



## Licensing Committee Agenda

Date: Tuesday, 7th July, 2015  
Time: 7.00 pm  
Venue: Council Chamber  
District Council Offices, Queen Victoria Road, High Wycombe Bucks

### Membership

Chairman: Cllr Alan Hill  
Vice Chairman: Cllr Ian McEnnis

Councillors: Mrs S Brown, A Baughan, M Clarke, M P Davy, S Graham, A R Green,  
C B Harriss, M A Hashmi, M Hussain, D Knights, N B Marshall,  
S Saddique and R J Scott

### Standing Deputies

Councillors Z Ahmed, D J Carroll, M Hanif, M O Harris, M E Knight and R Raja

**Fire Alarm** - In the event of the fire alarm sounding, please leave the building quickly and calmly by the nearest exit. Do not stop to collect personal belongings and do not use the lifts. Please congregate at the Assembly Point at the corner of Queen Victoria Road and the River Wye, and do not re-enter the building until told to do so by a member of staff.

## Agenda

Item		Page
1.	<b>APOLOGIES FOR ABSENCE</b> To receive apologies for absence.	
2.	<b>MINUTES OF THE PREVIOUS MEETING</b> To confirm the minutes of the previous meeting.	1 - 4
3.	<b>DECLARATIONS OF INTEREST</b> To receive any disclosure of disclosable pecuniary interests by Members relating to items on the agenda. If any Member is uncertain as to whether an interest should be disclosed, he or she is asked if possible to contact the District Solicitor prior to the meeting.	

Members are reminded that if they are declaring an interest, they should state the nature of that interest whether or not they are required to withdraw from the meeting.

4. **Gambling Act 2005 Policy Review** 5 - 38
5. **Training for Licensing Panel Members** 39 - 42

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### **Executive Summary**

Under the Licensing Act 2003, the local authority is responsible for determining applications made under the Act. This function is delegated to a Licensing Panel of three members. Any Member wishing to take part in Panel Hearings must have received appropriate training, ideally at least every two years.

It is proposed to devote this meeting to training, with a view to bringing as many members as possible up to date with training needs and to offer a refresher of the processes involved.

Training on the 7 July will aim to give all Committee Members the opportunity to recap or learn aspects of the Act relating to Licensing Panel Hearings. It will enable Members to raise questions and Officers to provide guidance and assistance on key points and procedures in a training environment.

### **Members' Guide and Training Notes**

The Members' Guide was re-issued in 2013 and a copy is attached for ease of reference, together with the procedure guides for Panels and Determinations. All Members of the Committee should have a copy of WDC's Licensing policy (copies available on request).

### **Outcomes and Next Steps**

It will be the aim to give every member the training and confidence to take part in Licensing Panels.

6. **SUPPLEMENTARY ITEMS (IF ANY)**
7. **URGENT ITEMS (IF ANY)**

**For further information, please contact Liz Hornby 01494 421261;  
[committeeservices.gov.uk](mailto:committeeservices.gov.uk)**

## Licensing Committee Minutes

Date: 14 November 2013

Time: 7.00–7.21pm

**PRESENT:** Councillor A E Hill (in the Chair)

Councillors I L McEnnis, D H G Barnes, W J Bendyshe-Brown, A R Green, M Hussain, Ms R Knight, Ms P L Lee, J L Richards OBE, D A C Shakespeare OBE and R Metcalfe.

### 7 APOLOGIES FOR ABSENCE

Apologies were received from Councillor A Slater.

### 8 MINUTES OF THE PREVIOUS MEETING

**RESOLVED:** That the minutes of the meeting of the Licensing Committee held on 13 June 2013 be approved as a correct record and signed by the Chairman.

### 9 DECLARATIONS OF INTEREST

There were no declarations of interest.

### 10 OUTCOME OF CONSULTATION ON LICENSING ACT POLICY REVIEW

The Committee considered the report on the Outcome of Consultation on Licensing Act Policy Review. Legally a review was only required every five years and the last review had taken place only three years ago, however the current review took place to take account of changes to legislation. The Committee noted that over five hundred consultation letters were sent out as well as advertising; it was reported that just one reply had been received. Some minor changes were made to the policy subsequent to the consultation.

The Committee noted that there were two minor amendments to the Policy–

- Para 3.4: Members noted the addition of the sentence “Licensing Officers are able to advise on general matters relating to applications and licensing requirements generally although applicants will need to seek independent legal advice for detailed assistance in the completion of forms or where complicated legal issues arise”
- Para 9.6: Members noted an additional sentence “The Act now requires the suspension of a Premises Licence or Club Premises Certificate where an invoice has been issued for an annual fee and the payment has not been made within the required timescale. Suspension notices will be issued to the relevant premises in these cases and a further 21 days will be given prior to the suspension taking effect”.

In relation to 3.4, the Committee asked if a charge could be made for any advice given by a Licensing Officer. Some concern was expressed by the Licensing Team Leader that any advice given could give rise to a challenge to any subsequent decision before the, Magistrates Court on the basis that there was a conflict of interest. The Committee noted that the Licensing regime was required to be self-financing it could not make a profit. The Licensing Team Leader confirmed that the possibility of charging for pre-application advice was being explored and the one local authority who was charging for advice was being monitored closely to see if their decisions were challenged. The Licensing Team Leader confirmed that the fee structure was due to change in 2014.

In relation to 9.6, the Committee noted that budgets were in a better position and debt collections were now lower. The Licensing Team Leader stated that she had signed dozens of suspension notices but that only a handful of premises had been visited for those notices to be enforced.

**RESOLVED:** That the report be submitted to Council with the suggested additions.

## **11 SUPPLEMENTARY ITEMS**

### **White Cider Update**

The Licensing Team Leader updated the Committee on the results of an initiative for town centre premises to stop selling high strength white cider which had now been running for six months. Anecdotally, the results were looking positive: PCSO's had reported less street drinkers and that anti-social behaviour had reduced. The Committee noted that one well-known retailer, who had not signed up to the initiative had, however, been persuaded to stop selling high strength cider as a result of photographic evidence

The Licensing Team Leader stated that a full review would take place when the initiative had run for twelve months; she also explained that there was evidence of some displacement of drinkers, most especially on the Rye but that this was being addressed as it was generally known which premises were the root-cause of the problem.

The Licensing Team Leader explained that other local authorities had contacted Wycombe District Council for advice regarding the initiative in Wycombe.

The Committee noted that some premises were now beginning to sell high strength lagers and that this practice was being monitored. The issue of high strength lagers was raised before the initiative was first introduced, but was opposed by retailers of speciality beers which have a high alcoholic content.

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Chairman

**The following officers were in attendance at the meeting:**

- |              |                                      |
|--------------|--------------------------------------|
| Mrs L Hornby | - Senior Democratic Services Officer |
| Mrs C Steven | - Licensing Team Leader              |

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# Agenda Item 4.

## 1. Gambling Act 2005 Policy Review

Officer contact: Caroline Steven, 01494 421222, [caroline.steven@wycombe.gov.uk](mailto:caroline.steven@wycombe.gov.uk)

Wards affected: All

### PROPOSED DECISION OR RECOMMENDATION TO COUNCIL

That the draft review of the Gambling Act 2005 Policy at Appendix () be approved for a consultation exercise as required by the Act.

### Reason for Decision

The Licensing Authority is required by section 349 of the Gambling Act 2005 to review and publish its statement of licensing principles at least every three years. Failure to comply with this requirement may result in legal challenge, leading to costs and reputational damage.

### Corporate Implications

- 1.1 The proposed consultation exercise and subsequent review and publication of the policy must be carried out in order to comply with the Gambling Act 2005. Non-compliance may lead to possible legal and financial implications in that future applications determined under the Act may be challenged.

### Executive Summary

- 1.2 Members may recall that the Council originally approved the Gambling Act 2005 policy in December 2006. In accordance with s.349 of the Act, the Council is required to review, prepare and publish this policy at least every 3 years following a full consultation process with those persons specified within the Act and any others deemed relevant by the Council. The government recommends that the consultation process should take 3 months to enable sufficient time for those consulted to respond. The Policy was last reviewed and re-published in 2012. It is now necessary to review the policy and carry out a further consultation exercise.

### Sustainable Community Strategy/Council Priorities – Implications

- 1.3 The revision of the Gambling Act 2005 policy contributes to the Sustainable Community Strategy themes of Thriving Economy, Sustainable Environment and Safe Communities, and to the Council's Corporate Plan priorities of People and Place.

### Background and Issues

The Gambling Act 2005 policy must be reviewed, undergo a consultation process and be approved by Council by December this year.

Minimal changes are proposed to be made to the current policy and those changes are marked on the draft revised copy at Appendix (). The majority of the changes

have been made for clarification purposes or further to updated government guidance.

The consultation process is recommended by the government to last 3 months.

It is proposed that an updated version of the consultation list previously used in 2012 will be utilised for this purpose.

It is proposed that the revised amended policy undergoes the consultation process from June to August this year, in order for the consultation responses to be considered by the Licensing Committee at the meeting on 8th October 2015.

### **Next Steps**

Should the draft policy be approved, it will be subject to a 12 week consultation exercise. Any responses will be considered and presented to the Licensing Committee on 8<sup>th</sup> October 2015.

### **Background Papers**

Gambling Act 2005

Guidance issued by the Gambling Commission





# **Statement of Licensing Policy**

**under the**

# **Gambling Act 2005**

## FOREWORD

The Gambling Act 2005 created a new system of licensing and regulation for commercial gambling in this country. Amongst other changes, it gave local authorities new and extended responsibilities for licensing premises for gambling. Local authorities were previously responsible for licensing some of these premises, such as gaming machine arcades, although the responsibility for other major areas, such as betting, casino gaming and bingo, were transferred to licensing authorities from local licensing justices.

Licensing authorities work in conjunction with the Gambling Commission, who are responsible for granting operating and personal licences to those working in the gambling industry and those involved in the provision of facilities for gambling. Persons applying for premises licences are required to have already obtained these licences from the Commission.

The new Act came fully into force in September 2007. Under the Act each Licensing Authority is required to develop, consult on and publish a statement of licensing policy. This policy was introduced as a result of this requirement and aims to set out the principles that the Licensing Authority proposes to apply in exercising its functions under the Act.

The Act sets out three statutory objectives that must be considered when licensing functions under this legislation are undertaken. These are:

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is carried out in a fair and open way;
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

The Council, through the Community Plan for Wycombe District, seeks to improve the economic, social and environmental well being of the area. The objective is that these improvements will work towards making Wycombe District a better place to live, work and visit.

This Policy seeks to build on and contribute towards the overall Community Plan by drawing upon the Government's statutory objectives and Guidance as set out above.

It is against the background of these key aims that this Policy sets out Wycombe District Council's response to the 2005 Act and against which applications made under the Act will be determined. The Council will monitor the impact of the 2005 Act on crime, the licensing objectives and, in the light of these findings, will review the Policy accordingly.

*Cllr Alan Hill*  
*Chairman of Licensing Committee*

*Cllr Mrs Jean Teesdale*  
*Cabinet Member for Environment*

# Wycombe District Council

## Draft Statement of Licensing Policy

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# 1 STATEMENT OF LICENSING POLICY

## 1.1 Introduction

Wycombe District Council (the Council) is the Licensing Authority in respect of any applications made under the Gambling Act 2005 (the Act) within the District of Wycombe.

Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *licensed 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 3.6 on information exchange)
- Maintain registers of the permits and licences that are issued under these functions

Spread betting is regulated by The Financial Conduct Authority.

Remote Gambling is dealt with by the Gambling Commission.

The National Lottery is regulated by The National Lottery Commission.

In addition to holding Premises Licences issued by the Council, those involved in gambling and in the provision of gambling facilities are also required to obtain operating licences and personal licences from the Gambling Commission. The Council work in conjunction with the Commission to ensure that the licensing objectives are met and complied with.

The Act requires licensing authorities to prepare and publish a "Statement of Licensing Policy" that sets out the policies that the Council will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This policy will be reviewed at least every 3 years.

This “Statement of Licensing Policy” has been prepared having regard to the provisions of the Guidance issued by the Gambling Commission and the licensing objectives of the Act.

## **1.2 Consultation**

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

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

A full list of those consulted is attached at Appendix C.

The Policy is published on the Council’s website following formal adoption by the Council and will take effect one month from the date of publication. The Policy will be reviewed as necessary and at least every three years from the date of publication.

## **1.3 Background to the Area**

For those not familiar with the District and its many and varied characteristics this section of the Policy sets out in brief some of the qualities that the Council consider important to retain. The District is a mixed urban and rural area, whose amenity the Council has a duty to protect. One of the Council’s aims is to promote safer and stronger communities.

Wycombe District is situated in the south of rural Buckinghamshire, which includes such features as the Chilterns and Thames Valley. The three main towns, High Wycombe, Marlow and Princes Risborough are within ‘The Chilterns’, a designated Area of Outstanding Natural Beauty, whose secluded countryside and rural communities bring a unique environment for residents and visitors to enjoy.

High Wycombe is a thriving historic town, well known for its association with the furniture trade manufactured from local timber. It has a thriving business community and shopping centres. It has a University College, which brings a large student population to the town. It also has many residential areas, which accommodate a broad ethnic mix and religious following. The town centre retains its ancient street market and buildings whilst also accommodating many high capacity entertainment venues plus two large shopping centres. The town is also well served by open spaces such as the Rye where families and people of all ages can enjoy the largely unspoilt ‘meadow’ parkland.

Marlow is a quiet town famous for its Thames setting and attracts many thousands of visitors from both the UK and overseas each year. It is largely residential but its varied commercial area caters for tourists and local residents alike. As with other high street towns there are some residential units situated above or adjoining the commercial premises, which are sensitive to noise.

Princes Risborough typifies a bustling market town. Set in the north of the District it retains its high street shops and monthly farmers market giving it an unhurried rural feel to visitors and residents alike. It has many historic features such as the brick Market House with open arcades, Church and Manor House.

There are many other communities within the District, each with their distinctive characteristics. These range from small rural hamlets to larger villages each with special characteristics valued by local residents and the wider community. The characteristics of each are far too great to list here but applicants are advised that the Council will take into account the individual characteristics of an area when deciding what affect, if any, a premises licence will have on the licensing objectives.

## **1.4 Licensing Objectives**

The Gambling Act 2005 requires the Licensing Authority to carry out its licensing functions under the Act in a way which is reasonably consistent with the following three licensing objectives

1. Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
2. Ensuring that gambling is carried out in a fair and open way;
3. Protecting children and other vulnerable persons from being harmed or exploited by gambling.

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

The Gambling Commission take the leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. In appropriate cases, the Licensing Authority will consider whether any controls or conditions might be necessary to prevent particular premises becoming a source of crime or disorder. The Licensing Authority will in particular take into account the views of the police in identifying the potential for crime and disorder.

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

The Gambling Commission has stated that it will generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, a role for licensing authorities with regard to the licensing of tracks which may not necessarily have a separate operating licence. This is explained in more detail at section 3.12.

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

The Licensing Authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children, but it will assume for regulatory purposes, that “vulnerable persons” include:

1. People who gamble more than they want to;
2. People who gamble beyond their means;
3. People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, learning disability, alcohol or drugs.

Advice can be sought from organisations such as GamCare and the Buckinghamshire Safeguarding Vulnerable Adults Forum.

The Licensing Authority will also seek advice from agencies such as those referred to above when deciding whether to make a representation on an application.

## **1.5 Responsible Authorities**

These are public bodies that must be notified of all applications and who are entitled to make representations (objections) to the Council if they are relevant to the licensing objectives.



Section 157 of the Act defines at present those authorities as:-

- The Licensing Authority in whose area the premises is wholly/partly situated
- The Gambling Commission
- The Chief Officer of Police
- The Fire and Rescue Authority
- The Local Planning Authority
- An authority which has functions in relation to pollution to the environment or harm to human health
- Anybody, designated in writing by the Licensing Authority as competent to advise about the protection of children from harm
- HM Revenue and Customs

The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Licensing Authority about the protection of children from harm. The principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance, this Licensing Authority designates the Area Child Protection Committee based at Buckinghamshire County Council for this purpose.

The contact details of all the Responsible under the Gambling Act 2005 are available via the Council's website at [wycombe.gov.uk](http://wycombe.gov.uk).

## **1.6 Interested Parties**

Interested 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 determining whether someone lives sufficiently near to a particular premises so as to be affected, the Licensing Authority will take into account, among other things:

- the size of the premises
- the nature of the premises
- the distance of the premises from the person making the representation
- the nature of the complainant
- the potential impact of the premises

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

- the size of the premises
- the catchment area of the premises, and
- whether the person making the representation has business interests in the catchment area that might be affected

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. An elected member of the Council must comply with the Council's code of conduct and if they have a specific interest or there is an issue of bias, they must declare this and seek advice on whether they are able to appear before a licensing panel.

Other than those persons referred to above this Licensing Authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from the person requesting the representation is sufficient.

## **1.7 Representations**

Any responsible authority or interested party (or person representing them) can make representations about a licence application to the Licensing Authority.

Representations must be relevant to the individual application and to one or more of the licensing objectives. Representations must also be made within prescribed timescales and be in writing. Anonymous representations cannot be taken into consideration. In relation to whether to grant a Premises Licence, the Licensing Authority cannot consider representations which relate to the need or unmet demand for gambling premises, nor concerns which relate to general nuisance, which should be addressed by other legislation.

All representations will be considered on their own merits but the Licensing Authority may, in certain circumstances, consider a representation to be either frivolous or vexatious. This will generally be a matter of fact given the circumstances of each individual case and full reasons will be given where representations are rejected.

Where valid representations are made, the details of the person making the representation will be made available to the applicant for the purposes of mediation. Should the representation result in a formal hearing before the Licensing Sub-Committee, the details of the representation will form part of a public document. Anyone making representations will be informed that their details will be disclosed.

## **2 LEGISLATION, POLICIES AND STRATEGIES**

### **2.1 Legislation**

In undertaking its licensing function under the Act, the Council is also bound by other legislation. It is not intended, however, that requirements placed on applicants as a result of other legislation and regulation regimes will be duplicated.

### **2.2 Relationship with Planning Policies**

When determining an application, the Licensing Authority cannot take into account “irrelevant matters” such as the likelihood of the applicant obtaining planning permission or building control approval.

An applicant can apply for a “provisional statement” if the building is not complete or if he does not yet have a right to occupy it. Such an application is, however, a separate and distinct process to the granting of planning permission or building control approval.

Applicants should note that the granting of a premises licence does not preclude the applicant from the requirement to obtain any necessary planning consents and that different considerations may apply to such applications.

### **2.3 National and Local Strategies and Policies**

The Licensing Authority will seek to discharge its responsibilities identified by other Government Strategies, in so far as they impact on the objectives of the licensing function.

Where appropriate, the Licensing Authority will consider applications with reference to other adopted local strategies and policies. The Licensing Authority also recognises the importance of the co-ordination and integration of the Gambling policy with other plans aimed at the management of town centres and the night-time economy.

Relevant plans and strategies include:-

Community Safety Partnership Plan 2008 - 2011 – The Council will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the District. As far as possible, licensing decisions will aim to contribute to the targets set in the

Crime and Disorder Strategy and conditions attached to licences and certificates will reflect local crime prevention strategies.

Local Transport Plan – the Council aims to work with the local transport Licensing Authority and will consider ways in which the public can be dispersed from licensed premises and events so as to avoid disturbance, crime and disorder. The Police will be encouraged to report on matters related to the swift and safe dispersal of people from licensed premises.

Community Plan – The Council, with partners, works to ensure that Wycombe District remains economically strong and a good place to live, work and visit. As far as possible, licensing decisions will aim to support the themes of the Community Plan (safe communities; healthy communities, attractive environment; responsive approach; prosperous and learning communities and accessible places) to ensure social, economic and environmental wellbeing. The Safe Communities theme and targets therein, mirror the Crime Reduction Strategy.

Local Development Framework – The Local Development Framework (or LDF) is the umbrella term for a number of different planning documents and strategies. It is the spatial arm of the Community Plan and links to a wide range of other plans and strategies. The main LDF document is the Core Strategy which sets out how the Council will achieve the vision and objectives of the Community Plan.

Human Rights – The Human Rights Act 1998 incorporates the European Convention on Human Rights and makes it unlawful for a local Licensing Authority to act in a way which is incompatible with a Convention right. The Council will have particular regard to the following relevant provisions of the European Convention on Human Rights:-

- Article 6 states that in the determination of civil rights and obligations, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law;
- Article 8 states that everyone has the right to respect for his home and private and family life;
- Article 1 of the First Protocol states that every person is entitled to the peaceful enjoyment of his or her possessions, including the possession of a licence.

Tourism and Town Centre Management – The Council aims to promote a high quality thriving night-time economy. The Council will ensure that the Licensing Committee receives reports, when appropriate, on the needs of the local tourist economy to ensure that these are reflected in their considerations.

Economic Strategies – The Council will ensure that the Licensing Committee is appraised of the employment situation in the area, when appropriate, and the need for new investment and employment.

Enforcement Policy – All licensing enforcement will be conducted in accordance with the Regulatory Compliance Code and the Council's Enforcement Policy.

Child Protection Policy – Applications for premises licences will be considered in accordance with the Council's Child Protection Policy

Non-compliance with other statutory requirements may be taken into account in reaching a decision about whether to grant a licence, but only where relevant representations are received.

### **3. LICENSABLE ACTIVITIES**

#### **3.1 Types of Licence**

This document sets out the policies that the Licensing Authority will apply when making decisions upon applications or notifications made for:-

1. Premises Licences;
2. Temporary Use Notices;
3. Permits as required under the Act;
4. Registrations as required under the Act.

#### **3.2 Licensable Premises and Permits**

This policy relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely:-

1. Casinos;
2. Bingo Premises;
3. Betting Premises;
4. Tracks;
5. Adult Gaming Centres;
6. Family Entertainment Centres;
7. Club Gaming Permits;
8. Prize Gaming and Prize Gaming Permits;
9. Temporary Use Notices;
10. Registration of small society lotteries.

#### **3.3 General Principles**

Nothing in this Statement of Policy will:-

1. Undermine the rights of any person to apply under the Act for a variety of permissions and have the application considered on its individual merits; OR
2. Override the right of any person to make representations on any application or seek a review of a licence or permit where they are permitted to do so under the Act.

The starting point in determining applications will be to permit gambling in the premises, so long as this can be achieved in a manner which is:

- 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 Licensing Authority's statement of licensing policy.

### **3.4 Conditions**

The majority of premises licences will have mandatory and/or default conditions attached to the licence. These conditions are detailed in the Gambling Act 2005 (Mandatory and Default Conditions) Regulations 2007.

Conditions will only be considered where they are needed to meet the requirements of the licensing objectives, and any conditions applied will not be overly onerous and will be proportionate to the scale of the application and the risks involved. Conditions will generally be considered unnecessary if they are already adequately covered by other legislation.

Any conditions attached to licences will be:

- a) relevant to the need to make the proposed building suitable as a gambling facility;
- b) directly related to the premises and the type of licence applied for;
- c) fairly and reasonably related to the scale and type of premises; and
- d) reasonable in all other respects.

The licence applicant will also be expected to offer his/her own suggestions as to the way in which the licensing objectives can be effectively met.

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

- a) any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- b) conditions relating to gaming machine categories, numbers, or method of operation;
- c) conditions which provide that membership of a club or body be required; the Gambling Act 2005 specifically removes the membership requirement for casino and bingo clubs and this provision prevents it being reinstated; and
- d) conditions in relation to stakes, fees or prizes.

### **Door Supervisors**

The Guidance advises that licensing authorities may consider whether there is a need for door supervision in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling,

but there can also be a need for supervision to stop premises becoming a source of crime. It is noted that the door supervisors at casinos or bingo premises are not required to be registered by the Security Industry Authority (SIA) under the Private Security Industry Act 2001. Door supervisors not directly employed by a casino or bingo operator do have to be SIA registered.

For betting offices and other premises other than casinos and bingo premises, the operator and/or the council may decide that supervision of entrances or machines is appropriate in particular cases. The authority will make door supervision a requirement where there is evidence, from the history of trading at the premises or in the area, that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.

### **3.5 Information exchange**

In fulfilling its functions and obligations under the Gambling Act 2005 the Licensing Authority will exchange relevant information with other regulatory bodies and will establish protocols in this respect. In exchanging such information, the Licensing Authority will conform to the requirements of data protection and freedom of information legislation in accordance with the Council's existing policies.

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 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.

### **3.6 Premises Licences**

Any person or business that wishes to offer gambling for which an operating licence from the Gambling Commission is required must apply to the Licensing Authority for a premises licence.

Premises licences can authorise the provision of the following types of activities:

- (a) casino based gambling
- (b) bingo,
- (c) betting including tracks and premises used by betting intermediaries
- (d) adult gaming centres, or
- (e) family entertainment centres

For each premises type, the Act makes it clear that the primary activity should be that described in the premises licence type. The council will take decisions in accordance with the Commission's guidance and codes of practice on primary gambling activity, and will have regard to the advice which it issues from time to time.

An application for a premises licence can only be made by a person or company who either holds an operating licence authorising him to carry on the

activity in respect of which a premises licence is sought, OR has made an application for an operating licence which has not yet been determined.

Applications for the grant, transfer or variation of a premises licence should demonstrate that any proposal should be consistent with the licensing objectives. The applicant may ask the Licensing Authority for advice as to the scope of information to be provided. Advice can also be sought from GamCare or the Safeguarding Vulnerable Adults Forum.

The level of detail to be provided will be advised by the Licensing Authority and will be proportional to the scale and nature of the application made. Application packs are available on the Council's website or on request to the Licensing Unit, Wycombe District Council, Queen Victoria Road, High Wycombe, Bucks, HP11 1BB , [licensing@wycombe.gov.uk](mailto:licensing@wycombe.gov.uk), 01494 421732.

### **3.7 Casinos**

The Act creates 17 new licences for casino premises. These are divided into two separate categories.. No more than eight large casinos will have a minimum customer area of 1500m<sup>2</sup> and will be able to offer up to 150 category B1 gaming machines. A maximum of eight small casinos will have a minimum customer are of 750m<sup>2</sup> and will be able to offer up to 80 category B1 gaming machines. The large casinos will also be able to offer casino games, bingo and/or betting, whereas the small casinos will be limited to casino games and betting. Further details on the usage and designation of gaming machines is provided at Appendix B

There are currently no casinos operating within the District.

Section 166(1) of the Act states that a Licensing Authority may resolve not to issue casino premises licences. There is no resolution to prohibit casinos in the District at present. However the Council reserves the right to review this situation and may, at some time in the future, resolve not to permit casinos. In making this decision the Council will take into account any principle or matter, including demand for such a facility and is not restricted to matters relevant to the licensing objectives.

Should the Council choose to make such a resolution, this will be a resolution of Full Council following considered debate, and the reasons for making the resolution will be given. There is no right of appeal against this resolution. Any such restriction must apply to the whole of the District and to all categories of casino.

### **3.8 Licensed Family Entertainment Centres**

Licensed Family Entertainment Centres (FEC's) can provide category C and D gaming machines and require a premises licence. These must be differentiated from unlicensed Family Entertainment Centres, which can only provide category D machines and are regulated via gaming machine permits. 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 Licensing 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.

Applicants will be expected to offer their own measures to meet the licensing objectives. Areas for consideration may include issues such as:

Conditions:

- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- Self-barring schemes
- Details of any insurance covering the premises
- Provision of information leaflets and posters (both in prominent and discreet areas such as toilets)/helpline numbers for organisations such as GamCare.
- Measures/training for staff on how to deal with suspected truant school children on the premises
- All ATM or cash terminals to be separate from gaming areas and to display helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures which may be appropriate. In appropriate circumstances a licence may be granted subject to conditions dealing with these issues.

The Licensing Authority will refer to the Commission in relation to any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. The Licensing Authority will also apply any mandatory or default conditions relevant to this type of licence.

### **3.9 Bingo premises**

The Gambling Commission's Guidance states:

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

- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and

- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

### **3.10 Betting premises**

The Licensing Authority will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

The Licensing 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. Where there is such evidence this Licensing Authority may consider when issuing or renewing the licence, the ability of staff to monitor the use of such machines from the counter.

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

### **3.11 Tracks**

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. The Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

The Licensing Authority will therefore expect the applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. Children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but the prohibition on entering areas where gaming machines (other than category D machines) are provided will remain.

Applicants will be expected to offer their own measures to meet the licensing objectives. Areas for consideration may include 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-barring schemes
- Provision of information leaflets and posters (both in a prominent and discreet areas such as toilets)/helpline numbers for organisations such as GamCare
- All ATM or cash terminals to be separate from gaming areas and to display helpline numbers for organisations such as GamCare.

This list is not mandatory, nor exhaustive, and is merely indicative of example measures which may be appropriate. In appropriate circumstances a licence may be granted subject to conditions dealing with these issues.

**Gaming machines** The location of gaming machines at tracks will be considered, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

**Betting machines** The Licensing Authority will 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 wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

**Condition on rules being displayed** The Gambling Commission has advised in its Guidance that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

**Applications and plans** Regulations have been produced which set out specific requirements for applications for premises licences. The Gambling Commission suggest that, "to ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities" and that "plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."

Following guidance from the Commission, it is also the Licensing Authority's view that it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

### **3.12 Small Lotteries**

The Licensing Authority continues to regulate the provision of society lotteries by means of registration under the Act.

The Council will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- a) submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- b) submission of incomplete or incorrect returns
- c) breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- a) by, or on behalf of, a charity or for charitable purposes
- b) to enable participation in, or support of, sporting, athletic or cultural activities.

Full Guidance in relation to the provision of small lotteries is available on the Commission's website. **3.13 Travelling Fairs**

The Act defines a travelling fair as 'wholly or principally' providing amusements on a site that has been used for fairs for no more than 27 days per calendar year. Travelling fairs do not require a permit to provide gaming machines but must comply with legal requirements about the way the machines are operated.

Where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, it will fall to the Council to decide whether the facilities provided for gambling amount to no more than an ancillary amusement at the fair in line with the statutory requirement

## **4 PERMITS/TEMPORARY AND OCCASIONAL USE NOTICES**

### **4.1 Unlicensed Family Entertainment Centres**

Where a premises does not hold a premises licence but wishes to provide gaming machines (category D only), it may apply to the Licensing Authority for a permit to authorise this. 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.

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. The Licensing Authority must be satisfied that the premises will be used as an unlicensed FEC, and in order to establish this, applicants may be asked to demonstrate:

- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
- that they have 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)

Licensing Authorities cannot attach conditions to this type of permit, although the Licensing Authority will expect applicants to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truant school children on the premises, measures/training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. In line with the Commission's Guidance, weight will be given to child protection issues when considering such applications.

## **4.2 (Alcohol) Licensed Premises Gaming Machine Permits**

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

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

If an applicant wishes to have more than 2 machines, they will need to apply for a permit. 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.*” The Licensing Authority considers that “such matters” will be decided on a case by case basis but generally that there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling and will expect the applicant to satisfy the Licensing 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 Licensing Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor the machines. Notices and signage may also be appropriate. In relation the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.

Alcohol licensed premises may apply for a premises licence for non-alcohol licensed areas. Such applications would be considered as an application for an Adult Gaming Centre premises licence.

The Licensing Authority may decide to grant an application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of machines.

#### **4.3 Prize Gaming Permits**

Licensing authorities may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the Licensing Authority proposes to consider in determining the suitability of the applicant for a permit”.

Under the Licensing Authority's Statement of Principles, applicants should set out the types of gaming that he or she is intending to offer and the applicant should be able to demonstrate:

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

In determining an application for this type of permit the Licensing Authority does not need to have regard to the licensing objectives but must have regard to any guidance issued by Gambling Commission.

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

- 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.

#### **4.4 Club Gaming and Club Machine Permits**

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

Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

Licensing authorities may only refuse an application on the following grounds:

- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
- the applicant's premises are used wholly or mainly by children and/or young persons;
- an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- a permit held by the applicant has been cancelled in the previous ten years; or
- an objection has been lodged by the Commission or the police.

There is also a 'fast-track' procedure available under the Act for premises holding a Club Premises Certificate under the Licensing Act 2003. There is no opportunity under this procedure for objections to be made by the Commission or the police, and the Licensing Authority can only refuse a permit on the following reduced grounds:

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

No child may use a category B or C machine on the premises and the holder must comply with any relevant provision of code of practices in relation to the location and operation of gaming machines.

#### **4.5 Temporary Use Notices**

These allow the use of premises for gambling where there is no premises licence but a person or company holding an operating licence wishes to use the premises temporarily for providing facilities for gambling. The same set of premises may not be the subject of a temporary use notice for more than 21 days in any 12-month period. There are also a number of other statutory limits in relation to these notices. Notice must be given to the Licensing Authority and other bodies, who may object to the grant of the notice having had regard to the licensing objectives. The definition of "a set of premises" will be a question of fact in the particular circumstances of each notice. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the Licensing Authority will need to consider, amongst other things, the ownership/occupation and control of the premises. The Licensing Authority will take a strict view where it appears that the effect of notices appears to permit regular gambling at a particular place.

#### **4.6 Occasional Use Notices**

Section 39 of the Act provides that where there is betting on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice. The Licensing Authority has little discretion in relation to these notices apart from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will take into consideration the definition provided of a 'track' to determine whether the applicant is permitted to avail him/herself of the notice.

### **5. DECISION MAKING**

#### **5.1 Committee Terms of Reference**

A Licensing Sub-Committee of three Councillors will sit to hear applications where representations have been received from interested parties and responsible authorities. Ward Councillors who have received representations from residents about an application within their Ward will be advised to consider whether they should sit on the Licensing Panel involved in determination of that decision. Councillors' conduct is governed by the Code of Conduct for Members set out in the Council's Constitution.



Where a Councillor who is a member of the Licensing Committee is making or has made representations regarding a licence as or on behalf of an interested party, in the interests of good governance they will disqualify themselves from any involvement in the decision making process affecting the licence in question.

Every determination of a licensing decision by the Licensing Committee or a Licensing Sub-Committee shall be accompanied by clear, cogent reasons for the decision. The decision and the reasons for that decision will be sent to the applicant and those who have made relevant representations as soon as practicable. A summary of the decision shall also be posted on the Council's website as soon as reasonably practicable after the decision has been confirmed, where it will form part of the statutory licensing register required to be kept by the Council.

Decisions as to whether representations are irrelevant, frivolous or vexatious will be delegated to Council Officers, who will also decide on whether representations or applications for licence reviews should be referred to the Licensing Committee or Sub-Committee. Where representations are rejected, the person making that representation will be given written reasons for the rejection. There is no right of appeal against a determination that representations are not admissible. Officers' conduct is governed by the Code of Conduct for Local Government Employees.

## **5.2 Allocation of Decision Making Responsibilities**

The Licensing Authority is involved in a wide range of licensing decisions and functions and has established a Licensing Committee to administer them.

Appreciating the need to provide a speedy, efficient and cost-effective service to all parties involved in the licensing process, the Committee has delegated certain decisions and functions and has established a Sub-Committee to deal with them.

Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example those licences and permits where no representations have been made, will be delegated to Council Officers.

The table shown at Appendix A sets out the delegation of decisions and functions to Licensing Committee, Sub-Committee and Officers.

This form of delegation is without prejudice to Officers referring an application to a Sub-Committee or Full Committee if considered appropriate in the circumstances of any particular case.

## **5.3 Appeals**

Any party aggrieved by a decision of the Licensing Sub Committee and with standing to appeal (as specified within the Act) may appeal against the decision to the local Magistrates Court. An appeal has to be started by the

giving of a notice of appeal by the appellant to the justices' chief executive for the magistrates' court within a period of 21 days from the day on which the appellant was notified by the Licensing Authority of the decision appealed against. This will be either Wycombe and Beaconsfield or Central Buckinghamshire Magistrates' Court (Aylesbury) depending upon the location of the premises.

The Licensing Authority will always be a respondent to the appeal, but in cases where a favourable decision has been made for an applicant against the representations of a responsible Licensing Authority or an interested party, the holder of the premises licence or club premises certificate will also be entitled to act as a respondent.

On determining an appeal, the court may:

- dismiss the appeal;
- substitute for the decision appealed against any other decision which could have been made by the Licensing Authority; or
- remit the case to the Licensing Authority to dispose of it in accordance with the direction of the court.

The court may make such order as to costs as it thinks fit, but will be required to bear in mind guidance and legislation about the awarding of costs against a public body.

## **6. COMPLAINTS AGAINST LICENSED PREMISES**

The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility.

Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

This process will not override the right of any interested party to ask that the licensing committee consider their valid objections, or for any licence holder to decline to participate in a conciliation meeting.

Due consideration will be given to all valid, relevant representations or requests for review.

## **7. REVIEW OF PREMISES LICENCE**

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

A premises licence may also be reviewed by the Licensing Authority of its own volition.

Guidance will be provided to Interested Parties on the procedure for requesting a review.

## **8. ENFORCEMENT**

Various agencies have powers under the Act to ensure compliance with the legislation and licenses granted in accordance with it. These include the Gambling Commission, the Police and the Licensing Authority.

Generally the Licensing Authority will be responsible for ensuring compliance with a premises licence and the Gambling Commission will be responsible for ensuring compliance with an operating licence. However, it is likely that there will be circumstances when the agencies will need to work together to tackle a particular issue.

The Gambling Commission have produced a Policy Statement in relation to compliance and enforcement which will be taken into account when carrying out any enforcement measures.

The Council is a signatory to the Regulatory Compliance Code (previously known as the Enforcement Concordat) and will follow the principles set out in it. The Code is based around the principles of consistency, transparency and proportionality.

The Code (available upon request) 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 failure to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to Sub-Committee, the issue of a Formal Caution or a referral for prosecution.

The Council will consider a request from a business to deal with a single point of contact where that business holds licenses to several premises within the district. However, the Council reserves the right to contact a premises manager directly where appropriate.

The Council intends to use appropriate enforcement to promote the licensing objectives. Once licensed, premises will be 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. The district will also be monitored for any unlicensed activities.

## **9. FURTHER INFORMATION**

Further information about the Gambling Act 2005, this Statement of Licensing Policy or the application process can be obtained from:-

Licensing Unit  
Wycombe District Council  
Queen Victoria Road  
High Wycombe  
Bucks, HP11 1BB

Tel: 01494 421222  
E-mail: [licensing@wycombe.gov.uk](mailto:licensing@wycombe.gov.uk)

Information is also available from:-

Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham, B2 4BP

Tel: 0121 230 6500  
Website: [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk)

### **APPENDIX A**

**TABLE OF DELEGATIONS OF LICENSING FUNCTIONS**

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COUNCIL</b>	<b>LICENSING PANEL</b>	<b>OFFICERS</b>
Three year licensing policy	X	(via Executive)	
Policy not to permit casinos	X	(via Licensing Committee)	
Fee Setting - when appropriate	X	(via Licensing Committee)	
Application for premises licences and Application for a variation to a licence and Application for a provisional statement and Application for club gaming/club machine permits		Where representations have been received and not withdrawn.  Where conditions are proposed to be attached or default conditions excluded under s.169(1) of the Act and the parties have not agreed to dispense with the requirement for a hearing	Where no representations received/representations have been withdrawn  Where conditions are proposed to be attached or default conditions excluded under s.169(1) of the Act and all parties have agreed to dispense with a hearing  Determination as to whether representation made under s. 161 is vexatious, frivolous or irrelevant will not influence the Licensing Authority's determination of the application  Decision to make a representation as a responsible body in appropriate cases
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Review of a premises licence		X	
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	
Rec. as to whether rep. friv. Irr. Or cert.			X

## APPENDIX B

### TABLES OF PERMITTED ACTIVITIES / LOCATIONS

	Machine Category						
Premises Type	A	B1	B2	B3	B4	C	D
Regional casino (machine/table ratio of 25-1 up to maximum)	Maximum of 1250 machines Any combination of machines in categories A to D, within the total limit of 1250 (subject to table ratio)						
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D, within the total limit of 150 (subject to table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D, within the total limit of 80 (subject to table ratio)					
Pre-2005 Act casinos (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A) or C or D machines instead					
Betting premises and tracks occupied by Pool Betting			Maximum of 4 machines categories B2 to D (except B3A)				
Bingo Premises				Maximum of 20% of the total number of machines which are available for use on the premises categories B3 or B4		No limit C or D machines	
Adult gaming centre				Maximum of 20% of the total number of machines which are available for use on the premises categories B3 or B4		No limit C or D machines	
Family entertainment centre (with premises licence)						No limit on Category C or D machines	

	Machine Category						
Premises Type	A	B1	B2	B3	B4	C	D
Family entertainment centre (with permit)							No limit on Category D machines
Clubs or miners' welfare institutes with permits					Maximum of 3 machines in categories B3A, B4 to D		
Qualifying alcohol licensed premises						1 or 2 machines of Category C or D automatic upon notification	
Qualifying alcohol licensed premises with gaming machine permit						Number of category C or D machines as specified on permit	
Travelling fair							No limit on Category D machines
	A	B1	B2	B3	B4	C	D

Category of machine	Maximum Stake	Maximum Prize
A	Unlimited	Unlimited
B1	£5	£10,000 or £20,000 if linked to other B1 machines
B2	£100 (in multiples of £10)	£500
B3	£2	£500
B3A	£2	£500
B4	£2	£400
C	£1	£100
D	Various 10p to £1	£5 cash or £50 non-monetary prize

## **APPENDIX C**

### **LIST OF CONSULTTEES**

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



# Agenda Item 5.

## LICENSING ACT 2003

### MEMBERS' GUIDE

#### The Legal Situation

- Applications are made to the Licensing Authority (WDC) for licences to cover licensable activities provided to the public as defined by the Act:
  - Sale or supply of alcohol
  - Music and dancing
  - Exhibition of films
  - Public performance of plays
  - Indoor sporting events
  - The provision of late night refreshment
- A premises licence will be required for any place where regulated entertainment and/or the sale or supply of alcohol will take place. Any sale of alcohol will need to be authorised by a personal licence holder.
- Applicants must serve all **variation** and **new** applications on 7 Responsible Authorities (police, fire, planning, control of pollution, health and safety, child protection and weights and measures) as well as advertising the details of the application both on the premises and in a local newspaper.

#### How it affects Members

- Any Responsible Authority, Interested Party (any person living or business trading in the vicinity of the premises) or their representative can make a representation in relation to the application within 28 days of the application being submitted.
- A Parish Council acting as a body is considered to be an interested party and as such can make a representation in their own right where there is evidence to suggest that any application may adversely affect local residents. The same situation applies to other bodies which represent interested parties.
- Members of WDC are interested parties and may make representations and apply for a review of a licence in their own right if they believe the licensing objectives are affected.
- Parish Councillors and County Councillors, who are not also Members of WDC are entitled to represent any interested party (who has made a valid representation) at any stage of the process should they be requested to do so by that person (written evidence should be provided to this effect) and so long as they do not have a prejudicial interest.
- Members and Parish Councillors may also make representations if they are personally affected by any application.
- Any Member who has made a representation or applied for a review will almost certainly have a prejudicial interest and they should declare their interest. Under the new Code of Conduct, the Member will be able to attend that part of the Panel hearing in which members of the public have a right to attend and speak. Alternatively, they may appoint a representative to attend on their behalf.
- If a Member has made a representation in relation to an application for a licence, they may still have a prejudicial interest in any subsequent review or variation application.

- Members who have a prejudicial interest may not sit on a Licensing Panel to consider the application in which they have that interest.
- The Monitoring Officer will be able to assist with any queries in relation to prejudicial interests.
- Members who do not sit on the Licensing Panel should be careful about lobbying members of the Panel, to avoid the Panel Member being accused of bias. All written representations should be submitted to the Licensing Officer, instead of direct to a Panel member and Members are advised not to discuss individual cases with a Panel member outside the remit of a Panel hearing. A Member making a representation as an interested party has the same rights as any other interested party and must not seek to improperly influence any other Member or officer making a decision on a licensing matter.
- In addition, Members should not pressurise Licensing Officers to make any particular recommendation as regards applications or representations.
  - All ward Members and parish / town councils are notified of relevant new and variation applications.
- As an interested party, a Member may appeal against the decision of a Licensing Panel. However, the Member should seek advice on whether they are indemnified by the Council for any legal costs incurred in such an appeal.
- Full applications can be viewed or further details sought on any aspect of the application process by contacting the Licensing Unit on 01494 421222 or 421346.
- Any representation must be concerned with one or more of the licensing objectives:
  - **The Prevention of Crime and Disorder**
  - **Public Safety**
  - **The Prevention of Public Nuisance**
  - **The Protection of Children from Harm**
- Mediation is made available where appropriate, to allow relevant parties to attempt to resolve areas of conflict.
- Where mediation is not appropriate or is unsuccessful a hearing is convened for the Licensing Panel (sub-committee of the Licensing Committee) to hear all relevant parties and determine the application.

Should you require further information about the licensing regime please do not hesitate to contact:

Caroline Steven  
Licensing Team Leader  
DDI 01494 421222  
Internal ext 3222

or

Brian Whittall  
Licensing Officer  
DDI 01494 421346  
Internal ext 3346

## Agenda Item 5. Appendix B

### WYCOMBE DISTRICT COUNCIL

#### PROCEDURE AT ORAL HEARINGS BEFORE THE COUNCIL'S LICENSING PANEL UNDER THE LICENSING ACT 2003

1. The Panel will be assisted on matters of law and procedure by their Legal Advisor ("the Legal Advisor") who will be one of the Council's Solicitors.
2. The Panel will be sent the report and associated papers in advance of the hearing and will come to the panel meeting having read the papers and familiarised themselves with the application.
3. The hearing will be in public, unless the Panel decide that is in the public interest to exclude the public from all or part of a hearing. The Licensing Authority has determined that it is in the public interest to exclude the public, including all parties, from that part of the hearing when the Panel are deliberating in order to reach their decision.
4. The Chairman (or if he or she wishes, the Legal Advisor) will briefly explain the procedure to all parties and will introduce the Members of the Panel and other persons present. He or she will explain the role of the Panel and the Legal Advisor.
5. Any person who has made written representations may attend the hearing and may be assisted or represented by any person, whether or not that person is legally qualified.
6. If a person is unrepresented, the Legal Advisor to the Panel may assist them in presenting their case and this assistance may include asking them question for the purpose of clarifying their representation.
7. Any party wishing to call another person (other than a person representing them) to make oral representations must provide details of this in advance of the hearing. At the beginning of the hearing, the Panel will consider any such requests and confirm whether permission is granted for that person to speak.
8. The purpose of an oral presentation is for a party to amplify their written application or representation and no new representations should be made at the hearing. In order to ensure fairness, all parties will be given a reasonable period for their oral presentation (including presentations made by another person on their behalf). The Chairman will determine what constitutes a reasonable period. Where the representations made relate to the same or similar issues, a spokesperson should be appointed where possible to speak on behalf of any person who has made a written representation. The Chairman's decision on the length of oral presentations is final.
9. The Panel will generally allow parties to ask questions of other parties and the procedure outlined below allows for this. However, the Panel may stop a party asking questions if they feel the questions are unnecessary. Parties are reminded to treat other parties with respect and any form of harassment or excessive questioning will not be tolerated. In such a case, the Chairman will ask the party to discontinue that type of questioning and may ask the party to leave if they are disrupting he proceedings.
10. Any person disrupting the proceedings, whether a party or not, may be asked to leave the hearing and will only be permitted to return on such conditions as the Panel shall specify.

11. At the commencement of the hearing, the applicant will be given the opportunity to suggest any amendments they may wish to make to their application with a view to addressing issues raised within any representation.
12. If the Panel believe that a condition may be appropriate to deal with a particular representation, they may put this matter to the applicant. The condition may be subsequently imposed upon the licence, if granted, should the Panel consider it to be appropriate.

### **13. ORDER OF ORAL PRESENTATIONS**

- a. The Licensing Officer will present the report on the application and outline any objections received. He or she will refer in particular to objections and representations where a party has chosen not to attend the hearing.
- b. Any party may question the Licensing Officer.
- c. The Panel may question the Licensing Officer.
- d. Any responsible body having made a written representation may present their case.
- e. Any other person may question a Responsible Body.
- f. The Panel may question a Responsible Body
- g. Any other person, having made a written representation, may present their case.
- h. Any other party may question a person who has made a written representation.
- i. The panel may question the person who has made a written representation.
- j. The Applicant may present their case.
- k. Any other person may question the Applicant.
- l. The Panel may question the Applicant.
14. The Legal Advisor will raise any relevant legal points and if any are raised, the parties will have an opportunity to respond to any legal advice given.
15. The Panel, their Legal Advisor and any person present solely for the purpose of taking notes of the meeting will then withdraw or will require other persons, including all parties, to leave the room in order for the Panel to determine the application.
16. The Panel will come to a decision.
17. The Legal Advisor will, by letter, inform the Applicant, the Licensing Officer and any person who has made a representation (whether or not they were present at the meeting) of the Panel's decision within the time limits as set out in the Regulations.