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17 March 2015

To: All Councillors

As a Member of the **Licensing & Appeals Committee**, please treat this as your summons to attend the meeting on **Wednesday 25 March 2015 at 6.00 pm in the Council Chamber, Town Hall, Matlock.**

Yours sincerely

A handwritten signature in black ink, appearing to be 'Sandra Lamb'. The signature is stylized with loops and a long horizontal stroke.

Sandra Lamb
Head of Corporate Services

AGENDA

1. APOLOGIES

Please advise Democratic Services on 01629 761133 or e-mail committee@derbyshiredales.gov.uk of any apologies for absence.

2. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by electronic mail) **BY NO LATER THAN 12 NOON OF THE DAY PRECEDING THE MEETING.**

3. MINUTES OF LAST MEETING

14 January 2015

4. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close friends.

Interests that become apparent at a later stage in the proceedings may be declared at that time.

	Page Nos
<p>5. REVIEW OF THE GAMBLING STATEMENT OF PRINCIPLES (POLICY) MADE UNDER THE GAMBLING ACT 2005</p> <p>To consider the draft Gambling Statement of Principles (Licensing Policy) as detailed in Appendix 1 of the report, with the final draft, after consultation, to be reported to full Council with a view to adoption and re-publishing no later than 31 January 2016.</p>	3 - 32
<p>6. THE LICENSING ACT 2003</p> <p>GOVERNMENT RESPONSE TO LOCALLY-SET FEES</p> <p>To consider the Government's response to the consultation on locally-set fees for applications and associated transactions for licences to sell alcohol, late night refreshment and provide regulated entertainment, under the provisions of the Licensing Act 2003.</p>	33 - 40
<p>7. SCRAP METAL DEALERS ACT 2013 – PROGRESS REPORT</p> <p>To consider proposals that the Local Government Association's findings regarding a one third fall in the level of scrap metal theft in England and Wales, since the introduction of the 2013 Scrap Metal Dealers Act; be reported to all licensed site managers and scrap metal collectors in Derbyshire Dales, and that a programme of compliance visits to licensed scrap metal dealer sites be completed by 31 March 2016.</p>	41 - 43

Members of the Committee: Councillors Mrs Jacque Bevan (Chairman), Tom Donnelly, Richard FitzHerbert, Steve Flitter, David Frederickson, Mrs Cate Hunt, Angus Jenkins, Anthony Millward, Mrs Jean Monks (Vice Chairman), Mike Ratcliffe, Mrs Judith Twigg, and Mrs Carol Walker.

LICENSING AND APPEALS COMMITTEE
25 MARCH 2015

Report of the Head of Regulatory Services

REVIEW OF THE GAMBLING STATEMENT OF PRINCIPLES (POLICY) MADE UNDER THE GAMBLING ACT 2005

SUMMARY

This report informs the Committee of the need to review the current Gambling Statement of Principles (Licensing Policy). A final draft of the reviewed document will need to be submitted to full Council for consideration, with a view to adoption and re-publishing no later than 31 January 2016.

Members are also informed that the Gambling Commission has confirmed that it will shortly be publishing a 12-week consultation on its revised *Guidance to Licensing Authorities* (GLA). The Commission aims to produce a special Licensing Authority Bulletin highlighting the key issues that Councils may wish to consider including in their Statement of Licensing Policies, in order to better reflect local concerns and issues.

RECOMMENDATION

That the draft Gambling Statement of Principles (Licensing Policy) detailed in Appendix 1 of the report be finalised, after consultation and a final draft be reported to full Council for consideration, adoption and re-publishing no later than 31 January 2016.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime supports the core values and key aims set out in the Council's Corporate Plan, in particular, the priority focused on delivering safer communities.

1 BACKGROUND

- 1.1 Under section 349 of the Gambling Act 2005 (the Act) each licensing authority must prepare and publish a statement of principles in respect of the principles they intend to apply in exercising their functions under the Act. The current policy was first approved and took effect from 31 January 2007. It was reviewed in 2009 and 2012, and re-published in January 2013 for a further 3 years.
- 1.2 Before the Council determined the policy it was required to carry out a wide consultation exercise with statutory organisations and bodies, the trade/industry and the general public. Section 349 of the Act specifies that consultees should include:
 - the chief officer of police for the authority's area;
 - one or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's areas; and

- one or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 1.3 The Policy is now due to be reviewed for adoption by January 2016 for a further 3-year period. A first draft of the revised document is included in **Appendix 1** for the Committee's consideration.
- 1.4 The document will be distributed for comments, to:
- The Gambling Commission;
 - H M Customs and Excise;
 - Neighbouring Licensing Authorities;
 - Local Solicitors and Licensing Consultants;
 - Responsible Authorities listed in Appendix 1 of the Policy;
 - Persons/Bodies Representative of Trade Association
 - Persons/Bodies representing the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005 – including all Ward Members.
- 1.5 During the last 8 years the Policy has worked well, although there have been relatively few applications for new licences, to test it. At present, the changes proposed to the Council's existing Policy are mainly administrative and are shown in the document in **bold type**.
- 1.6 It is suggested that initially a 4-week period during June/July 2015 is allowed for comments from the consultees listed in paragraph 1.5 above.
- 1.7 This time-scale should also allow for any further information to be made available from the Gambling Commission which could influence changes needed to the Policy. Such changes may require further consultation with the Responsible Authorities before a final draft of the reviewed Policy can be submitted to a meeting of the full Council for consideration later in the year.
- 1.8 The Gambling Commission's Guidance to Licensing Authorities (GLA)
- In February 2015 the Commission held a series of events for licensing authorities, to launch its consultation on its Guidance to Licensing Authorities. The changes to the Guidance to Licensing Authorities will largely reflect the already published Licence Conditions and Codes of Practice (LCCP) changes for Operators, introduced by the Commission following an extensive review.
- 1.9 The underlying principle of the review and LCCP changes is that responsibility for delivering the licensing objectives rests with gambling operators. The Commission expects the industry to demonstrate continued progress in embedding the licensing objectives.
- 1.10 Concern has been expressed that revisions to local Statements of Policy will be delayed by the GLA consultation, but the Commission has reminded licensing authorities that the GLA is not a prescriptive document and although a published final version will not be available until later in the year, this should not curtail or prevent councils from making changes to their Policy in time for re-publishing by 31 January 2016.

2 RISK ASSESSMENT

2.1 Legal

The Council has a statutory obligation to review and re-publish its Gambling Statement of Principles (Policy) statement every three years. Not to do so could result in the policy being challenged, and if challenged successfully, could result in the Council's reputation being harmed.

The Licensing Authority, in its administration of the licensing regime is bound by the provisions of the Gambling Act 2005, the regulations made under it, the guidance issued by the Gambling Commission and its own licensing statement of principles. The integrity of the policy therefore has the potential to directly impact on the licensing authority's determination of applications under the Act.

2.2 Financial

There are no financial risks or other resource implications directly arising from this report.

3 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

4 CONTACT INFORMATION

Eileen Tierney, Licensing Manager, Tel (01629) 761374
Email: eileen.tierney@derbyshiredales.gov.uk

5 BACKGROUND PAPERS

February 2015 - Gambling Commission's Licence Conditions and Codes of Practice
<http://www.gamblingcommission.gov.uk/pdf/Latest-LCCP-and-Extracts/Licence-conditions-and-codes-of-practice.pdf>

January 2013 – Derbyshire Dales District Council's Partial Equalities Impact Assessment (EIA) Gambling Statement of Principles (Licensing Policy) 2013-2016.

6 ATTACHMENT

Appendix 1	Draft Gambling Policy Statement of Principles
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BACK TO AGENDA

FIRST DRAFT FOR CONSULTATION

(Revisions are highlighted/shaded in grey)

STATEMENT OF PRINCIPLES Gambling Act 2005

All references to the Gambling Commission's Guidance for local authorities in this document, refer to the revised Guidance issued to Licensing Authorities (4th Edition), September 2012.

If you wish to comment on this Policy please contact:

The Licensing ~~and Administration~~ Manager
Community Regulatory Services ~~Department~~
Derbyshire Dales District Council
Town Hall
Matlock
Derbyshire DE4 3NN

(01629) 761374

Email: licensing@derbyshiredales.gov.uk

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**(Version 1: FIRST DRAFT FOR APPROVAL: To be published January 2016;
Effective from 31st January 2016)**

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NB: Review of Policy Statement - 2015

This draft Statement of Principles has been revised to ensure it is consistent and up-to-date with the legislation and Gambling Commission's Guidance. There are no proposed changes to the District Council's approach to carrying out its functions under the Gambling Act 2005. References have been corrected where documents or organisations have been superseded or no longer exist, and some minor administrative changes have been necessary for clarification purposes.

(CMS/ET/March 2015)

PART A

BACKGROUND

1 The Licensing Objectives

1.1 The Licensing Authority will have regard to the licensing objectives as set out in Section 1 of the Gambling Act 2005 (“the 2005 Act”). 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.

2 Introduction

2.1 The District of Derbyshire Dales District Council is an area of spectacular countryside approximately half of which lies within the Peak District National Park. The District is home to **70,400** people living in four main centres of population – Ashbourne, Bakewell, Matlock and Wirksworth - and 100 or so smaller towns and villages.

2.2 Some premises already licensed under the Licensing Act 2003 to sell alcohol and provide entertainment and late night refreshment, are also affected by the provisions of the Gambling Act 2005 - having Amusement with Prizes machines (AWPs). In addition these premises, the 2005 Act affects betting shops and tracks, family entertainment centres, bingo, casinos, adult gaming centres (arcades with high stake/prize machines) and travelling fairs. Also affected are operations not licensed generally for gambling purposes but could be used for certain types of gambling for limited periods – these will be covered by Temporary and Occasional Use Permits. For example, in Derbyshire Dales there is an annual point-to-point race meeting and a harness racing event.

2.3 Licensing authorities are required by the Gambling Act 2005 to publish a statement of principles which they propose to apply when exercising their functions. This statement has to be published at least every three years and can also be reviewed from “time to time” with any amended parts being re-consulted upon. The statement is then re-published. The Statement sets out the manner in which applications are considered. Each application will be considered on its individual merits.

2.4 Before determining this Statement of Principles Licensing Authorities are required to consult:

- The Chief Officer of Police
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area.
- 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.

2.5 This Licensing Authority has consulted with:

- Derbyshire Constabulary's Chief Officer of Police
- Local Safeguarding Children Board (Derbyshire County Council ~~Social Services~~)
- Persons/Bodies Representative of Trade Associations
- Persons/Bodies Representative of Residents Associations
- Derbyshire Trading Standards Service
- Elected Members of Derbyshire Dales District Council
- Town and Parish Councils, and Parish Meetings

(For a list of bodies/organisations consulted see page 26 of Policy)

The original consultation in 2007 was carried out using the HM Government Code of Practice (July 2008) as guidance.

Details of comments made, and the consideration given to them by the Council is available on request from the Licensing & Administration Manager, Derbyshire Dales District Council, Town Hall, Matlock, Derbyshire, DE4 3NN.

The Policy was first approved at a meeting of the full Council on 14 December 2006, with further reviews in 2009, **2013**, and **2016**.

2.7 This Statement will not override the right of any person to make an application, make representations about an application or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

3 Declaration

3.1 In producing the Statement of Principles, 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.

4 Responsible Authorities

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

The principles are:

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

In accordance with the suggestion in the Gambling Commission's Guidance for local authorities, this authority designates the Derbyshire County Council's Local Safeguarding Children Board for this purpose.

- 4.2 The contact details of all the Responsible Authorities under the Gambling Act 2005 are detailed in Annexe 1, and are also available via the Council's website at www.derbyshiredales.gov.uk

5 Interested Parties

- 5.1 Interested parties can make representations about licence applications or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as 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 application 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)".

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

The principles are contained in Annexe 2.

- 5.3 The Gambling Commission recommends that the licensing authority states that interested parties includes trade associations, trade unions, residents' and tenants' associations. This authority will not however generally view these bodies as interested parties unless they have a member who can be classed as an interested person under the terms of the Gambling Act 2005 – ie someone who lives sufficiently close to the premises to be likely to be affected by the activities being applied for.

- 5.4 Interested parties can be persons who are democratically elected such as councillors and Members of Parliament. 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 (eg 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.
- 5.5 An individual wishing to approach councillors to ask him/her to represent his/her views should ensure that the councillor(s) is/are not part of the Licensing Sub-Committee dealing with the licence application. Information in respect of Members of the Licensing & Appeals Sub-Committees is available from the Council's Democratic Services Section – 01629 761300.

6 Exchange of Information

- 6.1 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 respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 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 taking into account the provisions of the Data Protection Act 1998. The licensing authority will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Protocols exist for exchanging information with other statutory organisations, and information will only be shared in accordance with the protocols.

7 Enforcement

- 7.1 In exercising the functions under Part 15 and section 346 of the Gambling Act 2005, respectively, this licensing authority will inspect premises and take any enforcement action in respect of offences specified in accordance with its Corporate Enforcement Policy, the Gambling Commission's Guidance, the Regulators' Compliance Code and the principles of the Legislative and Regulatory Reform Act 2006.
- 7.2 The main enforcement role of the licensing authority will be to ensure compliance with the premises licence and other permissions which it authorises.

7.3 This licensing authority's principles are that:

It will be guided by the Gambling Commission's Guidance to licensing authorities and will endeavour to be:

- Proportionate: regulators should only intervene when necessary; remedies should be appropriate to the risk posed, and costs identified and minimised;
- Accountable: regulators must be able to justify decisions and be subject to public scrutiny;
- Consistent: rules and standards must be joined up and implemented fairly;
- Transparent: regulators should be open, and keep regulations simple and user friendly; and
- Targeted: regulation should be focused on the problem, and minimise side effects.

In accordance with the Gambling Commission's Guidance, it will also endeavour to avoid duplication with other regulatory regimes so far as is possible.

7.4 The Gambling Commission is the enforcement body for the operating and personal licences. Concerns about manufacture, supply or repair of gaming machines are not be dealt with by the licensing authority but should be notified to the Gambling Commission.

8 Licensing Authority Functions

8.1 The 2005 Act requires this licensing authority 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 (if applicable) that 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 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 licenses issued.
- Maintain registers of the permits and licences that are issued under these functions.

8.2 Licensing authorities are not involved in licensing remote gambling. This regulatory responsibility lies with the Gambling Commission via operating licences.

PART B

PREMISES LICENCES

1 General Principles

- 1.1 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.
- 1.2 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it 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 authority's Statement of Principles.

The Gambling Commission has advised that "moral objections to gambling are not a valid reason to reject applications for premises licences", and that unmet demand is not a criterion for a licensing authority.

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

The Gambling Commission states in the fourth edition of its Guidance to Licensing Authorities (issued in September 2012) 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 the ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as separate premises will depend on 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".

- 1.4 This licensing authority takes particular note of the Gambling Commission's Guidance for local authorities in respect of access to gambling by children and young people, which states that,

"Licensing authorities should pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed). Clearly, there will be specific issues that authorities should consider before granting such applications, for example whether children can gain access; compatibility of the two establishments; and ability to comply with the requirements of the Act. But in addition, an overriding consideration should be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act", and

"Licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling purposes). In particular they should be aware that entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area". In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.

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

- Do the premises have separate registrations 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 licensing authority will consider these and any other relevant factors in making its decision, depending on all the circumstances of the case.

- 1.5 An applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling is constructed. A licence will only be issued in relation to premises that are ready to be used for gambling. This requirement for a building to be complete, before a licence will be issued ensures that it can be fully inspected if necessary, by the appropriate authorities with inspection rights.
- 1.6 **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 can be. This licensing 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 own merits, with the onus being placed on the applicant to show how potential concerns can be overcome.

- 1.7 **Duplication with other regulatory regimes** - This licensing authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. However, it will listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 1.8 **Licensing Objectives** - Premises licences granted must be reasonably consistent with the licensing objectives:
- **preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;**
- 1.8.1 This licensing authority is aware that the Gambling Commission will be taking a leading role in preventing gambling being a source of crime. Where an area has known high levels of crime this authority will consider whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance, and will consider factors such as whether police assistance was required and the extent to which the behaviour was threatening, so as to make that distinction. Issues of nuisance cannot be addressed by the Gambling Act provisions.
- **Ensuring that gambling is conducted in a fair and open way;**
- 1.8.2 This licensing authority has noted that the Gambling Commission has stated that it would, generally, not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. (Tracks are dealt with differently – see pages 15/16).
- **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**
- 1.8.3 This licensing authority acknowledges the Commission's Guidance, 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.
- 1.8.4 Consideration will be given as to whether specific measures should be required at particular premises – these could include, supervision of entrances, machines, segregation of areas etc.
- 1.8.5 In the absence of a practical definition of 'vulnerable persons' the licensing authority acknowledges that for regulatory purposes the Commission assumes, "...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."

- 1.8.6 The licensing authority will consider this licensing objective on a case-by-case basis.
- 1.8.7 The licensing authority will pay particular attention to any Codes of Practice which the Gambling Commission issues as regards the licensing objective, protecting children and other vulnerable persons from being harmed or exploited by gambling, in relation to specific premises such as casinos.

It is understood that a Code for casinos must:

- specify steps that the premises licence holder must take to ensure that children and young persons (that is those under the age of 18) do not enter casino premises, or in the case of the regional casino, do not enter the gambling area;
- amongst those specified steps, ensure that each entrance to the casino or gambling area is supervised by at least one person ("the supervisor") who is responsible for compliance with the code of practice; and
- require that, unless the supervisor is certain that a person seeking admittance is an adult, evidence of age must be required of all those seeking to enter the casino or gambling area.

- 1.9 **Conditions** – This licensing authority will only attach conditions to a licence that are proportionate and:

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

- 1.10 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 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.

- 1.11 The 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.

- 1.12 This licensing authority will ensure that where category C or above machines are on offer in premises to which children are admitted:

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

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

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

- 1.13 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided that each licence relates to a specified area of the track. This licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 1.14 There are conditions which the licensing authority cannot attach to premises licences.

These are:

- any condition on the premises licence which makes it impossible to comply with an operating licensing condition;
 - conditions relating to gaming machine categories, numbers or methods 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.
- 1.15 **Door Supervisors** - The Gambling Commission advises in its Guidance that licensing authorities may consider whether there is a need for door supervisors to protect children and vulnerable persons from being harmed or exploited by gambling and also to prevent premises becoming a source of crime. It is noted though that door supervisors at casinos or bingo premises cannot be licensed by the Security Industry Authority (SIA). Where it is determined that door supervisors are required, the licensing authority will consult with the Police.
- 1.16 For premises other than casinos and bingo premises, operators and licensing authorities may decide that supervision of entrances/machines is appropriate for particular cases but it will need to be decided whether or not these need to be SIA licensed. It will not be automatically assumed that they need to be.

2 Adult Gaming Centres

- 2.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises.
- 2.2 Appropriate 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-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

2.3 This licensing authority notes that the holder of an Adult Gaming Centre premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. A licence variation may be required if operators wishing to take advantage of this change in the legislation need to make alterations to the structure/layout of the premises.

2.4 The holder of an Adult Gaming Centre premises licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; however, from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only.

3 (Licensed) Family Entertainment Centres

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

3.2 This licensing authority will expect applicants to offer their own measures to meet this licensing objective; appropriate 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 or exhaustive – it is merely indicative of example measures.

- 3.3 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.

4 Casinos

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

5 Bingo Premises

- 5.1 This licensing authority notes that the Gambling Commission Guidance states in paragraph 18.4, that:

"Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing 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."

- 5.2 and in paragraph 18.6, that:

"Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed."

- 5.3 This licensing authority also notes that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. A licence variation may be required if operators wishing to take advantage of this change to the legislation need to make alterations to the structure/layout of the premises.

- 5.4 The holder of a bingo premises licence granted on or after 13 July 2011, but before 1 April 2014, is entitled to make available a maximum of eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; however, from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines.

- 5.5 This licensing 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.

6 Betting Premises

- 6.1 This licensing authority will, as stated in the Gambling Commission's Guidance, 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 or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It is an offence for those under 18 to bet.

7 Tracks

- 7.1 This licensing authority is aware that tracks may be subject to one, or more than one, premises licence, provided each relates to a specified area of the track.
- 7.2 Consideration will be given to the third licensing objective; in particular, the need to ensure that entrances to each type of premises are distinct and children are excluded from gambling areas where they are not permitted to enter.
- 7.3 This licensing authority will therefore expect premises licence applicants 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.4 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-barring schemes
 - Provision of information leaflets/helpline numbers for organisations such as GamCare

This list is not mandatory or exhaustive - it is merely indicative of example measures.

- 7.5 This licensing authority will have regard to further guidance from the Gambling Commission in respect of where gaming machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing with them.
- 7.6 Gaming Machines - Consideration will be given to the location of gaming machines at tracks, 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, (other than category D machines) these machines are located in areas from which children are excluded.
- 7.7 Betting Machines - This 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.
- 7.8 This licensing authority notes the suggestion in the Guidance that it may wish to restrict the number and location of such machines in respect of applications for track betting premises licences.
- 7.9 This licensing authority will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.
- 7.10 This licensing authority will require detailed plans for the race-track and the area that will be used for the 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. 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.
- 7.11 This licensing authority would prefer that all self-contained premises operated by off-course betting operators on track be the subject of separate premises licences. This would ensure that there was clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

8 Travelling Fairs

- 8.1 Low-stake (category D) fruit machines can be made available at fairgrounds along with coin pushers, cranes and grabbers, but higher stake gaming machines (category B and C), like those typically played in arcades and pubs, are not permitted. Fairground operators must source all their machines from Gambling Commission licensed suppliers, and all employees working with gaming machines must be at least 18 years old.

- 8.2 **However**, it will fall to this licensing authority to decide whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.3 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It has been noted that the 27 day statutory maximum for the land being used as a fair, is per calendar year, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses boundaries is monitored so that statutory limits are not exceeded.

9 Provisional Statements

- 9.1 An application for a provisional statement shall include such plans and other information in relation to the construction, alteration or acquisition as prescribed in regulations.
- 9.2 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- (a) which could not have been raised by objectors at the provisional licence stage; or
 - (b) which, in the authority's opinion, reflects a change in the operator's circumstances.
- 9.3 This licensing authority will not take into account irrelevant matters; one example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

10 Reviews

- 10.1 A review of a premises licence may be made by interested parties or responsible authorities. However, the licensing authority will decide whether the review is to be carried out.

This licensing authority will consider if it 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;
- in accordance with the authority's Statement of Licensing Policy; and
- whether the request for a review is frivolous or vexatious.

- 10.2 The licensing authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

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)

- 1.1 Where premises do not have a premises licence but wish to provide gaming machines, an applicant may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use.
- 1.2 A permit may be granted only if this licensing authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC), and if the Chief Officer of Police has been consulted on the application. Some considerations to take into account would be the applicant's suitability to operate a family entertainment centre, the suitability of the location of the premises, and any issues about disorder.
- 1.3 This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children and other vulnerable persons 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 be considered on their merits.
- 1.4 Applicants will have to demonstrate that they and their staff have a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs.
- 1.5 Applicants should have no relevant convictions, as set out in schedule 7 of the Act.
- 1.6 The Licensing Authority cannot attach conditions to this type of permit.
- 1.7 With regard to renewals of these permits, a licensing authority may refuse an application for renewal of a permit only on the grounds that an authorised local authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

2 Alcohol Licensed Premises Gaming Machine Permits (Schedule 13 Paragraph 4(1))

- 2.1 Premises licensed to sell alcohol for consumption on the premises can automatically have two gaming machines, of categories C and/or D. The proprietor of the premises must give notification to the licensing authority.

- 2.2 The licensing authority may 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;
 - the premises are mainly used for gaming; or
 - an offence under the Gambling Act has been committed on the premises.
- 2.3 If a proprietor of a premises wishes to have more than two machines, he/she must apply for a permit and the licensing authority must consider the application based on the licensing objectives and any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005.
- 2.4 This licensing authority will also consider 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.
- 2.5 Measures that can be 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 should be considered. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 2.6 It is recognised that some local licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for and dealt with as an Adult Gaming Centre premises licence.
- 2.7 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 applied for.
- 2.8 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

3 Prize Gaming Permits (Statement of Principles on Permits - Schedule 14 Paragraph 8 (3))

- 3.1 The licensing authority has not prepared a Statement of Principles on Permits. Should it decide to do so it will include details in a revised version of this Statement of Principles.
- 3.2 In making its decision on an application for a permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission Guidance.

3.3 In the Gambling Act 2005 there are conditions the permit holder must comply with but that the licensing authority cannot attach as 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 Machine Permits

4.1 Members' Clubs and Miners' Welfare Institutes (but not commercial clubs) may apply for a Club Gaming Permit or a Club Gaming Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (a maximum of three machines of categories B, C or D), equal chance gaming and games of chance. A Club Gaming Machine Permit will enable the premises to provide gaming machines (a maximum of three machines of categories B, C or D).

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

4.3 Licensing authorities may only refuse an application on the grounds that:

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

- 4.4 There is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which a licensing 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.

5 Temporary Use Notices

- 5.1 The licensing authority will decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site.
- 5.2 This is a new permission and this licensing authority will object to notices if it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

6 Occasional Use Notices

- 6.1 The licensing authority has limited discretion regarding these notices, other than ensuring that the statutory limit of eight days in a calendar year is not exceeded. The licensing authority will determine the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

7 Small Society Lotteries

- 7.1 This licensing authority will adopt a risk-based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exhaustive, could affect the risk status of the operator:
- submission of late returns (returns must be submitted no later than 3 months after the date on which the lottery draw was held)
 - submission of incomplete or incorrect returns
 - breaches of limits for small society lotteries
- 7.2 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:
- by, or on behalf of, a charity or for charitable purposes
 - to enable participation in, or support of, sporting, athletic or cultural activities.

If charities or community groups need further advice, the Council's Licensing Team can help – 01629 761313.

RESPONSIBLE AUTHORITIES – CONTACT DETAILS

Section 157 of the Gambling Act 2005 identifies the bodies that are to be treated as responsible authorities. They are:

- (a) a licensing authority in England and Wales in whose area the premises is wholly/partly situated.

Derbyshire Dales District Council, Licensing & Administration Manager, Community Regulatory Services, Town Hall, Matlock, Derbyshire, DE4 3NN

- (b) the Gambling Commission; Victoria Square House, Victoria Square, Birmingham, B2 4BP

- (c) the chief officer of police/chief constable for the area in which the premises is wholly/partially situated;

Derbyshire Constabulary, B Division, Silverlands, Buxton, Derbyshire, SK17 6QJ

- (d) the fire and rescue service for the same area;

Derbyshire Fire and Rescue Service, Area Office, Staden Lane, Buxton, Derbyshire, SK17 9RZ

- (e) the local planning authority;

Derbyshire Dales District Council, Head of Planning and Housing Services, Development Manager, Regulatory Services, Town Hall, Matlock, Derbyshire, DE4 3NN

Or if premises situated in the Peak District National Park:

Development Control, Peak District National Park, Aldern House, Baslow Road, Bakewell, Derbyshire, DE45 1AE

- (f) an authority which has functions in relation to pollution to the environment or harm to human health;

Derbyshire Dales District Council, Head of Environmental Health Manager, Community Regulatory Services, Town Hall, Matlock, Derbyshire, DE4 3NN.

Or if premises enforced by Health & Safety Executive:

Health & Safety Executive, Band 5 Admin Leader, 1st Floor, The Pearson Building, 55 Upper Parliament Street, Nottingham, NG1 6AU

- (g) anybody designated in writing by the licensing authority as competent to advise about the protection of children from harm;

**Safeguarding Children Board, Safeguarding and Specialist Services,
Derbyshire County Council, County Hall, Matlock, Derbyshire, DE4 3AG**

- (h) HM Revenue & Customs (Notts & Derbyshire):

Howard House, Castle Meadow Road, Nottingham, NG2 1AB

and

- (i) any other person prescribed in regulations by Secretary of State.

Annexe 2

PRINCIPLES TO DETERMINE WHETHER A PERSON IS AN INTERESTED PARTY

2.1 Sufficiently close to the premises

When determining what “sufficiently close to the premises” means (in each case), this licensing authority will consider:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment); and
- the circumstances of the complainant. This is not the personal characteristics of the complainant, but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that “sufficiently close to be likely affected” could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems, and (c) a residential hostel for vulnerable adults.

2.2 Persons with business interests that could be affected

When determining what “a person with business interests that might be affected by the premises” means (in each case), this licensing authority will consider:

- the size of the premises;
- the ‘catchment’ area of the premise (ie how far people travel to visit); and
- whether the person making the representation has business interests in that ‘catchment’ area, that might be affected.

ADMINISTRATION, EXERCISE AND DELEGATION OF FUNCTIONS

The Powers and duties of the Council in respect of licensing may be carried out by the Licensing Committee, by a Sub-Committee or by officers acting under delegated authority. In the interests of efficiency and cost effectiveness the Council will delegate routine matters to officer level.

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officer
Final approval of 3 year Statement of Principles.	X		
Policy not to permit Casinos.	X		
Fee setting when appropriate.		X	Officers/Policy Committee
Applications for Premises Licences		Where representations have been received and not withdrawn.	Where no representations received / representations have been withdrawn.
Application for a variation to a licence.		Where representations have been received and not withdrawn.	Where no representations received / representations have been withdrawn.
Application for a transfer of a licence.		Where representations have been received from the Commission.	Where no representations have been received from the Commission.
Application for a provisional statement.		Where representations have been received and not withdrawn.	Where no representations received / representations have been withdrawn.
Initiate a Review of a premises licence.			X
Application for club gaming/club machine permits.		Where objections have been made and not withdrawn.	Where no objections have been made/ objections have been withdrawn.

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officer
Cancellation of club gaming/club machine permits		X	
Application 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
Decision on whether a representation is irrelevant, or falls within the categories defined within section 198 of the Act (frivolous, vexatious etc)			X
To determine whether the Licensing Authority should make a representation, and the content of it.			X
Small Society Lotteries		Where refusal or revocation is recommended.	Authority to grant or cancel small society registrations.

CONTACT INFORMATION

If you have any queries regarding any licensing matter contact:

Licensing Section
Community Regulatory Services Department
Derbyshire Dales District Council
Town Hall
Matlock
Derbyshire DE4 3NN

Tel: 01629 761313

~~Fax: 01629 761165~~

e-mail: licensing@derbyshiredales.gov.uk

Website: www.derbyshiredales.gov.uk

LIST OF CONSULTEES

- Gambling Commission;
- H M Customs and Excise;
- Responsible Authorities listed in Annexe 1 of this Policy;
- Neighbouring Licensing Authorities;
- **Persons/Bodies Representative of Trade Association;**

British Horse Racing Board, British Beer and Pub Association, British Amusement Catering Trades Association, The Bingo Association, British Holiday and Home Parks, Business in Sport & Leisure, Casino Operator's Association (UK), Racecourse Association Ltd, North Derbyshire Chamber of Commerce and Industry; all businesses currently licensed under the Gambling Act 2005 (eg betting shops, amusement arcades (and Head offices such as Ladbrokes, William Hill etc); pubs and clubs licensed to sell alcohol under the Licensing Act 2003 with amusement with prizes machines etc;

- **Persons/Bodies representing the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005;**

Gambler's Anonymous, Remote Gambling Association, Citizen's Advice Bureau, Derbyshire Primary Care Trust, Town/Parish Councils, and Parish Meetings, and Derbyshire Rural Community Council.

BACK TO AGENDA

LICENSING AND APPEALS COMMITTEE
25 MARCH 2015

Report of the Head of Regulatory Services

THE LICENSING ACT 2003 GOVERNMENT RESPONSE TO LOCALLY- SET FEES

SUMMARY

This report informs the Committee of the Government's response to the Consultation on Locally-Set Fees for applications and associated transactions for licences to sell alcohol, late night refreshment and provide regulated entertainment, under the provisions of the Licensing Act 2003.

RECOMMENDATION

That the report be noted, and the issue regarding the cost of the service being met by fee recovery will be considered in more detail in the upcoming review of the licensing service.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime supports the core values and key aims set out in the Council's Corporate Plan, in particular, the priority focused on delivering safer communities.

1 BACKGROUND

- 1.1 The Licensing Act 2003 (the 2003 Act) regulates the sale of alcohol, the provision of late night refreshment and regulated entertainment in England and Wales, and is primarily administered by local authorities, acting in their capacity as licensing authorities. Licensing fees are intended to recover the costs that licensing authorities incur in carrying out these licensing functions.
- 1.2 Licensing fees are payable to licensing authorities by licence and club premises certificate holders, and those making applications or issuing notices. These can include, for example, pubs, shops, restaurants and private members' clubs (such as working men's clubs).
- 1.3 Current fee levels were set in 2005 and apply nationally. There have not been any changes to the schedule of fees since 2005 except for the introduction of new fees for new processes. The Police Reform and Social Responsibility Act 2011 amended the 2003 Act to introduce a power for the Home Secretary to prescribe in regulations that in future fee levels should be set by individual licensing authorities to enable them to recover their licensing costs.
- 1.4 In February 2014 the Government launched a consultation to seek views on important aspects of the regulations that would govern locally-set fees if introduced.

These included:

- whether and under what circumstances licensing authorities should be able to charge different amounts to different types of premises
- the maximum amount that can be charged
- the mechanisms that will provide reassurance to fee-payers that fees are being set transparently, at cost, and efficiency encouraged
- It also asked whether there should be a single national payment date for annual fees. (Annual fees are currently payable on the anniversary of the date the licence was granted).

1.5 The Government also conducted a survey of licensing authority costs. This sought licensing authority estimates of their costs in performing each of their licensing function under the 2003 Act.

1.6 Government Response to the Consultation Responses

On 26 February 2015, the Government published its response to the consultation on locally-set fees. This was announced via a Written Ministerial Statement (WMS).

1.7 The Statement advised that, through public consultation the Government had listened to the concerns of businesses and community groups and decided not to introduce locally-set licensing fees at this time.

1.8 The Statement also advised that the Government had sought evidence from local Government about licensing costs, which followed a similar, pre-consultation exercise. Only 20 out of 350 licensing authorities responded to a survey of their costs and the Home Office has announced, that as the evidence presented a limited and contradictory picture of the relationship between licensing authority costs and income, there is insufficient evidence at this time for the Government to determine the details of the proposed new fees regime or predict its consequences with confidence.

1.9 The Home Office has stated that it will work with the Local Government Association to ensure that local government can in the future provide useful evidence of its costs.

1.10 The Home Office has also decided to reject the idea of a single payment date for annual fees, but is to explore the possibility of licensees being able to nominate their own payment date, which will help businesses with multiple licences. This change will require a legislative change to the Licensing Act 2003, so is unlikely to occur in the immediate future.

1.11 Members will recall that the issue of central Government delegating responsibility to licensing authorities, for locally-set fees for applications made under the Licensing Act 2003 has been discussed at several previous meetings of this Committee. In view of this a copy of the Government's full response is included in **Appendix 1** for Committee's information.

1.12 In light of this response, members should note that the Licensing Team will continue to explore ways in which applications for licences can be accessed and processed with minimum officer in-put; eg use of Gov.UK licensing portal, and Derbyshire Dales website for on-line licensing advice, applications, consultations and issuing of paper documentation. This will be explored in detail during the forthcoming review of the Licensing Service, later this year.

2 RISK ASSESSMENT

2.1 Legal

This report poses no significant legal risk. There is no change proposed to existing methods of collecting fees, the risk is therefore low.

2.2 Financial

Licensing budgets have been set on the basis of the existing fees being collected, the risk is therefore low.

3 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

4 CONTACT INFORMATION

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Tel: 01629 761374
email: eileen.tierney@derbyshiredales.gov.uk

5 BACKGROUND PAPERS

Description	Date	File
Consultation Document, responses, impact assessment and LA cost exercise	February 2014 – February 2015	RS/ET

6 ATTACHMENT

Appendix 1	Government Response on Consultation on Locally-Set Fees
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BACK TO AGENDA



Home Office

The Government's response to the consultation on locally-set fees under the Licensing Act 2003

February 2015

The Government's response to the consultation on locally-set fees under the Licensing Act 2003

Introduction

- 1) This Government is committed to freeing up local communities to tackle alcohol-fuelled harms. That is why we took swift action in 2011¹ to overhaul the Licensing Act 2003² to give licensing authorities and the police more powers to deal with problem premises. We have also introduced the Late Night Levy, to enable local authorities to ensure that premises that sell alcohol late at night make a contribution to the costs of tackling alcohol-related crime and disorder.
- 2) But at the same time the Government does not want to penalise those who enjoy a drink responsibly. This Government strongly supports the vital contribution that local pubs, the wider hospitality industry, and community premises make to the economy and to communities. There is an important balance to be struck. We are committed to removing unnecessary burdens where we can whilst maintaining safeguards against alcohol harms. A robust, properly funded licensing regime is one of those safeguards.
- 3) Fees under the Licensing Act 2003 are intended to recover the costs of licensing authorities in administering the licensing system. As part of its major overhaul of the licensing framework, the Government legislated, through the Police Reform and Social Responsibility Act 2011, to introduce a power for the Home Secretary to prescribe that fees are set by each licensing authority to recover its costs. In principle, this approach should ensure that fee-payers do not pay too much or too little where the costs vary in different areas. Coupled with this, fees under the Licensing Act 2003 have remained the same since they were set in 2005, and in spite of efficiency savings in processes, many have called for an increase in fees levels.

Public consultation

- 4) The Government consulted on its proposals for locally-set licensing fees from 13 February to 10 April 2014. The consultation³ sought views on detailed aspects of locally-set fees, such as:
 - the maximum amount that can be charged for each fee-paying process (the “caps”);
 - whether and under what circumstances licensing authorities should be able to charge differing amounts for different types of premises, including whether the use of National Non-Domestic Rateable Value (NNDR) should be retained; and
 - the mechanisms designed to ensure transparency and cost-effectiveness in setting fees
- 5) Decisions that affect so many businesses and community organisations must be robust. Therefore, alongside the consultation, the Government sought evidence from licensing authorities on the costs they incur in delivering their different licensing functions.

1 Under the Police Reform and Social Responsibility Act 2011 – reforms brought into force via secondary legislation in April and October 2012.

2 The Licensing Act 2003 regulates the sale of alcohol, the provision of late night refreshment and regulated entertainment.

3 The consultation is available on [www.gov.uk](https://www.gov.uk/government/consultations/locally-set-licensing-fees) at <https://www.gov.uk/government/consultations/locally-set-licensing-fees>

- 6) As well as locally-set fees, the consultation sought views on whether there should be a single payment date for annual fees, which are currently payable on the anniversary of the day the licence was granted. This change was requested by representative organisations such as the British Beer and Pub Association and intended to simplify payment, particularly for companies that hold multiple licences, such as a chain of pubs.

The Government's decision

- 7) The Government has carefully considered the responses to the consultation, including the concerns of the licensed trade, and the evidence of costs provided by local government. The Government has decided not to introduce locally-set licensing fees at the present time. Instead, we will invite local government to provide evidence of its costs before proceeding.
- 8) On the the question of a single payment date, the Government has listened to the views of small businesses and local government, and decided to consider further an option under which licence holders can nominate their payment date by notifying the relevant licensing authority, rather than introducing a universal date.

Summary of consultation responses

- 9) There were 681 responses to the consultation. 573 of these were responses to the questions in the online questionnaires, with the remainder setting out their views on the topic in letters and emails. More than two-thirds of respondents were from a fee-payer perspective (for example, from individuals and small businesses in the licensed trade and representatives of community and village halls). Almost all of the remainder were from representatives of licensing authorities.

Locally-set fees

- 10) Fee-payers were, in general, strongly opposed to the introduction of locally-set fees. They were also concerned about key details of our proposals. In particular, many of them argued that the proposed caps on fees should be lower and were worried that fees would rise to the level of the caps. Three-quarters of those who responded to the question disagreed with the abandonment of NNDR as a factor in fee levels. The same proportion disagreed with the use of "late terminal hour" as an alternative. Many fee-payers were particularly concerned about the evidence base.
- 11) Licensing authorities were generally more content with the proposals. For example, they generally considered that the proposed caps would be sufficient for them to recover costs and, in common with fee payers, they tended to approve of the mechanisms that were proposed to ensure transparency and cost effectiveness. In contrast to fee-payers, they agreed that the use of NNDR should be abandoned and showed a clear preference for a local discretion to use "late terminal hour" as an alternative mechanism.
- 12) Alongside the consultation, we encouraged licensing authorities to complete a survey of their costs for each fee-paying process. Only 20 of 350 licensing authorities responded to the request. This followed a similar, pre-consultation cost survey to which 17 authorities provided full responses.

- 13) The responses to the surveys present a limited and inconsistent picture of the relationship between licensing authority costs and income. They do not enable the Government to make evidence-based decisions on the details of the new regime with confidence or offer reassurance to fee-payers, many of whom are small businesses or community premises, on the consequences of moving to locally-set fees.
- 14) For example, the responses make it difficult to set the caps, as the responses are not sufficient to indicate the extent to which authorities reporting higher costs are outliers or not. Likewise, various estimates have been made of the overall relationship between costs and income⁴, but the responses to the surveys do not provide clarity as to whether licensing authorities are experiencing a deficit overall. Therefore, they do not support the development of a credible impact assessment of the introduction of locally-set fees. The Government is committed to ensuring a vibrant community sector and avoiding undue burdens on business. Therefore, the impact on community groups and businesses in the licensed trade, many of whom are small operators, must be properly assessed.
- 15) Additionally, the limited response from local government implies that not all licensing authorities have the necessary capacity to estimate their costs, which is a pre-requisite for setting fees.
- 16) For these reasons, the Government has decided not to introduce locally-set licensing fees at the present time. The Government is, however, now inviting local government, through the Local Government Association, to provide representative and up-to-date evidence of licensing authorities' costs in delivering licensing functions, and their capacity to measure them. The Home Office will work with the Local Government Association to ensure that local government is clear about what sort of evidence is required.

Single payment date for annual fees

- 17) Respondents to the consultation did not support the introduction of a single payment date for annual fees in England and Wales. 56% of fee-payers who answered this question in the online survey opposed the proposal and only 31% supported it. The majority of responses from local government also disagreed with the proposal.
- 18) Therefore, the Government has decided not to impose a single payment date. Nevertheless, the Government sees merit in allowing licence holders who wish to nominate a date of their choice to do so by notifying the relevant licensing authority. This would remove a significant administrative burden from businesses that hold multiple licences without enforcing change on those who do not want it.
- 19) This measure will require a change to the Licensing Act 2003 and the Government will explore the legislative options with a view to implementation when possible. As with any legislative change, this will involve discussion with colleagues in local government and the licensed trade.

⁴ E.g. the Local Government Association estimates a deficit of just under £17m a year in England and Wales.

Acknowledgements

20) The Government thanks all those who took the time to respond to the consultation. Respondents included many small businesses and employees in the hospitality sector, medium-sized enterprises, representatives of community premises such as village halls, and a significant proportion of licensing authorities. The Government values the support of our partners in developing a robust and proportionate licensing regime that supports responsible businesses whilst maintaining safeguards against alcohol harm.

Further information

21) The Government has published a further document setting out the responses the public consultation in full. “The Government’s response to the consultation on locally-set fees under the Licensing Act 2003: Annex - summary of consultation responses” is available at <https://www.gov.uk/government/consultations/locally-set-licensing-fees>

BACK TO AGENDA

LICENSING AND APPEALS COMMITTEE
25 MARCH 2015

Report of the Head of Regulatory Services

SCRAP METAL DEALERS ACT 2013 – PROGRESS REPORT

SUMMARY

This report advises the Committee of the Local Government Association's (LGA) recent announcement that incidents of metal theft across England and Wales have fallen by around a third since the introduction of the 2013 Scrap Metal Dealers Act.

It is recommended that these findings are made known to all operators licensed to collect and deal in scrap metal in the Derbyshire Dales, and for a programme of compliance visits to be made to all scrap metal sites in the district by 31 March 2016.

RECOMMENDATION

- 1) That the findings of the LGA, in respect of the number of incidents of scrap metal theft since the implementation of the 2013 Scrap Metal Dealers Act, are reported to all licensed site managers and collectors of scrap metal in the Derbyshire Dales.
- 2) That a programme of compliance visits to all licensed scrap metal dealer sites in the Derbyshire Dales is completed by 31 March 2016.

WARDS AFFECTED

All

STRATEGIC LINK

An effective licensing regime supports the core values and key aims set out in the Council's Corporate Plan, in particular, the priority focused on delivering safer communities.

1 BACKGROUND

1.1 The Scrap Metal Dealers Act 2013

Members will recall that at the November 2013 meeting of this Committee a detailed report outlining the changes to be introduced with the implementation of the Scrap Metal Dealers Act 2013 (the Act) was considered.

- 1.2 At that meeting the application fees for site and collector's licences were approved; these had been set by officers under delegated authority to allow licence applications to be accepted and processed from 1st October 2013.

- 1.3 Members also approved a Scrap Metal Licensing Policy and guidance document, which outlined how the District Council would deal with applications for new licences and variations, and how enforcement issues would be tackled.

1.4 At the March 2014 meeting of this Committee, a progress report on the implementation of the legislation was considered. Members were informed that a national on-line register of licences will be maintained by the Environment Agency (EA) and licensing authorities were required to provide the information to the EA. <http://epr.environment-agency.gov.uk/ePRInternet/searchregisters.aspx>

1.5 Since the introduction of the legislation the District Council has licensed 10 sites and 20 collectors. Details of these can be found on the EA's national register.

1.6 The Local Government Association (LGA) Report

It was reported previously that the Local Government Association (LGA) estimates that metal thefts, of materials including electricity cables, railway lines, war memorials, road signs, children's playground equipment and church roofs were costing the country as much as £770m a year.

In February 2015, the LGA reported that figures just published show that there were a total of 40,680 reported metal thefts in England and Wales in 2013/14, which was down from 59,788 for the previous 12 months.

The figures show that, the South-east region (Hampshire, Kent, Surrey, Sussex and Thames Valley) saw the biggest fall in metal thefts dropping 46% from 7,580 in 2012/13 to 4,105 in 2013/14. In London thefts fell 44% from 3,536 in 2012/13 to 1,966 in 2013/14 and the north-west region (Cheshire, Cumbria, Greater Manchester, Lancashire and Merseyside) saw metal thefts drop 40 per cent from 8,231 in 2012/13 to 4,907 in 2013/14.

1.7 According to LGA, the fall in the number of reported metal theft cases is directly linked to the introduction of the Scrap Metal Dealers Act, as the legislation provides that:

- scrap metal dealers are responsible for obtaining a licence to deal in scrap metal from their Local Authority. The Council has the power to revoke or suspend any licence granted if any of the conditions of the licence are breached.
- cash payments are prohibited and scrap metal dealers are only allowed to buy scrap metal with a cheque or via electronic transfer; and are legally required to record the identity of those selling to them.

In the region of 8,000 licences have been issued since the Act became law in 2013.

1.8 The Chair of the LGA, welcomed the news, and acknowledged this has been achieved by licensing authorities working closely with police authorities, and with both working with the legitimately licensed trade. However, she reminded councils that there are still around 40,000 metal thefts a year and licensing authorities will need to continue working closely with police to drive metal thieves out of communities and out of operation for good.

1.9 In response to the findings, Ian Hetherington, director general of the British Metals Recycling Association (BMRA), said: "We welcome the news that the number of metal thefts in England and Wales in 2013/4 has fallen by a third but the authorities must not be complacent and rest on their laurels. The police, Environment Agency and local authorities in England and Wales must allocate adequate resources to enforce the Scrap Metal Dealers' Act robustly and effectively otherwise metal thefts will increase at the expense of the legitimate industry and police forces will be overwhelmed".

2 RISK ASSESSMENT

2.1 Legal

This report poses no significant legal risk. The risk therefore is low.

2.2 Financial

There are no financial risks or other resource implications directly arising from this report, other than officer time. The risk therefore is low.

3 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

4 CONTACT INFORMATION

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5 BACKGROUND PAPERS

24 February 2015 - Institute of Licensing - News Flash

6 ATTACHMENT(S)

None

BACK TO AGENDA