.

#### 4. Status of the Agreement

4.1 This Agreement is legally binding.

4.2 Pool Members have approved this Agreement in advance of the Secretary of State designating the Pool for the purposes of the Business Rates Retention Scheme. If the Secretary of State adds conditions to the designation, either initially or at any point in the future an immediate review of this Agreement, as outlined in Section 3, will be triggered.

#### 5. Term of Agreement

5.1 This Agreement shall continue to be in place unless terminated in accordance with these terms.

5.2 This Agreement is subject to a further financial review after publication of the Draft Local Government Finance Report. Any decision not to proceed by an individual member must be made to DCLG within 28 calendar days of the publication of the Draft Local Government Finance Report. This will automatically dissolve the pool. In advance of any Pool Member notifying DCLG of their withdrawal they must give notice to the other Pool Members within 21 days of publication of the Draft Local Government Finance Report.

5.3 Any Pool Member can leave the Pool from 1 April of the following financial year providing:

5.4 Written notice is given to other Pool Members and DCLG in at least sufficient time for the Pool to remain in place for the remaining Pool Members, should they wish it to continue. Sufficient time is taken to be at least 2 months in advance of the deadlines for renewals / applications specified by DCLG in regulations and/or guidance and no later than 31 August, whichever is the earlier.

5.5 All liabilities to and from the Pool are paid.

#### 6. Administration of the Pool

6.1 In advance of each financial year the Pool Board will determine a Lead Authority for the Pool. In addition each authority will nominate a lead officer for administration purposes. The lead officer of the Lead Authority will act as the point of contact with central government on behalf of the pool.

6.2 The Lead Authority will maintain proper accounting records for the pool and produce a final statement in a timely manner to allow member authorities to reflect any relevant amounts and issues in their own statement of accounts. In addition interim statements will be shared with all member authorities on a quarterly basis.

6.3 The Lead Authority shall arrange and provide administrative support to the Pool Board meetings. Any reasonable additional costs incurred by the Lead Authority in the provision of this

function will be reimbursed by Pool members in proportion to their potential gains provided that these costs have been agreed in advance.

6.4 XXX Council will act as the Lead Authority for the Buckinghamshire Business Rates Pool.

6.5 The responsibilities of the Lead Authority are:

- With reference to Schedule 1 to make payments on behalf of the Pool to central government and Pool Members on time and in accordance with the schedule of payments;
- To liaise with and complete all formal Pool returns to central government on behalf of Pool Members;
- To keep Pool Members informed of all communications with central government,
- To manage the resources of the Pool in accordance with this Agreement;
- To prepare quarterly monitoring reports and consolidate intelligence on future resource levels on behalf of the Pool;
- To prepare the annual report of the Pool's activity;
- To co-ordinate the annual review and refresh of the Pool's governance arrangements and the methodology for the allocation of resources;
- To secure the completion of any legal agreements, accounting and audit arrangements required to support the operation of the Pool;
- With reference to Schedule 1 to consult on and administer the schedule of payments between Pool Members in respect of all financial transactions that form part of the Pool's resources;
- With reference to Schedule 1 to lead on the timely provision of the information required by Pool Members, in preparing their annual Statement of Accounts in relation to the activities and resources of the Pool; and
- To administer the continuation or the dissolution of the Pool in future years.

6.6 To assist the Lead Authority in fulfilling this role, the responsibilities of individual Pool Members are:

- With reference to Schedule 1 to make payments to the Pool on time and in accordance with the schedule of payments;
- With reference to Schedule 1 to provide accurate, timely information to the Lead Authority to enable all formal Pool returns to central government to be completed;
- To inform the Lead Authority, as soon as is practical, of any intelligence that may impact on the resources of the Pool either in the current year or in future years;
- To provide such information as the Section 151 Officers agree is reasonable and necessary to monitor/forecast the Pool's resources within the timescales agreed;
- To provide such information as the Section 151 Officers agree is reasonable and necessary on the use of the Pool's resources for inclusion in the Pool's annual report; and
- With reference to Schedule 1 to provide accurate and timely information on the end of year financial performance of the business rates collection fund to enable the Lead Authority to calculate the end of year accounting entries needed.

## 7. Unforeseen circumstances

7.1 As these arrangements are new it is plausible that circumstances arise that have not been fully thought through. Where such situations arise these matters will be considered by the pool board and additional arrangements agreed bearing in mind the over-arching principles set out at the head of this document. Unless there is legal constraint otherwise, such new arrangements may be applied retrospectively, if agreed by the board.

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## 8. Dispute Resolution

8.1 The Pool Members shall attempt in good faith to negotiate a settlement to any dispute arising between them out of or in connection with this Agreement. If this cannot be resolved by the Section 151 Officers it will be referred to a meeting of all Member Authorities' Heads of Paid Service for resolution. If no resolution results, then an independent mediator will be appointed by a majority vote of the Pool Members. The decision of the appointed mediator will be binding on all Pool members save in the case of manifest error or on a point of law.

## 9. Cash Management

9.1 The governing principle for the cash management of the Pool is that no individual Pool Member, including the Lead Authority, should incur a treasury management gain or loss as a result of the transfer of funds between Pool Members.

9.2 The Financial Protocol sets out the practical application of cash management principles to meet this principle.

9.3 Any funds held by the Lead Authority on behalf of the Pool will attract interest at the LIBOR 7 day rate applicable at the time if held for more than 5 working days (If triggered interest will apply to all days the funds are held including the initial 5 day period).

9.4 Where the pool owes funds to central government these will be paid over by the lead authority in a timely manner. Where the lead authority fails to do this and there are financial consequences (fines, interest payments, etc.) such costs will be borne by the lead authority, not the pool in the first instance. If the lead authority feels that there were particular circumstances beyond its control which led to the additional costs it may apply to the pool board to charge such costs to the pool. The board will not withhold such permission unreasonably.

9.5 Where funds owed by the pool are to come from authorities other than the lead authority such funds will be transferred to the lead authority no later than 4 working days in advance of the due date for the pool payment. Where failure to do this results in financial consequences (fines, interest payments, etc.) such costs will be borne by the non-compliant authority. If that authority feels that there were particular circumstances beyond its control which led to the situation it may apply to the pool board to charge such costs to the pool. The board will not withhold such permission unreasonably. In addition to any externally applied costs, failure to meet these requirements will attract an interest penalty chargeable at the LIBOR 7 day rate applicable at the time, which will be applied to the pool. Interest will be chargeable from the time the money was due to the pool/lead authority until such time as it is actually paid.

9.6 Where funds are received from central government the lead authority will ensure that such funds are distributed to member authorities within 4 working days of receipt from central government, in line with the agreed distribution arrangements set out above. If no further distribution is required the funds will be held within the pool and attract interest as set out above. Where the lead authority fails to distribute funds in line with this requirement it shall pay, at its own expense in the first instance, interest at the LIBOR 7 day rate applicable at the time. Interest will be payable from the time the money was due from the pool/lead authority until such time as it is actually paid. If the lead authority feels that there were particular circumstances beyond its control which led to the situation it may apply to the pool board to charge such interest to the pool. The board will not withhold such permission unreasonably.

## 10. Distribution

10.1 Pool funds will be distributed as follows;

- Gains shall be distributed half to Major Precepting Authorities (excluding TVPCC) and half to the Pooling Districts, to be shared in proportion to their contribution to the overall amount of business rate growth for the year arising from their area.
- If unanimity can be reached by the board, any other distribution agreed can be implemented.

## 11. Glossary of main technical terms

There are a number of technical terms used throughout this document. The meanings of these terms are as follows:

Agreement	Refers to this document and to Schedule 1 (Financial Protocol)
Base Rate	The prevailing level of interest rate set by the Bank of England.
Baseline Funding	Government's assessment at the outset of BRRS of the income an authority could raise through the BRRS.
Business Rates Retention Scheme (BRRS)	The new system of local government funding implemented in April 2013 which provides for the local retention of a proportion of business rates.
Gross Retained Levy	The total amount of the levies that would have been paid by individual Pool Members had the pool not existed.
Lead Authority	The Pool member who will act as the lead in administering the pool, in particular receiving shares of tariff, paying top-ups and managing the distribution of Gross and Net Retained Levies and Local Volatility Fund.
Levy	A payment due to central government related to BRRS income above Baseline Funding levels. Calculated using a nationally set formula.
Net Retained Levy	The amount of Levy retained locally. This is calculated as the sum of levies to be paid by individual Pool members if the Pool did not exist less the Levy to be paid by the Pool less any Safety Net funding that would have been due to individual Pool members if the Pool did not exist (and if not able to be supported through the Local Volatility Fund) less the administrative costs of the Pool.
NNDR1/NNDR3	Central government forms used to estimate a future year's business rates prepared on an annual basis by all billing authorities and used as the basis for allocating shares of business rates/year end form for determining final calculations.



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Pool	A voluntary arrangement amongst a group of local authorities to pool the business rates generated locally in accordance with the BRRS pooling prospectus published by DCLG in July 2013.
Safety Net	Payment received by an authority from central government under the BRRS if BRRS income falls by more than a specified percentage below the Baseline Funding Level. It is calculated using a national formula.
Schedule 1	Refers to the Financial Protocol' that would be attached to this document.

Agreed on behalf of XXX Council (Each participant in the Pool)

Director of Resources/Chief Finance Officer (Section 151 Officer)

Name: .....

Signature: .....

Date: .....

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**HEALTHY COMMUNITIES POLICY ADVISORY GROUP**

**Meeting - 17 September 2015**

Present: Mr Egleton (Chairman)  
Mr Bastiman, Mr Kelly, Dr Matthews and Mr Pepler

Also Present: For item 12  
Mathew Randle – Resident Service Manager  
Joyce Onuno - Head of Asset Management  
Jeremy Hutchings - Assistant Director, Housing Management

Apologies for absence: Mr Walters MBE

**12. DISCUSSION WITH L AND Q ON SHELTERED HOUSING PROVISION**

The PAG received a PowerPoint presentation from L&Q on South Bucks Sheltered Housing Schemes. The presentation, after setting out L&Q's mission and Vision as long term goals, went on to explain a number of issues as follows:

- Rationale behind managing their stock;
- Criteria used when assessing stock;
- The 82 Sheltered Schemes across 16 Local Authorities;
- The 17 Schemes highlighted as needing intervention
- The location of the 6 schemes identified in South Bucks at Mead House, Iver Heath, Bodley House, Iver Heath, Tower House, Iver, Colston Court, Gerrards Cross, Bolds Court, Stoke Poges and Verdon Court, Farnham Royal.
- The investment of £3m required per scheme to bring them up to a decent standard following improvements and renewals;
- Residents consultation
- Future - Housing for the Elderly and the need to adapt to social and political changes.

During the question and answer session that followed a number of issues were raised/clarified including the following:

- The criteria used for assessing stock in South Bucks would be made available and circulated to members on request;
- The schemes are expensive to maintain in view of their age and construction;
- There is little demand for sheltered housing as the accommodation type was not now appropriate to meet the needs of local residents;
- Hence the importance of looking at alternatives e.g. keeping people in their own home and making adaptations as appropriate;
- L+Q had decided to keep back some more suitable units of accommodation to enable a planned approach to vacating the sheltered properties;
- An organisation chart with key contact numbers would be made available;
- No resident would be forced out of their home during the 2/3 year period of the review.

The Portfolio Holder, after accepting the offer from L&Q to return to a future meeting, thanked the representatives for attending the meeting and for their very detailed and informative presentation on South Bucks Sheltered Schemes.

**13. MINUTES**

The minutes of the meeting held on 17 June 2015 were received.

**14. REPORTS FROM MEMBERS**

The report of the meeting of the Buckinghamshire Healthcare Trust on 29 July 2015 from Cllr Pepler was circulated at the meeting.

15. **HEALTHY COMMUNITIES UPDATE REPORT**

The PAG received a report providing an update on a number of subjects falling within Community, Health and Housing Services. The PAG’s attention was particularly drawn to the subject of Community Safety and the requirement for the Council and Community Safety Partnership to undertake a Domestic Homicide review following the murder of a resident who was temporarily residing in Wycombe.

16. **CURRENT ISSUES**

The PAG agreed that this standard item should be removed from the agenda of future meeting as current issues would be covered in the update report of the Head of Health Communities

17. **ASSESSMENT OF NATIONAL INFRASTRUCTURE PROJECTS- CUMULATIVE ENVIRONMENTAL IMPACTS**

Over the years South Bucks District has been affected by national infrastructure developments and the PAG received a report identifying a number of infrastructure proposals which will have a further significant adverse impact on the District particularly to the South and West around Iver

Due to the number and range of threats to the district it is important that a robust process is in place to provide environmental information and establish the current baseline, identifying the significant risks to the quality of life for communities in the district in terms of noise, air quality and water resources / flooding.

A budget to challenge or mitigate against the impact of infrastructure projects already existed and the report proposed that £20k be set aside from this budget to cover the costs associated with commissioning a competent consultancy to establish an environmental baseline assessment. The PAG indicated its support for this proposal and in doing so recognised that the list of infrastructure projects in paragraph 2 of the report was not exhaustive and that there were other projects (e.g. works around Burnham Station) and issues (changes in flight paths) that would also have an environmental impact on the District.

Mindful of the need to keep abreast of issues and to work in partnership with other neighbouring authorities that were similarly affected by infrastructure projects, particularly Heathrow, the PAG also supported a proposal for the Council to become a member of the Local Authorities Airports Noise Council at an annual cost of £505 which can be met from existing budgets.

Having considered the advice of the PAG the Portfolio Holder **AGREED** to **RECOMMEND** to Cabinet that

1. £20k be set aside from the existing budget to challenge or mitigate against infrastructure projects to commission a piece of work to establish the environmental baseline.
2. Authority be delegated to the Head of Healthy Communities, in consultation with the Portfolio Holder, to scope the work required and commission a Consultant to undertake the environmental assessment.
3. The Council becomes a member of the Local Authorities Airports Noise Council.

18. **SUBSCRIPTIONS AND DONATIONS**

The PAG considered a report setting out the requests that had been made from the following community organisations for the second round of funding from the Subscriptions and Donations budget 2015/16, £1991 of which remained unallocated:

- Chattertots - £5,500
- Hedgerley Football Club - £750
- Pop Goes the Choir - £3,000

Having considered the advice of the PAG which supported the recommendations in the report, the Portfolio Holder **AGREED** to **RECOMMEND** to Cabinet that the three applications for funding be refused for the reasons given in the report

**19. COMMUNITY DEVELOPMENT GRANTS**

The PAG received a report setting out the applications which had been made from the following organisations for funding from the Community Development Grant budget for 2015/16 of which a balance of £15k remained:

Organisation	Amount Requested £
Iver Heath Bowls Club	1500
Friends of Holtspur Park	400
Denham Bowls Club	1500
Curzon Centre	3000
Farnham Common Village Hall	6170

During the discussion the PAG was advised that the restriction set out in paragraph 6 that only 65% of the budget can be spent in the first 6 months was not a legal requirement set out in financial regulations. This had probably been imposed by members to ensure that funding was available for allocation in the last 6 months of the year. The limit was therefore discretionary and could be exceeded in appropriate circumstances of which the current round of requests was an example given that the 6 months would shortly be met.

Mindful that the current grant allocation process for outside bodies had been in place for some years and of the need to ensure that the limited resources available were targeted to meet the Council’s objectives the PAG also supported a proposal for the process to be the subject of a review, such review also to include the criteria for assessment.

Having considered the advice of the PAG the Portfolio Holder **AGREED** to **RECOMMEND** to Cabinet that:

1. Capital grants be awarded to the five organisations listed above in the sums indicated.
2. That the grants allocation process for Outside Organisations be the subject of a review.

**20. 2014/15 GREENHOUSE GAS REPORT AND FUTURE TARGET**

The PAG received a report on the draft Greenhouse Gas Report for submission to Department of Energy and Climate Change (DECC). The report also highlighted the Council’s recent energy and cost savings and Reduction Targets.

The Greenhouse Gas Report is produced annually and follows a prescribed format. The report must be submitted to DECC by 31<sup>st</sup> July and posted on the Council’s website. The fifth draft Greenhouse Gas Report has been produced and was attached as appendix A to the report. The report highlighted that the Council had not met its rolling 5% energy reduction target for the reason set out in paragraph 4.7 The report went on to provide details of the savings achieved and a proposal to reduce the target to 2%

During the discussion the PAG felt that not meeting the 5% target did not provide sufficient justification to reduce the target and whilst recognising that the 5% was challenging felt that it should be retained as it would encourage everyone to consider the environmental impact of initiatives and focus on the need to achieve efficiency savings.

Having considered the advice of the PAG the Portfolio Holder **AGREED:**

1. That the revised Greenhouse Gas report be uploaded onto the Council’s website: **AND** to **RECOMMEND** to the Cabinet
2. That the Council’s on year carbon reduction saving for 2015/16 remain at 5%.

## 21. SMOKE AND CARBON MONOXIDE ALARM REGULATIONS

The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 were due to come into effect on 1 October 2015 and the PAG received a report on the implications of the Regulations which will require private landlords of residential premises to:

- Install smoke alarms on each floor of their rented property
- Install a carbon monoxide alarms in each room where there is a solid fuel burning appliance
- Carry out checks to ensure the alarms are in working order at the start of each new tenancy

The Council as local housing authority will be responsible for enforcing the Regulations and the report went onto to explain that the Council will have the following options when dealing with a non compliant landlord:

- Charge the maximum penalty of £5000 in all cases
- Charge a lesser amount, or have a scale of charges for repeated or breaches at multiple properties.
- Not charge a fixed penalty at all.

Having considered the advice of the PAG which supported the option to charge the maximum penalty the Portfolio Holder **AGREED** to **RECOMMEND** to Cabinet that:

1. the requirement, subject to parliamentary approval, for residential landlords to install smoke and carbon monoxide alarms in their rented properties be noted.
2. authority be delegated to the Head of Healthy Communities to enforce the Regulations and the Scheme of Officer Delegations be amended accordingly.
3. the Head of Healthy Communities, in consultation with the Portfolio Holder, be authorised to prepare and agree a Statement of Principles in respect of the fixed penalty charge for failure to comply with a remedial notice..
4. the fixed penalty charge be set at the maximum amount of £5000 where a landlord has failed to comply with a remedial notice.

## 22. HOUSING OPTIONS AND ALLOCATIONS - LOCATA SOFTWARE

The PAG received a report providing an update on the procurement of software to secure the continuation of the Bucks Home Choice system beyond the end of the current agreement with Locata in January 2016.

The report after explaining Locata, went on to identify the following three options that had been considered during the procurement process:

1. Negotiate with Locata to continue to deliver the existing Bucks Home Choice IT System after the current agreement expired;
2. Review other suppliers and options for the delivery of software to support housing options allocations; and
3. Do nothing

For the reasons given in the report Option 1 was considered the most appropriate, pursuit of which required Management Team to agree an exemption to Contract Procedure Rules and in particular the requirement to obtain competitive tenders. on grounds of urgency and no genuine competition. The next step would involve the four Councils liaising with Locata to agree the services to be provided in a new Framework Agreement and a final price for the delivery of this agreement. The outcome of the negotiations would be reported to a future meeting of the PAG.

During the discussion the Portfolio Holder asked for a presentation on the Bucks Home Choice system to be made at the next meeting.

The Cabinet is asked to **NOTE** the exemption agreed by Management Team.

### 23. **CHANGES TO SMOKEFREE LEGISLATION**

The PAG received a briefing note setting out changes made to smoke - free legislation. From 1 October 2015 it will be illegal:

- for retailers to sell electronic cigarettes (e-cigarettes) or e-liquids to someone under 18
- for adults to buy (or try to buy) tobacco products or e-cigarettes for someone under 18
- to smoke in private vehicles that are carrying someone under 18

With regard to smoking in private vehicles, from 1 October 2015, private vehicles must be smokefree if they are enclosed, there is more than one person present and one of them is under 18. The rules do not apply to e-cigarettes.

It will be an offence:

- for a person of any age to smoke in a private vehicle that is carrying someone who is under 18;
- for a driver (including a provisional driver) not to stop someone smoking in these circumstances.

The PAG noted that the impact of the changes to the Council would be minimal.

### 24. **HEALTH PROFILES**

Public Health England published updated health profiles for all district councils on 2nd June 2015 and the PAG received a report describing the profile for South Bucks and highlighting areas of concern as set out in paragraph 4.2. During the discussion the PAG expressed concern on the number of people killed or seriously injured on the roads as set out in paragraph 4.2.8 and asked for more information to be submitted to a future meeting.

### 25. **EXEMPT INFORMATION**

That under Section 100(A)(4) of the Local Government Act 1972 the following item of business is not for publication to the press or public on the grounds that it involves the likely disclosure of exempt information as defined in Paras 1 and 3 of Part 1 of Schedule 12A to the Act."

### 26. **MINUTES OF THE MEETINGS OF THE SOUTH BUCKINGHAMSHIRE MEMBERS ADVISORY PANEL HELD ON:**

The PAG noted the Part II minutes of the meeting 30 June 2015 and further noted that the Panel's reporting relationship with the PAG was under review.

### 27. **CURRENT ISSUES (PART II)**

None.

The meeting terminated at 7.50 pm

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<b>SUBJECT:</b>	Neighbourhood Areas, Plans and Development Orders – Scheme of Delegations
<b>REPORT OF:</b>	Sustainable Development Portfolio Holder - Cllr Nick Naylor
<b>RESPONSIBLE OFFICER</b>	Director of Services – Anita Cacchioli
<b>REPORT AUTHOR</b>	Head of Legal and Democratic Services - Joanna Swift Tel: 01494 732761
<b>WARD/S AFFECTED</b>	None

## 1. Purpose of Report

This report seeks approval to a scheme of delegations to deal with the Council's neighbourhood planning and development order functions. It also considers the level of publicity that should be given to such proposals.

The Leader has agreed to this report being considered as a matter of urgency as the Council is due to receive an application for designation of a neighbourhood area imminently and the process for dealing with such applications and subsequent neighbourhood plans, needs to be in place to meet the Council's statutory obligations.

### RECOMMENDATIONS

1. That Cabinet agrees a Scheme of Delegations for dealing with neighbourhood area applications, neighbourhood plans and neighbourhood development orders as set out in Appendix 1.
2. That to ensure the local community is fully aware of such applications/plan submissions, the level of publicity given exceeds the statutory minimum as described in paragraph 4.5 of this report

## 2. Executive Summary

- 2.1 The Localism Act 2011 introduced a new statutory regime for local communities to make neighbourhood plans and neighbourhood development orders. Regulations governing these processes are contained in the Neighbourhood Planning (General) Regulations 2012. Responsibility for the neighbourhood planning process is a cabinet function, with the decision to make a plan or order following a referendum, reserved to Full Council on the recommendation of the cabinet. In areas which are parished (as is the case for the whole of South Bucks District) neighbourhood plans and neighbourhood development orders can only be instigated by town or parish councils. To ensure the various procedural decisions required by the regulations are made as quickly and efficiently as possible and after appropriate member and local consultation, the scheme of delegations attached at Appendix 1 is recommended for approval.

- 2.2 The Regulations also make provision for publicity at various stages of the process, and it is recommended that this should go beyond the minimum required, which is publication on the District Council's website, to ensure that the local community is fully aware of any proposals.

### **3. Reasons for Recommendations**

This Council needs to arrange for the various procedural decisions on neighbourhood plans and development orders to be taken under the Localism Act 2011 and Neighbourhood Planning (General) Regulations 2012, as quickly and efficiently as possible, after appropriate local consultation. The scheme of delegations proposed at Appendix 1 seeks to achieve this and provides for the making of plans/ orders following a referendum, to be approved by Full Council. To ensure that the local community is fully aware of any neighbourhood area application, draft submitted neighbourhood plan and/or neighbourhood development order proposals in their area, it is recommended that the level of publicity given to such proposals exceeds the statutory minimum required, which is publication on the District Council's website.

### **4. Content of Report**

- 4.1 Cabinet will be aware that the Localism Act 2011 introduced a new statutory regime for local communities to make neighbourhood plans or neighbourhood development orders. Neighbourhood Plans ("NPs") set out policies in relation to the development and use of land in a particular Neighbourhood Area. Neighbourhood Development Orders ("NDOs") grant permission for a specified type of development in relation to a particular neighbourhood area but cannot deal with County matters, nationally significant infrastructure and matters where there is a conflict with European legislation.
- 4.2 Regulations governing these processes are contained in the Neighbourhood Planning (General) Regulations 2012. In areas which are parished (as is the case for the whole of South Bucks District) NPs and NDOs can only be instigated by town or parish councils. Other elements of the 2012 Regulations govern what are largely administrative or technical decisions. Responsibility for the neighbourhood planning process is a cabinet function, with the decision to approve a Neighbourhood Areas or decisions related to a NP or NDO reserved to Full Council on the recommendation of the cabinet. To ensure the various procedural decisions required by the regulations are made as quickly and efficiently as possible, after appropriate local consultation, the scheme of delegations attached at Appendix 1 is recommended for approval. The regulations also make provision for publicity at various stages of the process, and it is recommended that this should go beyond the minimum required, which is publication on the District Council's website.

#### **Designating a Neighbourhood Area**

- 4.3 Before a NP or NDO can be submitted for consideration, a neighbourhood area needs to have been designated. Only a "relevant body" can apply for a neighbourhood area to be designated. A relevant body within South Bucks District is a town or parish council. Applications for the designation of a neighbourhood area must comply with criteria set out in the relevant regulations and include a map identifying the area of the application, an explanation of why this is considered an

appropriate area for designation and confirmation that the body making the application is a “relevant body”. If a proposed neighbourhood area spans town or parish boundaries, the other Council’s consent must be obtained. Neighbourhood areas cannot overlap

- 4.4 The decision to designate a neighbourhood area is unlikely to be controversial and, in most cases will be based on parish boundaries. It is therefore recommended that the decision to accept an application and to designate a neighbourhood area is delegated to the Head of Sustainable Development following consultation with the relevant local member/s and the Cabinet Member for Sustainable Development.

#### **Publicity for the Neighbourhood Area and NP/NDO Process**

- 4.5 Applications for a neighbourhood area have to be publicised for public consultation and must be determined in 8 weeks. There are also various stages in the statutory process when public consultation must be carried out. This publicity/consultation should be consistent throughout the process. The only mandatory requirement is that the matter be publicised on the local planning authority’s (South Bucks) website. It is, however, considered that further publicity should be carried out to ensure the application is brought to the attention of local people. This would involve publicising the matter on the applicant’s website and/or in the town/parish newsletter (if there is one); posting a notice about the application, order or plan on the town/parish notice board (if there is one) or, in the absence of a community notice board, then in a prominent place in the town/parish. It is not considered this will be unduly onerous for the town/parish council, as the essence of neighbourhood planning is community engagement. It is therefore likely that any town or parish council embarking on a NP or NDO will want to advertise the process widely in their community anyway. However, a requirement to advertise in a local newspaper is considered too onerous and expensive, although, a press release could be issued, by the District Council. It is recommended that this level of publicity should be carried out at each stage in the neighbourhood planning process where regulations require publicity.

#### **Making a Neighbourhood Development Plan/Order**

- 4.6 The procedures for making NPs and NDOs are very similar. In each case specific pre-submission consultation and publicity must be carried out by the town/parish. Only one NP may be made for each neighbourhood area. Specific information must be submitted in each case before an application can be accepted. As the determination of whether a valid application has been received is an administrative matter, it is recommended that it be delegated to the Head of Sustainable Development to determine, following consultation with the relevant local member/s and the Cabinet member for Sustainable Development.
- 4.7 There is power to decline to consider a proposal for an NDO if it is a repeat proposal. That is, if during the last 2 years the Council as local planning authority has refused the same or a similar proposal, or in a referendum on the same or a similar proposal, less than half of those voting voted in favour of the proposal, and the authority consider there has been no significant change in relevant considerations (which are defined) since the refusal or the referendum. Publicity has to be given to this decision. The decision to decline must be made in accordance with set criteria and it is therefore recommended that this decision be delegated to the Head of Sustainable Development following consultation with the relevant local member/s and the Cabinet member Sustainable Development.

- 4.8 Once a valid application for a NP or a NDO has been received the authority must publicise the application. Following the publicity period the draft proposal must be submitted for independent examination, together with any representations received. The examination will usually be carried out by written representations. The examiner may be appointed by the authority, but only with the agreement of the town/parish council. The Secretary of State may appoint an examiner if expedient to do so.
- 4.9 The examiner will issue a report recommending either that
- the draft NP or NDO proposal be submitted to a referendum,
  - or that modifications (which are limited in scope) as specified in his report are made and the modified draft is submitted to referendum,
  - or that the proposal be refused.
- 4.10 If the examiner considers that the proposal does not meet the required conditions or the statutory requirements it cannot be submitted to a referendum.
- 4.11 The authority must consider each of the recommendations made by the examiner in their report and the reasons for them, and decide what action to take in response to each recommendation. Although a decision must be made in response to the recommendations by the examiner, this is constrained to a certain extent by the requirement to hold a referendum if the proposal complies with all the requirements. If the examiner's report contains no or only minor modifications it is recommended that the decision on these recommendations be delegated to the Head of Sustainable Development following consultation with the relevant local member/s and the Cabinet member for Sustainable Development.
- 4.12 If the examiner's proposed modifications are not minor it is recommended that the consideration of the recommendations and the decision on what action to take should be taken by the Cabinet. Whatever decision is taken following the consideration of the examiner's report, the reasons for that decision must be publicised.
- 4.13 If the authority decides to submit the proposal to a referendum either with or without modifications, it must make the NP or NDO if more than half of those voting, vote in favour of the proposal. As there is no discretion involved at this stage of the process any decision is effectively an administrative one. However, the NP or NDO then becomes a part of the development plan and will be used in planning decisions by the authority. Normally a policy document of this status would be considered by Cabinet and Council. It is therefore proposed that this decision will be taken by Cabinet and reported to Full Council.
- 4.14 The decision to make a NP or NDO and the making of that plan or order must both be publicised but this publicity can be combined and done at the same time.
- 4.15 There is also power to revoke or to modify a NP or NDO. It is recommended that the decision to make minor modifications to a plan or order should be delegated to the Head of Sustainable Development following consultation with the relevant local member/s and the Cabinet member for Sustainable Development. But changes that are more than minor and any revocation, should be a matter for the Cabinet to determine.

**5. Options**

- 5.1 The Council is required to deal with applications and make decisions on Neighbourhood Areas, NPs and NDOs in accordance with the relevant legislation and regulations. This function is the responsibility of the Cabinet to whom all decisions could be reserved. However, the decisions required are mainly administrative in nature and must be taken in accordance with prescribed criteria. They also need to be taken in accordance with set timescales. To avoid extra meetings of the Cabinet being called to take administrative decisions and deal with minor modifications/issues, a scheme of delegations to the Head of Service is proposed which includes consultation with local members and the relevant Cabinet Member. In any other case the matter would be reported to the Cabinet for determination. The decision to make a NP or NDO following a referendum, is also reserved to Full Council on the recommendation of Cabinet
- 5.2 The Council could only require the minimum level of publicity for proposals as set out in the Regulations, which is publicity on the local planning authority's (South Bucks) website. It is, however, recommended that further publicity should be carried out to ensure proposals are fully brought to the attention of local people, including publicity on the applicant council's website and/or newsletter (if there is one) and posting a notice on community notice boards or other prominent places in the town/parish. It is not considered this will be unduly onerous for applicants. The Council could also require proposals to be advertised in the local press but officers consider this would be too onerous and expensive.

**6. Corporate Implications****6.1 Financial Implications**

The financial implications of the processes set out in this report are in themselves minor. However, as the neighbourhood planning process as a whole is led by town and parish councils and involves the District Council in a duty to support them, as well as to arrange and pay for any necessary examination and referendum, the financial implications cannot be quantified at this stage and will be kept under review as formal decisions under the legislation are made.

**6.2 Equalities Implications**

It will be the role of the town and parish councils to carry out any necessary impact assessments of their neighbourhood planning proposals. The proposals for publicity contained within this report attempt to create awareness of neighbourhood planning proposals among the local community

**6.3 Risk Implications**

The major risks for the District Council are financial and resource based, as set out above. There are also risks associated with reputation if the District Council cannot, for technical reasons, accept a proposal put forward under neighbourhood planning provisions.

**7. Links to Council Policy Objectives**

This links to the objective of promoting local communities in the District through engagement with town and parish councils and local neighbourhoods.

**8. Next Steps**

An application is expected imminently from a parish council for designation of a neighbourhood area and this will need to be actioned.

<p><b>Background</b></p> <p><b>Papers:</b></p>	<p>Localism Act 2011</p> <p>Planning and Compensation Act 2004</p> <p>Town &amp; Country Planning Act 1990</p> <p>Neighbourhood Planning (General) Regulations 2012</p>
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Appendix 1

**Recommended Neighbourhood Area, Neighbourhood Plan and Neighbourhood Development Orders Scheme of Delegation**

1. That the following actions in the neighbourhood planning process should be delegated to the Head of Sustainable Development, after consultation with the relevant local Member(s) and Cabinet Member for Sustainable Development:
  - a) Decisions on whether to accept and designate or modify a neighbourhood area under s61G of the Town and Country Planning Act 1990, as inserted by Schedule 9 of the Localism Act 2011;
  - b) Consultation responses to neighbourhood plans and neighbourhood development orders, before their formal submission as proposals to the Council;
  - c) Decisions on whether to decline to accept repeat proposals for neighbourhood plans or neighbourhood development orders under paragraph 5(1) of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;
  - d) Decisions on who to appoint as an examiner under paragraph 7(4) or 13(2) of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;
  - e) Decisions on recommendations in examiners' reports that propose no change or only minor changes to plans or orders pursuant to paragraph 12 of Schedule 4B of the Town and Country Planning Act 1990, as inserted by Schedule 10 of the Localism Act 2011;
  - f) Decisions on whether to modify neighbourhood plans and orders where the proposed modifications are only minor, whether or not recommended by the examiner.

2. Decisions on the validity and acceptance of applications for a neighbourhood plan or neighbourhood development order are delegated to the Head of Sustainable Development. The Head of Sustainable Development being required to inform relevant local ward member(s) within the relevant Neighbourhood Area and the Cabinet Member for Sustainable Development of decisions taken and where determined that a plan or development order is not found valid to provide reasons for the decision.
3. Decisions where the Council propose to disagree with an examiner's recommendation and the reasons for such a decision are delegated to the Head of Sustainable Development in consultation with the Cabinet Member for Sustainable Development, where the implications for the plan are minor. Authority is also delegated to the Head of Sustainable Development to undertake the necessary publicity and consultation to invite views on the Council's proposed decision(s).
4. Decisions to determine the referendum area are delegated to the Head of Sustainable Development taking into account the examiner's recommendation and the views of the Cabinet Member for Sustainable Development.
5. That the organisation of a Neighbourhood Plan and / or Neighbourhood Development Order referendum(s) be delegated to the Returning Officer.
6. That the decision whether or not to make a neighbourhood development plan or order shall be subject to the approval of Full Council at the recommendation of the Cabinet.

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<b>SUBJECT:</b>	<b>Gambling Act 2005 Licensing Statement of Principles – 2015 Revision</b>
<b>REPORT OF:</b>	Interim Director of Services – Anita Cacchioll
<b>RESPONSIBLE OFFICER</b>	Head of Healthy Communities – Martin Holt
<b>REPORT AUTHOR</b>	Nathan March, 01494 732249, nmarch@chiltern.gov.uk
<b>WARD/S AFFECTED</b>	All

## 1. Purpose of Report

- 1.1 The purpose of this report is to inform Cabinet of the final revised draft Gambling Act 2005 Statement of Principles and to request that it is recommended to Council for adoption to come into effect on 31 January 2016.

### RECOMMENDATION

- 1.2 That Council be recommended to adopt the draft Statement of Principles at its meeting on Tuesday 10<sup>th</sup> November 2015 for publication at least 4 weeks prior to coming into effect for the period 31 January 2016 to 30 January 2019.

## 2. Reason for Recommendation

- 2.1 The recommendation is in line with the legal requirements for the correct process for the required review and adoption of the Statement of Principles.
- 2.2 The adoption of the revised Statement of Principles is a shared function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and therefore Cabinet must be asked to consider the draft Statement of Principles and to recommend to Council that it be adopted.

## 3. Content of Report

- 3.1 The report attached in Appendix 1 was presented to the Licensing Committee on 7 October 2015 following the completion of the required consultation and the committee was requested to consider the responses received and whether any changes to the draft Statement of Principles were required.
- 3.2 The Report for Licensing Committee had to be finalised prior to the end of the consultation so that the Statement of Principles could be agreed and adopted within the required timescales. 2 further responses were received following the report being finalised for Licensing Committee. These responses were shared with the Licensing Committee at its meeting on 7 October 2015 so that these could be considered.

## 4. Summary of additional responses received

- 4.1 Coral Racing Limited responded and stated that they are 'supportive of the document', particularly as it notes that the requirement is that the Council must 'aim to permit gambling where this is reasonably consistent with the licensing objectives, and should not take moral objections into account.
- 4.2 The other response received was from Gosschalks Solicitors on behalf of the Association of British Bookmakers (ABB). This response made 2 specific comments on the draft Statement of Principles

- 4.3 The first comment confirmed that all of its operators have no under 18's policies which supported one of the general principles within the Statement which encourages prohibitions from applicants where it was felt that the presence of children would be undesirable or inappropriate.
- 4.4 The second comment from the ABB was that it was felt that a paragraph contained within the Statement that refers to Location as a consideration 'appears to implement a cumulative impact type policy' which, it argues, is against the 'aim to permit' principle of the Gambling Act 2005

**5. Decision of Licensing Committee following consideration of responses**

- 5.1 The response from Coral Racing Limited was in full support of the Statement of Principles, so no amendments needed to be considered.
- 5.2 The comment from the ABB regarding under 18 did not conflict with the general principles as written in Part B of the Statement of Principles, so no amendment was necessary.
- 5.3 The section on location within the draft Statement of Principles states that 'demand issues cannot be considered' and therefore this section clearly indicates that there is no cumulative impact policy being implemented. The section goes on to clarify that the aspects of a location that would be considered would relate to its siting in a location that may put children or vulnerable people at risk, or lead to potential issues of crime and disorder. This follows the Gambling Commissions Guidance and therefore no changes were considered necessary.
- 5.4 Having considered the revised draft Gambling Act 2005 Statement of Principles and all the comments received in response to the consultation, the Licensing Committee agreed to make a recommendation to Council to adopt the draft Statement of Principles at its meeting on Tuesday 10<sup>th</sup> November 2015 for publication at least 4 weeks prior to coming into effect for the period 31 January 2016 to 30 January 2019.

**6. Links to Council Policy Objectives**

- 6.1 The licensing of gambling premises and the adoption of a policy in respect of this activity contributes towards the Council's Corporate Plan Key Theme 1 of 'Thriving Economy' and Corporate Plan Key Theme 3 of 'Safe Communities'. Properly controlling and regulating gambling activities will assist in ensuring that levels of crime and disorder remain low and appropriate well run gambling premises can contribute towards the local economy.

**7. Next Step**

- 7.1 The next steps will be as stated in the recommendation.

<p><b>Background Papers:</b></p>	<p>Gambling Act 2005 and associated Orders and Regulations                  Gambling Commission Guidance to Licensing Authorities 4<sup>th</sup> Edition July 2012 and draft 5<sup>th</sup> Edition March 2015</p> <p>Statement of Principles adopted on 12 December 2006 and reviewed on 15 December 2009 and 10 October 2012</p>
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<b>SUBJECT:</b>	<b>Gambling Act 2005 Licensing Statement of Principles – 2015 Revision</b>
<b>REPORT OF:</b>	Interim Director of Services – Anita Cacchioll
<b>RESPONSIBLE OFFICER</b>	Head of Healthy Communities – Martin Holt
<b>REPORT AUTHOR</b>	Nathan March, 01494 732249, nmarch@chiltern.gov.uk
<b>WARD/S AFFECTED</b>	All

### 1. Purpose of Report

- 1.1 The purpose of this report is to provide Members with the final revised draft Gambling Act 2005 Statement of Principles for consideration as required under the Gambling Act 2005 (“the 2005 Act”).

#### RECOMMENDATION

- 1.2 It is recommended that the Committee
- 1.2.1 Approve draft the Statement of Principles attached at Appendix A
- 1.2.2 Recommend to Council to adopt the draft Statement of Principles at its meeting on Tuesday 10<sup>th</sup> November 2015 for publication at least 4 weeks prior to coming into effect for the period 31 January 2016 to 30 January 2019
- 1.2.3 Request Cabinet at its meeting on Tuesday 13<sup>th</sup> October 2015 to consider the draft Statement of Principles and to recommend to Council as set out in paragraph 1.2.2 above.

### 2. Reasons for Recommendations

- 2.1 The recommendations are in line with the legal requirements for the correct process for the required review and adoption of the Statement of Principles.
- 2.2 The adoption of the revised Statement of Principles is a shared function under the Local Authorities (Functions and Responsibilities) (England) Regulations 2000 (as amended) and therefore Cabinet will be asked to consider the draft Statement of Principles and to recommend to Council that it be adopted.

### 3. Content of Report

- 3.1 Section 349 of the 2005 Act requires all licensing authorities to prepare and publish a statement of the principles that they intend to apply in exercising their functions under the 2005 Act. This statement of principles will last for a maximum of three years, but can be reviewed and revised by the authority at any time.

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3.2 The Council published its first Statement of Principles for the period 31 January 2007 to 30 January 2010 and subsequently published a revised Statement for the periods 31 January 2010 to 30 January 2013 and 31 January 2013 to 30 January 2016. In accordance with the requirements of the 2005 Act a further revised Statement of Principles must now be adopted and published for the period 31 January 2016 to 30 January 2019.

3.3 The Committee considered a revised draft Statement of Principles at its meeting on 1 July 2015 and agreed that it should be submitted for formal consultation. This consultation took place for 12 weeks from Monday 6 July to Monday 28 September 2015.

3.4 At the time of writing this report only one response has been received during the consultation period which was from Buckinghamshire Fire and Rescue Service advising that it had no comments. Members will be advised at the meeting if any other responses are received during the consultation period.

#### **4. Options**

4.1 If there are no responses from consultees objecting to or requesting that the draft Statement of Principles be amended, and as the draft Statement of Principles has previously been agreed by the Committee there is only 1 appropriate option which is to follow the recommendations.

4.2 If there are responses objecting to or requesting changes to the draft Statement of Principles then Members can recommend adoption of the draft Statement with or without modification having duly considered those responses.

#### **5. Corporate Implications**

##### **5.1 Financial**

The only resource implications in relation to the publication of the Statement of Principles are officer time. The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 require that the licensing authority advertise the publication of the statement by publishing a notice either before, or on, the day of the publication of the statement. It is proposed to publish the revised Statement of Principles on the Council's website and simply advertise the publication of the statement at local libraries and at the council offices.

##### **5.2 Legal**

It is a legal requirement of the 2005 Act to have a Statement of Principles and that this statement is reviewed and published every 3 years.

#### **6. Links to Council Policy Objectives**

The licensing of gambling premises and the adoption of a policy in respect of this activity contributes towards the Council's Corporate Plan Key Theme 1 of 'Thriving Economy' and Corporate Plan Key Theme 3 of 'Safe Communities'. Properly

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controlling and regulating gambling activities will assist in ensuring that levels of crime and disorder remain low and appropriate well run gambling premises can contribute towards the local economy.

## **7. Next Step**

The next steps will be as stated in the recommendations

<b>Background Papers:</b>	Gambling Act 2005 and associated Orders and Regulations Gambling Commission Guidance to Licensing Authorities 4 <sup>th</sup> Edition July 2012 and draft 5 <sup>th</sup> Edition March 2015.  Statement of Principles adopted on 12 December 2006 and reviewed on 15 December 2009 and 10 October 2012
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Classification: OFFICIAL

**SOUTH BUCKS DISTRICT COUNCIL**  
 ADOPTED BY FULL COUNCIL ON 12<sup>TH</sup> DECEMBER 2006  
**STATEMENT OF GAMBLING PRINCIPLES**  
**GAMBLING ACT 2005**  
 1<sup>ST</sup> REVIEW - 15<sup>TH</sup> DECEMBER 2009.  
 2<sup>ND</sup> REVIEW - 30<sup>TH</sup> OCTOBER 2012  
 3<sup>RD</sup> [REVIEW - 10<sup>TH</sup> November 2015](#)  
 TO HAVE EFFECT 31 JANUARY 2016 TO 30 JANUARY 2016.

**Part A**

1. Introduction
2. Summary and Declaration
3. Licensing Objectives
4. Licensing Authority Functions
5. Responsible Authorities
6. Interested Parties
7. Exchange of Information
8. Enforcement

**Part B - Premises Licences: consideration of applications**

1. General Principles
2. Premises Licences
3. Adult Gaming Centres
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**Part C - Permits/Temporary and Occasional Use Notices**

1. Unlicensed Family Entertainment Centre gaming machine permits
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**Appendices**

- ~~A.~~ [Map of area](#)
- ~~B.~~A. List of Consultees
- ~~C.~~B. Contact details of all Responsible Authorities
- ~~D.~~C. Delegations
- ~~E.~~D. Glossary of Terms
- ~~F.~~E. Category of machines

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## Part A

### 1. Introduction

South Bucks District Council is situated in the County of Buckinghamshire, which contains 4 District Councils and Buckinghamshire County Council. The district has a population of 66,900 (2011 Census). It is relatively small at 141km<sup>2</sup>, and lies within the Metropolitan Green Belt, with 87% of land designated as green belt. It is the smallest district in Buckinghamshire in terms of size and population. Although the Council area is principally rural it includes the towns of Beaconsfield, Gerrards Cross, Burnham, Iver and Denham. The main shops are located in the centres of Beaconsfield and Gerrards Cross. Proximity to Greater London and other major towns, and the presence of the M4, M25 and M40 motorways, all of which pass through the District, and its rail links coupled with the attractive countryside make it ideal as a place in which to live. [A map of the District is at Appendix A.](#)

#### Map of Area



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Licensing authorities are required by Section 349 the Gambling Act 2005 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 re-consulted upon. The statement must be then re-published.

South Bucks District Council consulted widely upon this Statement before it was finalised and published. **A full list of those persons/bodies consulted is provided at Appendix AB.**

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

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.

Our consultation took place for 12 weeks between ~~Thursday 28 June and Wednesday 19 September 2012.~~

Comment [NM1]: Dates to be added

The full list of comments made and the consideration by the Council of those comments is available on request to: The Licensing Team, Council Offices, ~~Capswood, Oxford Road, Denham UB9 4LH – 01895 837222~~ [King George V Road, Amersham HP6 5AW - 01494 732063.](#)

The Statement was approved at a meeting of the Full Council on ~~30 October 2012~~ and was published via our website on ~~30 November 2012~~ and shall take effect on 31 January 2013. Copies were placed in the public libraries of the area as well as being available at the Council Offices.

Comment [NM2]: Dates to be added

Should you have any comments as regards this Statement please send them via e-mail or letter to the following contact:

Name: The Licensing Team  
 Address: Council Offices, [King George V Road, Amersham HP6 5AW](#) ~~-Capswood, Oxford Road, Denham UB94LH~~  
 E-mail: [licensing@southbucks.gov.uk](mailto:licensing@southbucks.gov.uk) Tel: [01494 732063](tel:01494732063) ~~01895 837222~~

The Council reserves the right to amend this Statement should it be necessary to do so following Regulations issued by the Secretary of State or further Guidance from the Gambling Commission.

## 2. Summary and Declaration

This Statement of Principles sets out the Councils general approach as Licensing

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Authority to the exercise of its functions under the Gambling Act 2005. The Council will seek to regulate Gambling in the public interest. In carrying out its licensing functions the Council will have regard to any guidance issued by the Gambling Commission from time to time and the 3 licensing objectives. The Council in undertaking its licensing functions will have due regard to the need to eliminate unlawful discrimination and will seek to promote equality and good relations between all persons having particular regard to their human rights.

The Council will not seek to use the Act to resolve matters more readily dealt with under other legislation.

It should be noted that this Statement of Principles 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 Gambling Act 2005.

Demand and need are not considerations the Local Authority will take into account in relation to applications submitted to it for determination however the location of the premises, its size and layout can be relevant considerations to be taken into account on a case by case basis.

### Declaration

In producing this Statement, this Licensing Authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission, and any responses from those consulted on the statement

### 3. The Licensing Objectives

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005. The 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
- Protecting children and other vulnerable persons from being harmed or exploited by gambling

Section 153 requires that the Licensing Authority, in making decisions about premises licences and temporary use notices, 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

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- in accordance with the authority's statement of licensing policy

The Licensing Authority recognises that the best means of promoting the licensing objectives is through the co-operation and partnership of the Local Authority, the Police, local business, local people and those involved in child protection.

#### 4. Licensing Authority Functions

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

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

A "gaming machine" can cover all types of gambling activity which can take place on a machine, including betting on 'virtual' events.

The Act itself prescribes the number and category of gaming machines that are permitted in each type of gambling premises.

Subject to the provisions of the Act, gaming machines can be made available in a wide variety of premises, including:

- casinos
- bingo premises
- betting premises, (including tracks)
- adult gaming centres
- family entertainment centres
- clubs
- pubs and other alcohol licensed premises
- travelling fairs

A machine is not a gaming machine if the winning of a prize is determined purely by the player's skill. However, any element of 'chance' imparted by the action of the machine would cause it to be a gaming machine.

Licensing Authorities are required under the Gambling Act 2005 to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits

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- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section below on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

There are a range of statutory application forms and notices that licensing authorities are required to use. The forms can be downloaded from the Department for Culture, Media and Sport website ([www.culture.gov.uk](http://www.culture.gov.uk)).

Certain activities are however exempt and these require no licence or permit i.e. incidental non-commercial lotteries - those run as an additional amusement at non commercial events with tickets sold on the premises and only during the event - such as a raffle at a dance or a church fete and promoted for a purposes other than private gain.

It should be noted that local licensing authorities will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via operating licences - the Gambling Commission will also be responsible for Personal Licences. The National Lottery is regulated by the National Lottery Commission [which is part of the Gambling Commission](#). ~~The National Lottery Commission has been collocated with the Gambling Commission since January 2012 and the Public Bodies Bill includes legislation to merge the two commissions.~~

The Council's licensing functions under the Act will be carried out by the Licensing Committee, the Licensing sub-committee and/or by officers acting under the delegated authority of the Licensing Committee - see Appendix D.

Where there are no areas of contention it is considered that many of the functions will be largely administrative. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.

Where there are relevant representations in respect of an application the matter will be determined by the Licensing Sub-Committee, as will any application for the review of a licence.

The Council will, where appropriate, seek to encourage permit and premises licence holders to adopt any codes of practice which may be introduced by the

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amusement industry from time to time.

## 5. Responsible Authorities

Section 157 of the Act defines those authorities as:

- The Gambling Commission
- The Police
- The Fire Service
- The local planning authority
- Environmental health
- Local Safeguarding Children Board (LSCB)
- HM revenue and Customs
- A licensing authority in whose area the premises is situated

This [Authority](#) designates the Local Safeguarding Children Board as the body which it considers competent to advise about the protection of children from harm.

The principles applied in this designation were

- 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.

The contact details of all the Responsible Authorities under the Gambling Act 2005 is provided at Appendix [BC](#). Contact details of Responsible Authorities are also provided on the Council's website at: [www.southbucks.gov.uk](http://www.southbucks.gov.uk)

## 6. Interested Parties

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 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)”

In deciding whether or not a person is an interested party, each case will be decided upon its merits. This [Authority](#) will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance for local authorities, the size of the premises, the nature of the premises and the activities taking place i.e. larger premises may be

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considered to affect people over a broader geographical area compared to smaller premises offering similar facilities, the distance of the premises from the person making the representation - amongst other matters on a case by case basis - therefore this list is not exhaustive.

Business Interests will be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, this Authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

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 Sub-Committee dealing with the licence application.

South Bucks District Council will not consider representations that are frivolous or vexatious, or which relate to demand or need for gambling facilities. Decisions on whether representations are frivolous or vexatious will be made objectively on a case by case basis and not on the basis of any political judgement. Where representations are rejected, the person making that representation will be given a written reason.

A vexatious representation is generally taken to be one which is repetitive, without foundation or made for some other reason such as malice. A frivolous representation is generally taken to be one that is lacking in seriousness, or is unrelated to the licensing objectives, guidance issued by the Gambling Commission or this statement of principles.

### **7. Exchange of Information**

Licensing authorities are required to include in their statements 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.

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. Details of those persons making representations will be made available to applicants to allow for negotiation and, in the event of a hearing being held, will

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form part of a public document. Anyone making representations or applying for the review of a Premises Licence will be informed that their details will be disclosed in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000.

The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter as updated from time to time, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005 and guidance from LACORS.

Should any protocols be established as regards information exchange with other bodies then they will be considered and if applied, copies will be made available.

## 8. 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.

This Licensing Authority is a signatory to the Enforcement Concordat and the Regulators' Compliance Code and will follow the principles set out in these documents with a view to adopting a consistent, transparent and proportional approach.

The Enforcement Concordat proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain records, may be dealt with by way of written warning. More serious offences may result in a referral to the Licensing Committee, the issue of a Formal Caution or a referral for prosecution.

The Regulators' Compliance Code supports the Government's better regulation agenda and intends to promote efficient and effective approaches to regulatory inspection and enforcement which improve regulatory outcomes without imposing unnecessary burdens on business.

The Licensing Authority intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the district for unlicensed premises.

The Licensing Authority will seek to work actively with the Police in enforcing licensing legislation and intends to establish protocols with the Thames Valley Police, Buckinghamshire Trading Standards and Buckinghamshire Fire and Rescue on enforcement issues to ensure an efficient deployment of police and council officers.

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Licence/Permit holders will be encouraged to give the Licensing Authority the name of the person responsible for the premises to be contacted in the first instance in relation to compliance issues/queries.

Any enforcement action will endeavour to be:

- **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.

As per the Gambling Commission's Guidance for local authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

The Licensing Authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

This Licensing Authority also keeps itself informed of developments as regards best practice in its consideration of the regulatory functions of local authorities.

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

Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements will be available upon request to the licensing department (Council Offices, Capswood, Oxford Road, Denham, UB9 4LH, telephone 01895-837222, e-mail [licensing@southbucks.gov.uk](mailto:licensing@southbucks.gov.uk)). Our risk methodology will also be available upon request when adopted/completed.

### **Part B - Premises Licences: consideration of applications**

#### **1. General Principles**

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In carrying out its licensing functions the Council will have regard to any guidance issued by the Gambling Commission from time to time and the 3 licensing objectives.

The Council will not seek to use the Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met the Council will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

Where children, young persons and other vulnerable people are allowed access to premises where gambling takes place, the Council may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under age gambling where it believes it is right to do so for the prevention of their physical, moral or psychological harm, especially where it receives representations to that effect. Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

However, the overriding principle is that all applications and the circumstances prevailing at each premises will be considered on their own individual merits.

## **2. Premises Licence**

A premises licence can authorise the provision of facilities at the following:

- casino premises
- bingo premises
- betting premises, including betting tracks and premises used by betting intermediaries
- adult gaming centre premises (for category B3, B4, C and D machines)
- family entertainment centre premises (for Category C and/or D machines)

The type of licence will dictate the type of gambling and the category of gaming machine that is allowed therein.

Other than an application for a betting premises licence in respect of a track (where the occupier of the track who gets the premises licence may not be the person who actually offers the gambling), the Council is not able to issue a premises licence unless the applicant holds the relevant operating licence from the Gambling Commission.

The Act provides that licensing authorities may attached conditions to premises licences and Gambling Commission guidance suggest what conditions might be considered appropriate in relation to each type of licence.

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The Council will maintain a register of premises licences issued and will ensure that the register is open for public inspection at all reasonable times.

### Decision-making

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 policy.

It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution') and also that unmet demand is not a criterion for a licensing authority.

(ii) 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. However, licensing authorities should 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.

The Gambling Commission states in the ~~fourth~~<sup>third</sup> edition ([para 7.14](#)) of 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."

This Licensing Authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building

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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 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.

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.

The Gambling Commission’s relevant access provisions for each premises type are reproduced below:

7.25:

### **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- 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**

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## Appendix2

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

### **Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) 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 premise 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

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this [Authority](#) will also take into account in its decision-making.

### **Premises "ready for gambling"**

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.

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.

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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.

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.

More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

**Location** - 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. As per 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 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.

#### **Planning:**

The Gambling Commission Guidance to Licensing Authorities states:

7.59 - 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, i.e. 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.

This Authority will not take into account irrelevant matters as per the above guidance. In addition this Authority notes the following excerpt from the Guidance:

7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence

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does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

Duplication with other regulatory regimes - 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 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.

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 - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

### **Preventing gambling from being a source of crime and disorder**

The Gambling Commission will play a leading role in preventing gambling from being a source of crime and disorder and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

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 Council will not generally be concerned with the suitability of an applicant but where concerns about a person's suitability arise the Council will bring those concerns to the attention of the Commission.

If an application for a licence or permit is received in relation to premises which are in an area noted for particular problems with organised crime, the Council will, in consultation with the police and other relevant authorities, consider whether specific controls need to be applied to prevent those premises from being a source of crime. This could include a requirement for door supervisors.

As far as disorder is concerned, there are already powers in existing anti-social behaviour and licensing legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Council does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers.

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

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shown that gambling is the source of that disorder. A disturbance might be serious enough to constitute disorder if police assistance was required to deal with it. Another factor which could be taken into account is how threatening the behaviour was to those who could see or hear it, and whether those people live sufficiently close to be affected or have business interests that might be affected.

When making decisions in this regard the Council will give due weight to any comments made by the police.

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

The Gambling Commission does not generally expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business or will relate to the suitability and actions of an individual. Both issues will be addressed by the Commission through the operating and personal licensing regime.

Because betting track operators do not need an operating licence from the Commission the Council may, in certain circumstances impose conditions on the licence relating to the suitability of the environment in which betting takes place.

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

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

This Licensing Authority will also make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to specific premises such as casinos.

As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This statement will be applied to vulnerable persons on this basis or by way of any statutory definition in the future - as may then be amended from time to time. The Council will always treat each case on its own individual merits and when considering whether specific measures are required to protect children and other vulnerable people will balance its considerations against the overall principle of aiming to permit the use of premises for gambling.

#### **Conditions**

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Mandatory conditions will be imposed - otherwise the local authority has a discretion regarding default conditions and imposing other specific conditions. The local authority will not attach conditions to a licence unless they are considered necessary for the promotion of the licensing objectives and will be considered unnecessary if they are already adequately covered by other legislation.

Any conditions attached to licences by the local authority will be proportionate to the circumstances they are intended to address. The Council will endeavour to ensure they are

- 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.

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas, age limits, posters re Gamcare contacts and Helpline information, opening hours, 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.

Conditions imposed by the Council may be general in nature by applying to all licences, or those of a particular type, or they may be specific to a particular licence. Duplication with other statutory or regulatory regimes will be avoided so far as possible.

The Council will not generally impose conditions that limit the use of premises for gambling unless it is deemed to be necessary as a result of the requirement to act in accordance with the Gambling Commission's guidance, any codes of practice issued by the Commission, this Statement of Principles or in a way that is reasonably consistent with the licensing objectives.

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.

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

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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.
- age verification schemes are implemented.

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

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 2005 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

The Gambling Commission advises in its Guidance for local authorities that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. The Local Authority will however only make a door supervision requirement if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

It is noted though that the door supervisors at casinos or bingo premises are not licensed by the Security Industry Authority (SIA). This Licensing Authority however reserves the right to attach a condition(s) to a licence when requesting door supervisors to be employed requiring that they are licensed by the SIA and are adequately vetted. This is in recognition of the nature of the work in terms of searching individuals, dealing with potentially aggressive persons, etc.

### **3. Adult Gaming Centres**

This Licensing Authority will specifically have regard to the need to protect

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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 will expect applicants to offer their own measures to meet the licensing objectives however appropriate measures / licence conditions may cover issues such as:

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

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

#### 4. (Licensed) Family Entertainment Centres

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 and may request plans of the premises to be submitted.

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:

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

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measures.

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

## 5. Casinos

No Casinos resolution - This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005 as it is not currently anticipated there will be any casinos in this area hence a no casino resolution is not considered necessary at this time - the Local Authority is however 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 statement with details of that resolution. Any such decision will be made by the Full Council.

In determining any application for a Casino regard will be had to relevant regulations and guidance issued from time to time under the Act.

## 6. Bingo premises

The holder of a bingo operating licence will be able to provide any type of bingo game including cash and prize bingo.

Commercial bingo halls will require a bingo premises licence from the Council.

Amusement arcades providing prize bingo will require a prize gaming permit from the Council

In each of the above cases it is important that where children are allowed to enter premises licensed for bingo, in whatever form, they are not allowed to participate in any bingo game other than category D machines. When considering applications of this type the Council will therefore take into account, among other things, the location of the games or machines, access to those areas, general supervision of the premises and the display of appropriate notices.

A limited number of gaming machines may also be made available at bingo licensed premises.

Bingo is a class of equal chance gaming and will be permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold, otherwise it will be subject to a bingo operating licence which will have to be obtained from the Gambling Commission.

This Licensing Authority notes that the Gambling Commission's Guidance states:

18.4 Licensing authorities will need to satisfy themselves that bingo can be played

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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.

This Authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

This Authority will consider any further guidance issued by the Gambling Commission from time to time in relation to Bingo in particular but not limited to matters relating to the suitability and layout of premises.

### **7. Betting premises - including tracks**

Anyone wishing to operate a betting office will require a betting premises licence from the Council - although betting is permitted under a Casino Premises Licence without a separate betting premises licence - and special rules apply in relation to tracks. Children and young persons under 18 will not be able to enter premises with a betting premises licence.

Betting premises will be able to provide a limited number of gaming machines and some betting machines.

The Council has the power to restrict the number of betting machines, their nature and the circumstances in which they are made available. It will not generally exercise this power though unless there are good reasons to do so taking into account, among other things, the size of the premises and the level of management and supervision especially where vulnerable people are concerned.

Each application will be considered on its own individual merits.

Applicants will however be encouraged to locate/relocate machines to enhance the quality of the facility provided.

Only one premises licence can be issued for any particular premises at any time unless the premises is a 'track'.

#### **Tracks**

A track is a site where races or other sporting events take place.

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

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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.

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.

This Licensing Authority may consider measures to meet the licensing objectives such as:

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

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

Gaming machines - 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.

Betting machines - This Licensing Authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (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 proposes to offer.

### Applications and plans

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. (See Guidance to Licensing Authorities, para 20.28).

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

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regulations. (See Guidance to Licensing Authorities, para 20.29).

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.31).

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

(See Guidance to Licensing Authorities, para 20.32).

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. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, para 20.33).

### 8. Lotteries

All “lotteries” are unlawful unless they are run in accordance with an operating licence issued by the Gambling Commission or it is an ‘exempt’ lottery as defined by the Act.

One of those exemptions is in respect of what are termed “small societies lotteries” and the Council is responsible for registering these ‘small’ lotteries.

A society will be allowed to register with the Council if it is a ‘non-commercial’ lottery, in other words, it is established and conducted:

- for charitable purposes;
- for the purpose of enabling participation in, or of supporting, sport, athletic or a cultural activity; or
- for any other non-commercial purpose other than for private gain.

The Council will maintain a public register of small societies lotteries which it has registered.

### 9. Travelling Fairs

It will fall to this Licensing Authority to decide whether, where category D

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machines and / or equal chance prize gaming without a permit are 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 - see Sections 286 and 287 of the Act although “Ancillary Amusement” is not defined in the Act.

The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

## 10. Provisional Statements

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.

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.

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.

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.

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

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- 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:

- 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.

### 11. Reviews

Requests for a review of a premises licence can be made by interested parties or responsible authorities, however, it is for the [Licensing Authority](#) to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous and/or vexatious, or whether it is substantially the same as previous representations or requests for review.

- 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.

The [Licensing Authority](#) can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

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.

The [Licensing Authority](#) must carry out the review as soon as possible after the 28 day period for making representations has passed.

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:-

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- (a) add, remove or amend a licence condition imposed by the [L](#)icensing [A](#)uthority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (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.

In determining what action, if any, should be taken following a review, the [L](#)icensing [A](#)uthority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

In particular, the [L](#)icensing [A](#)uthority 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.

Once the review has been completed, the [L](#)icensing [A](#)uthority must, as soon as possible, notify its decision to:

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

## **Part C - Permits / Temporary and Occasional Use Notices**

### **1. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

Where a premises does not hold a premises licence - or an Alcohol Premises Licence but wishes to provide gaming machines, it may apply to the [L](#)icensing [A](#)uthority 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). No [O](#)perating [L](#)icence is required.

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 under section 25. The Gambling Commission's Guidance for local authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)

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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 applications to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and
- that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)

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

### **Statement of Principles**

South Bucks District Council 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 i.e. how to deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This Licensing Authority will also expect, as per Gambling Commission Guidance, that applicants 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); that relevant insurance is in place and that staff are trained to have a full understanding of the maximum stakes and prizes.

Matters raised by the Police will also be a determining factor in the Councils decision as will the suitability of the premises re location, history of disorder, etc.

### **2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))**

#### **Automatic Entitlement: 2 Machines**

There is provision in the Act for alcohol licence holders to automatically make available for use in alcohol licensed premises 2 gaming machines, of categories C and/or D. This entitlement relates only to premises that are licensed for consumption of alcohol on the premises, there is no entitlement in premises licensed only for consumption off the premises. This entitlement does not require an authorisation as licensing authorities have no discretion regarding this matter. The premises merely need to notify the Licensing Authority, pay the prescribed fee and comply with any Gambling Commission Code of Practice. 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

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

#### Permit: 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the [Licensing Authority](#) must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “such matters as they think relevant.”

This [Licensing Authority](#) considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the [Authority](#) that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the [Authority](#) that there will be no access to for under 18’s 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 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 and Gamblers Anonymous.

It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

It should be noted that the [Licensing Authority](#) can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. This [Authority](#) will consider limiting the number of machines only where there is clear evidence that such machines have been or are likely to be used in breach of the licensing objectives. Conditions (other than these) cannot be attached.

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.

### 3. Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))

A Prize Gaming Permit is a permit issued by the Local Authority to authorize the

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provision of facilities for gaming with prizes on specific premises. Certain premises can offer prize gaming without a Prize Gaming Permit i.e. Bingo Premises.

The Gambling Act 2005 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 propose to consider in determining the suitability of the applicant for a permit”.

This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

- that they understand the limits to stakes and prizes that are set out in Regulations;
- and that the gaming being offered is within the law.

In making its decision on 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 - and the police must be consulted. Relevant considerations for the Local Authority include the suitability of the applicant i.e. relevant convictions; location of the premises and issues of disorder.

It should be noted that there are conditions in the Gambling Act 2005 to which the permit holder must comply, but that the Licensing Authority cannot attach its own further 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.

#### 4. Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide up to three gaming machines (from specified categories), equal chance gaming and games of chance as set-out in regulations. A Club Gaming machine permit will enable the premises to provide up to three gaming machines (from specified categories), but not equal chance gaming or games of chance. Commercial Clubs are not permitted to provide non-machine gaming, but can apply for a club machines permit permitting up to three machines. The

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machines permitted in Commercial Clubs differ from those permitted in Members Clubs and Miners' welfare institutes.

When considering whether to grant a club gaming permit or club machine permit (and monitoring those that have been issued) the Council will have regard to guidance issued by the Gambling Commission regarding the factors that ought to be considered in making such determinations.

The Commission Guidance notes that "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; (If (a) or (b) apply then the local authority must refuse the permit)
- (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".

If c), d) or e) apply, then the local authority can refuse but will first have regard to relevant guidance and the licensing objectives.

**Fast Track Procedure** - 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). The Gambling Commission's Guidance for local authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." "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."

There are mandatory conditions on club gaming/machine permits including 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 - no other conditions can be imposed.

## 5. Temporary Use Notices

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

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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.

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.

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 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

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 Licensing 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". 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.

This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### 6. Occasional Use Notices

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. These are only available for betting at tracks - see section 39 of the Act. This Licensing Authority will however consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

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| Appendix A Map of area



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### Appendix AB - List of consultees.

#### Responsible authorities:

- The Gambling Commission
- The Chief Officer of Police
- The Fire Authority
- The Environmental Health Authority
- The Local Planning Authority
- Local Safeguarding Children Board
- H.M. Revenue and Customs

#### Other Local Authorities:

- Aylesbury Vale District Council
- Buckinghamshire County Council
- Chiltern District Council
- Milton Keynes District Council
- Wycombe District Council

Elected members of South Bucks District Council

Town and Parish Councils within the South Bucks District Council area

#### Persons who appear to represent the interests of gambling businesses:

- Association of British Bookmakers
- Bingo Association
- British Amusement Catering Trade Association
- British Beer and Pub Association
- Business in Sport and Leisure
- Casino Operators Association
- Enterprise Inns
- Federation of Licensed Victuallers
- Gala Coral Group
- Greyhound Board of Great Britain
- Ladbrokes
- National Pubwatch
- Point Bingo
- Premises licence holders within South Bucks District Council area
- Rank Group
- Solicitors/legal practices regularly representing gambling operators
- William Hill
- Working Men's Club and Institute Union

Persons who appear to represent the interests of those likely to be affected by the authority's exercise of functions under this Act (faith groups, voluntary and community organisations working with young people, organisations working with people who are problem gamblers, medical practices and advocacy organisations)

- Age Concern

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British Blind Sport  
Citizens Advice Bureau  
Churches within the South Bucks District Council area  
Gamcare  
Gerrards Cross Community Association  
GPs within the South Bucks District Council area  
Leisure Link Limited  
Mencap  
Schools within the South Bucks District Council area

Note: - This list is not intended to be exclusive. Comments and observations will be welcome from anyone who will be affected by the policy.

Copies of the draft Gambling Statement of Principles were also placed in the public libraries of the South Bucks District Council area as well as being available at the Council Offices and on the Council's website.

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**BC. Contact details of all Responsible Authorities**

**The Gambling Commission**

4<sup>th</sup> Floor Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Tel No: 0121 230 6666

E-mail: [contactcentre@gamblingcommission.gov.uk](mailto:contactcentre@gamblingcommission.gov.uk)

Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

**The Chief Officer of Police**

Licensing  
Thames Valley Police  
Headquarters (South)  
Kidlington  
Oxfordshire  
OX5 2NX

E-mail: [licensing@thamesvalley.pnn.police.uk](mailto:licensing@thamesvalley.pnn.police.uk)

Telephone: 01865 846597

**The Fire Authority**

Protection Manager  
Buckinghamshire Fire and Rescue Service  
Marlow Fire Station  
Parkway  
Marlow  
Bucks,  
SL7 1RA

E-mail: [FSMAR@bucksfire.gov.uk](mailto:FSMAR@bucksfire.gov.uk)

Telephone: 01628 470644

**The Environmental Health Authority**

Environment Manager  
South Bucks District Council  
Council Offices  
Capswood  
Oxford Road  
Denham  
UB9 4LH

E-mail: [environment@southbucks.gov.uk](mailto:environment@southbucks.gov.uk)

Telephone: 01895 837333

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**The Local Planning Authority**

Development Management  
South Bucks District Council  
Council Offices  
Capswood  
Oxford Road  
Denham  
UB9 4LH

E-mail: [planning@southbucks.gov.uk](mailto:planning@southbucks.gov.uk)  
Telephone: 01895 837342/01895 837210

**Local Safeguarding Children Board**

Buckinghamshire Safeguarding Children Board  
4<sup>th</sup> Floor  
County Hall  
Walton Street  
Aylesbury  
HP20 1UZ

**H.M. Revenue and Customs**

National Regulation Unit  
Betting & Gaming Section  
Portculis House  
21 India Street  
Glasgow  
G2 4PH

E-mail: [NRUbetting&gaming@HMRC.GSI.gov.uk](mailto:NRUbetting&gaming@HMRC.GSI.gov.uk)

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**Appendix CD. Delegations**

The table below sets out the agreed delegation of decisions and functions of the Licensing Committee, sub-committees and officers. The various delegations include delegation to impose appropriate conditions.

This scheme of delegations is without prejudice to the right of officers to refer an application to a Licensing sub-committee or the full Licensing Committee if considered appropriate in the circumstances of any particular case.

Unless there are compelling reasons to the contrary, the Council will require the Licensing Committee or any of its sub-committees to meet in public - although Members can retire into private session to consider their decision.

[The Table of delegations will be reviewed and updated from time to time on the basis of the changes to law and practice. For the up to date scheme of delegations please refer to the Licensing Team.](#)

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MATTER TO BE DEALT WITH	FULL COUNCIL	LICENSING COMMITTEE	SUBCOMMITTEE	OFFICERS
Three year licensing policy	x			
Policy not to permit casinos	x			
Fee Setting - when appropriate		x		
Application for Premises Licences			Where representations have been received and not withdrawn	Grant where no representations have been received/representations have been withdrawn
Application for a Variation to a Licence			Where representations have been received and not withdrawn	Grant where no representations have been received/representations have been withdrawn
Application for a Transfer of a			Where representations	Grant where no representations have

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Licence			have been received from the Commission	been received from the commission
Application for a Provisional Statement			Where representations have been received and not withdrawn	Grant where no representations have been received/representations have been withdrawn
Review of a Premises Licence			x	
Application for club gaming/club machine permits			Where representations have been received and not withdrawn	Grant where no representations have been received/representations have been withdrawn
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

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Decision to give a counter notice to a temporary use notice			x	
Approval and/or amendments to Delegation Scheme		x		

**Appendix DE. Glossary of Terms**

Within this draft Statement of Policy, the following words and terms are defined as stated: Licensing Objectives: As set out in Section 1 of the Gambling Act 2005:

- 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
- Protecting children and other vulnerable persons from being harmed or exploited by gambling Council: South Bucks District Council District: The area of Buckinghamshire administered by South Bucks District Council (Map at Appendix A) Licenses: As defined under section 4 of this statement

Applications: Applications for licenses and permits as defined under Parts B and C of this statement.

Notifications: A notification of Temporary and Occasional use Notices

Act: The Gambling Act 2005, a new regulatory system to govern the provision of all gambling in Great Britain other than the National Lottery and Spread Betting.

Regulations: Regulations made under the Gambling Act 2005 to ensure smooth transition from the old regime for gambling regulation to the new regime established by the Act.

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Premises:	Any place including a vehicle, vessel or moveable structure.
Code of Practice:	Any Code of Practice issued under section 24 of the Gambling Act 2005.
Mandatory Condition:	Conditions which are specified in regulations by the Secretary of State and <b>must</b> be applied to all premises licences for England and Wales and Scotland respectively.
Default Condition:	Conditions which are specified in regulations by the Secretary of State for England and Wales and Scotland respectively. Local Authorities have powers to exclude default conditions.
Responsible Authority:	Bodies who have rights to be involved/consulted in relation to applications for Premises Licenses and other procedures under the Act (List of Responsible Authorities attached at Appendix C)
Interested Party:	defined as <ul style="list-style-type: none"> <li>• People who live sufficiently close to premises in respect of which a premises licence has been granted or applied for, that they are likely to be affected by activities authorised by the licence; and</li> <li>• those with business interests who might be affected by the authorised activities; or representatives of either of these groups</li> </ul>

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| Appendix **EF**. Category of Machines

Category of Machine	Maximum Stake from July 2011	Maximum Prize
A	No category A Gaming machines are currently permitted	
B1	£5	£10,000 or £20,000 if linked to other B1 machines
B2	£100 (in multiples of £10)	£500
B3	£2	£500
B4	£1	£400
C	£1	£100
D	Various 10p to £1	£5 to £50 (max relates to non-money prizes only)

NB Stakes and prizes for different categories of gaming machine are updated from time to time. For the most recent information please refer to the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

The number of different categories of machines in different types of premises are often subject to limits on numbers or percentages of machines available for use. For the most recent information please refer to the Gambling Commission website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

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