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Chief Executive

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TO: THE CHAIRMAN AND MEMBERS OF
BABERGH DISTRICT COUNCIL

7 December 2015

PLEASE NOTE TIME OF MEETING

Dear Sir/Madam

A meeting of the Babergh District Council will be held in the Council Chamber, Council Offices, Corks Lane, Hadleigh on **Tuesday, 15 December 2015 at 5:30 p.m.**

For those wishing to attend, prayers will be said at 5:25 p.m. prior to the commencement of the Council meeting.

Yours faithfully

Chief Executive

The Council, members of the public and the press may record/film/photograph or broadcast this meeting when the public and the press are not lawfully excluded.

Any member of the public who attends a meeting and objects to being filmed should advise the Committee Clerk who will instruct that they are not included in the filming.

PART I**1 PUBLIC PARTICIPATION SESSION**

Members of the public are able to ask a question or make a statement during this item – please refer to the ‘Guide to the Procedure’ (copy available on request) which can also be found in Appendix 2 of Part 7 in the Council’s Constitution.

Prior written notice of the intention to speak must be given to the Monitoring Officer by no later than 5 p.m. two clear working days before the meeting.

2 MINUTES

To confirm and sign the Minutes of the meeting held on [27 October 2015](#) as a correct record (copy attached).

3 DECLARATION OF INTERESTS

Members to declare any interests as appropriate in respect of items to be considered at this meeting.

4 APOLOGIES FOR ABSENCE

To receive apologies for absence.

5 CHAIRMAN’S ANNOUNCEMENTS

[Paper R79](#)

In addition to any announcements made at the meeting, please see Paper R79 attached, detailing events attended by the Chairman and Vice-Chairman.

6 TO RECEIVE NOTIFICATION OF PETITIONS IN ACCORDANCE WITH COUNCIL PROCEDURE RULE NO. 14

In accordance with Council Procedure Rules, the Chief Executive will report the receipt of any petitions. There can be no debate or comment upon these matters at the Council meeting.

7 RECOMMENDATIONS AND REPORTS FROM COMMITTEES

At its meeting on 11 December, the Licensing Act 2003 Committee will consider Papers R77 and R78 (attached). The Committee will be asked to recommend Council to adopt the Statements as referred to in (a) and (b) below.

The deliberations of the Committee will be reported at the Council meeting together with any amendments requested by Members.

-
- (a) Licensing Act 2003 – Statement of Licensing Policy Statutory Five-Yearly Revision (Licensing Act 2003 Committee – 11 December 2015)

RECOMMENDED TO COUNCIL

[Paper R77](#)

That the draft ‘Statement of Licensing Policy’ referred to in paragraph 2.1 of Paper R77 (Appendix A) be adopted for publication and to take effect for five years (unless sooner revised) from 7 January 2016.

- (b) Gambling Act 2005 – Statement of Principles Statutory Three-Yearly Revision (Licensing Act 2003 Committee – 11 December 2015)

RECOMMENDED TO COUNCIL

[Paper R78](#)

That the draft ‘Statement of Principles’ referred to in paragraph 2.1 of Paper R78 (Appendix A) be adopted for publication and to take effect for three years (unless sooner revised) from 31 January 2016.

8 QUESTIONS FROM THE PUBLIC IN ACCORDANCE WITH [COUNCIL PROCEDURE RULE NO. 15](#)

The Chairmen of Committees to answer any questions from the public of which notice has been given no later than midday two clear working days before the day of the meeting in accordance with Council Procedure Rules.

9 QUESTIONS FROM MEMBERS IN ACCORDANCE WITH [COUNCIL PROCEDURE RULE NO. 16](#)

The Chairman of the Council, the Chairmen of Committees and Sub-Committees and Lead Members to answer any questions on any matters in relation to which the Council has powers or duties or which affect the District of which due notice has been given in accordance with Council Procedure Rules.

10 TIMETABLE OF MEETINGS 2016/17

[Paper R80](#)

Members are asked to approve the draft timetable (Paper R80) attached, prepared by the Corporate Manager - Governance.

The timetable has been the subject of consultation with Management Board, Heads of Service, Political Group Leaders and the current Chairmen of Council and Committees.

11 DATE AND TIME OF NEXT MEETING

Wednesday 20 January 2016 at 5.30 p.m.

For further information on any of the Part 1 items listed above, please contact Linda Sheppard on 01473 826610 or via email at committee.services@baberghmidsuffolk.gov.uk

MINUTES OF THE MEETING OF THE BABERGH DISTRICT COUNCIL HELD IN THE COUNCIL CHAMBER, COUNCIL OFFICES, CORKS LANE, HADLEIGH ON TUESDAY, 27 OCTOBER 2015

PRESENT: Nick Ridley – Chairman

Clive Arthey	Bryn Hurren
Sue Ayres	Jennie Jenkins
Melanie Barrett	James Long
Simon Barrett	Margaret Maybury
Tony Bavington	Alastair McCraw
Peter Beer	Mark Newman
Peter Burgoyne	John Nunn
Sue Burgoyne	Jan Osborne
Tom Burrows	Lee Parker
Dave Busby	Peter Patrick
Tina Campbell	David Rose
Sue Carpendale	Ray Smith
Michael Creffield	Harriet Steer
Derek Davis	Fenella Swan
Barry Gasper	John Ward
Kathryn Grandon	Stephen Williams
David Holland	

The following Members were unable to be present:

Siân Dawson, Alan Ferguson, John Hinton, Michael Holt, Richard Kemp, Frank Lawrenson, Adrian Osborne, Stephen Plumb and William Shropshire.

49 PUBLIC PARTICIPATION SESSION

There were no questions or statements from the public.

50 MINUTES

The reference in Minute No 45 (22 September) to the Suffolk position regarding an elected Mayor was queried but Members concluded that no amendment was required.

With regard to Minute No 46, Members agreed that the numerical result of the ballot should be recorded.

RESOLVED

That the Minutes of the meeting held on 22 September 2015 be confirmed and signed as a correct record, subject to the following wording being added to Minute No 46:

The votes cast were as follows:

Simon Barrett	24 votes
Tony Bavington	16 votes
Abstentions	<u>2</u>
Total	42

51 DECLARATION OF INTERESTS

None declared.

52 ANNOUNCEMENTS FROM THE CHAIRMAN AND/OR LEADER

The Chairman referred to [Paper R56](#) outlining recent events attended by the Chairman and Vice-Chairman.

53 PETITIONS

In accordance with Council Procedure Rule No 14, the Chief Executive reported the receipt of a petition as detailed below:-

Offer to home 10 refugee families

Petition signed by approximately 26 residents of Babergh requesting the Council to make preparations to make Syrian refugees welcome in Babergh and to make a direct offer to central Government to provide accommodation for 10 refugee families.

It was confirmed that Suffolk County Council was leading on this matter, through the Suffolk Public Sector Leaders Group. The petition organiser would be advised further in relation to this process.

54 RECOMMENDATIONS AND REPORTS FROM COMMITTEES

Mid-Year Report on Treasury Management 2015/16 (Joint Audit and Standards Committee – 19 October 2015)

John Ward, Vice-Chairman of the Joint Audit and Standards Committee, introduced the Committee's recommendation to note the Treasury Management activity for the first six months of year 2015/16, as set out in [Paper JAC62](#).

John Moyles, Interim Corporate Manager – Financial Services, drew Members' attention to errors on page 2 in Appendix D (table in paragraph 1.4). Peak borrowing figures to 30/09/15 should have had decimal points instead of commas and should read £87.797m and £87.183m for BDC and MSDC respectively, and on page 2 in Appendix C (table in paragraph 1.5) where the stated figures for the budget and outturn should be in pounds and not thousands.

In response to a question, the Interim Corporate Manager informed Members that the investment with the CCLA Local Authorities Property Fund had produced a good outcome to date. He also confirmed that details of the investment with Funding Circle were being finalised and decisions should be made in early November. Members were aware that such investment did not affect the Council's house building priorities.

RESOLVED

That it be noted that Treasury Management activity for the first six months of 2015/16 was in accordance with the approved Treasury Management Strategy and that both Councils have complied with all Prudential Indicators for this period.

Note:

It is a requirement of the Code of Practice on Treasury Management that Full Council notes the Mid Year position.

55 QUESTIONS FROM THE PUBLIC

None received.

56 QUESTIONS FROM MEMBERS

None received.

57 CONTRACT STANDING ORDERS

Jennie Jenkins, Portfolio Holder for Finance and Resources, introduced [Paper R57](#), asking Members to approve revised Contract Standing Orders. Rachel Hodson-Gibbons, Corporate Manager – Commissioning, drew Members’ attention to the consequential amendment to Financial Regulations referred to in paragraph 10.4 of the report.

RESOLVED

- (1) That the revised Contract Standing Orders as detailed in Appendix A to Paper R57 be approved.**
- (2) That the second bullet point in A12 of the Councils’ Financial Regulations be amended to read as follows:**

“Signing contracts in relation to their specific areas on behalf of the authority in accordance with the Procurement Scheme of Delegation”.

The business of the meeting was concluded at 5.45 p.m.

.....
Chairman

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Agenda Item 5

CHAIRMAN'S ANNOUNCEMENTS - COUNCIL 15 DECMEBER 2015					R79
EVENT	LOCATION	DATE	CHAIRMAN	VICE CHAIR	
OCTOBER 2015					
Colchester Mayor's Oyster Feast	Town Hall, Colchester	30-Oct	✓		
NOVEMBER 2015					
Babergh Parish Liaison Meetings	Constable Memorial Hall, Gandish Road, East Bergholt	03-Nov	✓		
Babergh Parish Liaison Meetings	Village Hall, Lavenham Road, Great Waldingfield	03-Nov	✓		
Remembrance Service	Abbey Gardens, Bury St Edmunds	07-Nov	✓		
Rembrance Service & Parade	St Andrew's Church, Great Cornard	08-Nov			
Rembrance Service & Parade	St Gregory's Church, Sudbury	08-Nov	✓		
Rembrance Service & Parade	St Mary's Church, Hadleigh	08-Nov		✓	
Sudbury Mayor's Charity Curry Evening	India Restaurant, 58 North Street, Sudbury	09-Nov	✓		
Suffolk Sports Awards 2015	Trinity Park, Ipswich	13-Nov	✓		
DECEMBER 2015					
St Edmundsbury Mayor's Carol Service	St Edmundsbury Cathedral, Bury St Edmunds	02-Dec	✓		
Forest Heath Chairman's Civic Service	St Peter's Church, Brandon	06-Dec		✓	
Haverhill Mayor's Carol Service	St Mary's Church, Haverhill	09-Dec	✓		
Braintree Chairman's Annual Carol Service	St Peter's Church, St Peter's Road, Braintree	10-Dec		✓	

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From: Corporate Manager - Licensing	Report Number: R77
To: MSDC Licensing Act 2003 Committee BDC Licensing Act 2003 Committee	Date of meeting: 4 December 2015 11 December 2015

LICENSING ACT 2003 – STATEMENT OF LICENSING POLICY STATUTORY FIVE-YEARLY REVISION

1. Purpose of Report

- 1.1 To report back to the Licensing Act 2003 Committee the outcome of a full targeted and public consultation, which ran between 24 August 2015 and 19 October 2015, in respect of the above statutory policy revision relating to Licensing Act 2003 functions.
- 1.2 Since November 2005 local licensing authorities have been responsible for functions under the Licensing Act 2003, including issuing of licences and authorisations for licensable activities, premises, clubs, events and individuals.
- 1.3 Section 5 of the Licensing Act 2003 (the Act) requires that each Licensing Authority shall determine and publish a local ‘Statement of Licensing Policy’ relating to the discharge of its licensing functions under the Act. In 2015 the Authority has reviewed the statement that has been in effect since January 2011. This report seeks the approval by the Licensing Act 2003 Committee of the revised policy statement, now attached as Appendix A, for recommendation on to full Council so that it may be adopted for publication and ready to take effect from 7 January 2016.

2. Recommendations to Licensing Act 2003 Committee and Council

- 2.1 That the post-consultation draft ‘Statement of Licensing Policy’ in respect of Licensing Act 2003 functions, as attached at Appendix A, be approved.
- 2.2 That the draft ‘Statement of Licensing Policy’ referred to in paragraph 2.1 of this report be adopted, for publication and to take effect for five years (unless sooner revised) from 7 January 2016.

The Committee is able to resolve 2.1 above, and is asked to make a recommendation to Council on 2.2 above.

3. Financial Implications

- 3.1 This is a statutory function. The Licensing Team has to date undertaken the necessary preparatory and consultation work within existing resources and by working collaboratively, wherever viable.

3.2 In general terms the legislation aims to secure full cost-recovery of administering Licensing Act 2003 functions through fees payable for licence applications and ongoing maintenance. The fee banding system and fee levels are currently set by Central Government via Regulation (as they have been, unchanged, since 2005). The previous government had decided in early 2015 to not activate the provisions of the Police Reform and Social Responsibility Act 2011 - section 121 of which would devolve fee setting to local licensing authorities (as is the case for most licensing functions).

4. Legal Implications

4.1 Please refer to the information in section 5 below.

5. Risk Management

5.1 Failure to review, revise and re-consult upon the policy will result in legal challenge to Council decisions under the 2003 Act (including potentially by judicial review).

5.2 The risks that inherently apply to the Licensing Authority when carrying out its Licensing Act 2003 functions relate to promotion of the licensing objectives, which are:

- Prevention of crime and disorder
- Prevention of public nuisance
- Public safety
- Protection of children from harm

6. Consultations

6.1 This will be the fourth edition of the Council's 'Statement of Licensing Policy' under the Licensing Act 2003. The Licensing Team has the necessary experience, stakeholder contacts and networking in place to ensure that a wide and balanced consultation has taken place. The consultation took place over a period of eight weeks, through various channels/media.

6.2 Adoption of the Licensing Act 2003 'Statement of Licensing Policy' is a function reserved for full Council at both Authorities.

7. Equality Analysis

7.1 There are no equality implications arising directly from this report. This is a statutory revision to an existing policy. The Council recognises its obligations under the Equality Act 2010, in the exercise of its licensing functions, and has had due regard to any comments received during the policy consultation on equality issues.

8. Shared services / partnership implications

8.1 The 'Statement of Licensing Policy' document has been developed to be consistent across both Babergh and Mid Suffolk District Councils (subject to councillor approval at each authority). There are similar amounts of licensable activity and type across both districts. This development work has also involved working as part of the wider Suffolk Licensing Officers Group.

8.2 Partner agencies have been pro-actively consulted on the proposed revisions, and have influenced the previous and proposed content.

9. Links to Strategic Joint Plan

- 9.1 This policy work and the statutory licensing objectives, link to more than one strategic priority. Links include supporting local businesses to thrive and grow, coordinating our approach to regulation with Suffolk County Council (and other partners) to minimise the burdens on local business, a thriving tourism sector and vibrant market towns, self-sufficient, safe and active communities and smaller, smarter and swifter delivery.

10. Key Information

- 10.1 The Licensing Committee established under section 6 of the Licensing Act 2003 is responsible for dealing with matters under the Licensing Act 2003. Some of these functions are delegated to a sub-committee or officers, but some functions may not be delegated. These exceptions are matters for full Council and include any consideration of Early Morning Restriction Orders and final approval of the five-year 'Statement of Licensing Policy' document.
- 10.2 The 'Statement of Licensing Policy' must contain certain information as required by regulation. The statement must also have regard to Home Office guidance issued under section 182 of the Act by the Secretary of State, and in its development take into account the views expressed in any consultation responses from statutory consultees - including local communities and responsible authorities.
- 10.3 The redrafted statement, attached as Appendix A to this report, contains amendments (as highlighted) from the previous version published in 2011.
- 10.4 The revised policy closer links the Council's licensing functions to its wider strategic priorities, and further recognises the link between promotion of licensing objectives and wider outcomes sought by the Local Authority. It also intends to be more transparent about the Licensing Authority's expectations in relation to existing and new licensed businesses and operators in the district so as to greater balance growth and business diversification ('Open for Business') with appropriate controls to promote licensing objectives.
- 10.5 During the consultation, the draft document has been widely disseminated and open to input from across the organisation, including via drop-in workshop sessions held on 11 September 2015 (Needham) and 22 September 2015 (Hadleigh) - so that the Statement of Licensing Policy progresses to a more corporately referenced and accessible document. It has also been accessible to identified (and prescribed) stakeholders, the business community and general public.
- 10.6 The Licensing Team works collaboratively with other Suffolk Licensing Authorities to ensure consistency of approach and avoid duplication of efforts across the County. Albeit there will be some minor local variations based on specific local circumstances, licensable activity and individual consultation responses, the common template should ensure that there is generally little variance between neighbouring authorities approach in the dispensation of functions under the Act. All available legislative and regulatory information and guidance has been taken into account during this preparatory work.
- 10.7 The fourth statement, once approved and adopted, shall take effect for a five-year period from 07 January 2016 (although it may be revised sooner if necessary). It will then become a primary point of reference for councillors, officers, applicants and other responsible/interested parties.

10.8 From conversations held during the consultation period, it appears that generally the revised policy statement strikes the right balance of appropriately promoting licensing objectives with being transparent, collaborative and accessible to those with a business or community interest, responsible authority remit or decision-making role in Licensing Act 2003 functions. This is supported by the limited number of written responses received (see Appendix B).

11. Appendices

Title	Location
A. Statement of Licensing Policy (2016-2021) - DRAFT	Attached
B. Consultation responses received	Attached
C. Consultee list (summary)	Attached
D. Summary of revisions and reasons	Attached

12. Background Documents

12.1 Licensing Act 2003

12.2 Guidance issued by the Secretary of State under section 182 of the Licensing Act 2003

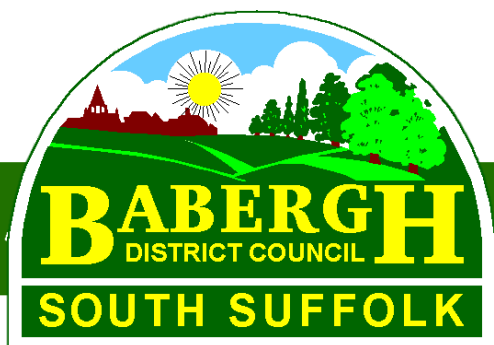
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ENVIRONMENT

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Babergh District Council

Licensing Act 2003 Statement of Licensing Policy

2015 REVISION – POST CONSULTATION DRAFT

RED = pre-consultation draft revisions
BLUE = post-consultation draft revisions



4th EDITION: Adopted by Council on XXX

BABERGH DISTRICT COUNCIL

LICENSING ACT 2003: STATEMENT OF LICENSING POLICY

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BABERGH DISTRICT COUNCIL
Licensing Act 2003 Statement of Licensing Policy (Fourth Edition)

INTRODUCTION

The Licensing Act 2003 became fully implemented on 24 November 2005, and brought about the single biggest change to the licensing arrangements for many types of leisure premises in 40 years. **The legislation has been amended several times since 2005. Licensing legislation and national statutory guidance continue to evolve, be tested by the Courts and be amended.**

The Act integrated six separate licensing regimes covering the sale and supply of alcohol, the provision of regulated entertainment, the provision of late night hot food or drink (between the hours of 11pm and 5am), night café, theatres and cinemas.

This document is the **fourth** version of the local ‘Statement of Licensing Policy’ for Babergh District Council. Revisions endeavour to incorporate the Authority’s practical experience of the legislation to date, law updates, feedback from all relevant stakeholders and achieve **greater integration with its other functions and local priorities since the last revision in 2011.** This version of the policy endeavours to strike the right balance between supporting growth and diversification, in all licensed sectors, with proportionate controls and protections which are appropriate to promote the licensing objectives. It is in everybody’s interests for leisure businesses and events to be well managed, successful and sustainable.

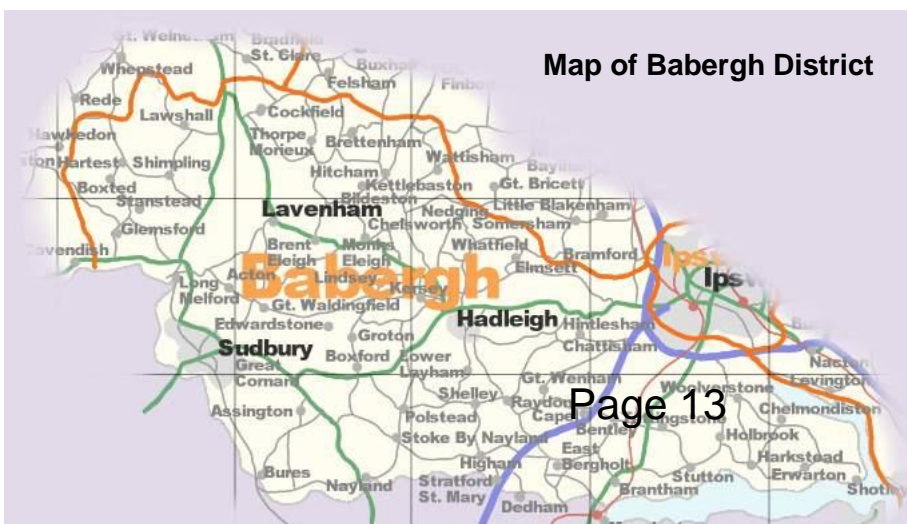
The Licensing Authority recognises that it is not always straightforward to reach decisions that satisfy all parties, but the Authority shall always endeavour to carefully balance the interests of owners, employees, customers and neighbours of licensable premises, and will remain focused on the promotion of the four licensing objectives, which are:

- 1. The prevention of crime and disorder**
- 2. Public safety**
- 3. The prevention of public nuisance**
- 4. The protection of children from harm**

~~The Secretary of State for Culture, Media & Sport (under the previous administration) had commented in the introduction of revised guidance to Licensing Authorities issued in March 2010, that the Act:~~

- ~~○ Allows local people a bigger voice in licensing decisions, with local people becoming more aware of and engaged in the licensing process;~~
- ~~○ Assists with providing a better system of regulation for business, greater choice for consumers, and where possible help for areas in need of economic regeneration;~~
- ~~○ Is evidencing that licensees are making good progress towards taking their responsibilities seriously, and are actively working with the Police and each other to eliminate sales of alcohol to underage persons and to combat alcohol related crime and disorder;~~
- ~~○ Encourages effective multi-agency partnership working to target ‘problem’ premises, and that new closure and review powers are working to help clamp down on the irresponsible minority of retailers; and~~
- ~~○ Cannot in isolation provide a solution to many of the problems associated with alcohol misuse, and must be part of a broader strategy to achieve better management of the night time economy and a better balance between the rights and responsibilities of everyone living and working in each community.~~

THE BABERGH DISTRICT



Babergh is an attractive district in the southern part of Suffolk and has a long border with the county of Essex. Whilst it remains predominately rural, it is within close and convenient distance of London and the Continent. The district has a population of approximately 87,000 residents divided between 76 parishes. It covers an area of 230 square miles and contains several areas of historical significance, including the nationally renowned villages of Lavenham and Long Melford - both of which retain much of their original outstanding character and appearance.

The largest town in Babergh is Sudbury which, along with its neighbouring village of Great Cornard, has a population of approximately 20,500. The other market town of Hadleigh - where the Council's offices are currently located - has a population of approximately 8,500. Ipswich (10 miles from Hadleigh) is now spilling over into the district, and has a population in excess of 130,000 people.

The highest concentrations of licensed premises in the district are, predictably, within the Sudbury and Hadleigh town centre areas. The main licensing activity arises as a consequence of the **significant** leisure and tourism industry. Most premises are under economic pressure within the community, as a result of which many are seeking to diversify and offer more flexibility and greater choice to the consumer. Many traditional public houses now offer both food and entertainment to improve their economic viability, and many village halls and community facilities are seeking additional flexibility in their relevant licences in order to provide their local communities with a greater choice in how to spend their leisure time. **There are a growing number of both small and large scale outdoor public events, music food and drink festivals (including showcasing local produce, crafts and heritage) as well as other cultural activities involving licensable elements now taking place at various locations across the district, and within Suffolk generally. Babergh District Council recognises the value and importance of such activity to the local economy, tourism, supply chains and contributing to the profile of the district as a great place to reside, visit and work.**

The Licensing Act 2003 catches 'any premises' involved in providing licensable activities, and Babergh District Council have issued licences to a broad variety of different types of premises, including:

- **Pubs, commercial clubs, restaurants, hotels, conference centres**
- **Private members clubs**
- **Shops, supermarkets, off-licences, breweries, farm shops, village tearooms**
- **Village halls, community facilities, schools, sports clubs**
- **Warehouses for mail order and internet sales of alcohol**
- **Mobile late night fast food vans, florists, garages**
- **Festivals, concerts, street fairs, bonfire parties, agricultural shows, fairs**
- **Takeaways (serving hot food or drink between 11pm and 5am)**
- **Local Authority public open spaces**

As of November 2015, Babergh District Council has on issue 430 premises licences, 50 club premises certificates, 975 personal licences and authorises approximately 500 Temporary Event Notices per annum. Since 2005 the Licensing Authority has arranged in excess of 200 licensing hearings to determine contested applications, and helped facilitate mediated agreements for many more.

THE ROLE OF THE LICENSING AUTHORITY IN THE DECISION MAKING PROCESS

It is important for any person reading this Statement of Licensing Policy to note that the Licensing Authority's decision making role, referred to throughout this Statement of Licensing Policy, is only engaged following a relevant representation/**objection** being lodged in respect of an application, and where that representation **or objection** is not withdrawn. **From 2012 the power to raise representations was extended to Licensing Authorities in their own right.** The **relevant** application **would** then ordinarily be heard by a sub-committee of the Council's **Licensing Act 2003 Committee (as the statutory Licensing Committee)**. However it **should also** be noted that, in contrast, the process and determination in respect of minor variations and community premises mandatory conditions **alternative** are exceptions to these usual arrangements, as referred to later in this document.

The Licensing Act 2003 provides **discretion for the Licensing Authority to facilitate** a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so, the Licensing Authority will be mindful of the legislative framework and any relevant government guidance.

In cases where a premises licence application or club premises certificate has been lawfully made, and no responsible authority or **other person** has made a representation, the Licensing Authority must grant the application on the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act. This should be undertaken as an administrative process by the Licensing Authority's officers who will translate the proposals contained within the operating schedule to promote the licensing objectives into clear and understandable conditions. As **referred to** above, there are different arrangements in place for some minor processes under the Act.

It is the intention of the Licensing Authority to work closely and collaboratively with licensees and their representatives, responsible authorities, local communities, other persons and partner agencies in order to promote the licensing objectives and minimise the burden on all involved to ensure that as far as possible the licensing arrangements work satisfactorily and successfully.

STATEMENT OF LICENSING POLICY (4th edition)

<p>This policy was adopted by the Council on [DATE] and is effective from 07 January 2015 until revised (whether under statutory or voluntary arrangements)</p>
--

1. Licensing Objectives

- 1.1 This policy must be read in conjunction with the Licensing Act 2003 (the Act), secondary legislation and the Guidance issued under s.182 of the Licensing Act 2003 (the Guidance).
- 1.2 Where revisions are made to the legislation or Guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with **such** revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, Guidance and its own Statement of Licensing Policy.
- 1.3 In preparing this Statement of Licensing Policy the Licensing Authority has consulted in accordance with the requirements of the Act, and has had due regard to the Guidance. For details of the consultation see the Minutes of the Licensing Act 2003 Committee meeting held on **[DATE]**.
- 1.4 The Licensing Authority recognises that balancing the interests of owners, employees, customers and neighbours of licensable premises will not always be straightforward, but it will always be guided by the four licensing objectives of the Act, which are :
 - a) the prevention of crime and disorder;
 - b) the prevention of public nuisance;
 - c) public safety; and
 - d) the protection of children from harm

The Licensing Authority's general approach to addressing these four licensing objectives is set out in section 14 of this Statement of Licensing Policy.

- 1.5 In exercising its licensing functions, once its discretion is engaged, the Licensing Authority will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the **locality of the licensed premises, and steps which are appropriate to promote the licensing objectives.**
- 1.6 **The area impacted by the presence of licensed premises is a question of fact and will depend on the particular circumstances of each case.**
- 1.7 The aims of this Statement of Licensing Policy include:

- a) Helping to encourage and support strong and inclusive **communities** that balance the rights of **licensable businesses and event organisers, customers and local residents/businesses**; and
- b) Integrating the Licensing Authority's aims and objectives with other **strategic local priorities**, initiatives and strategies that will help to:
 - reduce crime and disorder, and the fear of crime;
 - encourage tourism, **economic growth** and cultural diversity;
 - reduce alcohol misuse **and contribute towards the better health and wellbeing of persons in our communities** ;
 - encourage the self sufficiency of local communities; and
 - reduce the burden of **unnecessary** regulation on business **through collaboration, transparency and accessibility**.

1.8 This Statement of Licensing Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have such an application considered on its individual merits, where the Licensing Authority's discretion has been engaged. It does not seek to override the right of any person to make representations on or about an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

1.9 The licensing process can only seek to control those measures within the control of the licensee or certificate holder (and their staff/agents), ~~and in the vicinity of the premises involved in licensable activities~~. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it **a cure-all for community problems. If a licence holder has taken all appropriate steps to promote the licensing objectives whilst carrying on authorised licensable activities, and there is no causal link established between problem issues in the locality and a specific premises then it is unlikely that licensing processes are the mechanism to address them.**

2. Purpose of the Statement of Licensing Policy

2.1 The purpose of this Statement of Licensing Policy is to:

- inform the elected **councillors** serving on the **Licensing** Committee of the parameters within which licensing decisions can be made;
- inform applicants, **responsible authorities**, residents and businesses of the parameters within which the Licensing Authority will make licensing decisions;
- inform residents and businesses about how the Licensing Authority will make licensing decisions; and
- provide a basis for decisions made by the Licensing Authority if these decisions are challenged in a court of law.

2.2 This policy relates to the following licensable activities as defined by the Act:

- Retail sale of alcohol;
- Supply of alcohol by or on behalf of a club, or to the order of a member of the club
- Provision of regulated entertainment, which **generally includes music, film, plays, indoor sporting events, boxing or wrestling, dance and similar activities. It should be noted that some entertainment activities may be subject to full or limited exemption in particular circumstances.**
- Provision of late night refreshment

- ~~○ a performance of a play~~
- ~~○ an exhibition of a film~~
- ~~○ an indoor sporting event~~
- ~~○ a boxing or wrestling entertainment~~
- ~~○ a performance of live music~~
- ~~○ any playing of recorded music~~
- ~~○ a performance of dance~~
- ~~○ entertainment of a similar description to the performance of live music, the playing of recorded music or the performance of dance~~

- ~~● Provision of entertainment facilities for making music, dancing or entertainment of a similar description~~

2.3 It should be noted that some previous licensable activities, and locations, are now deregulated (whether fully or partially) via amendments made to the 2003 Act (~~Part 2 of Schedule 1~~) makes provision for exempt or unregulated activities or locations. Further information on these is available from www.gov.uk. Whether activities/locations may be entitled to benefit from an exemption or de-regulation would be assessed on a case-by-case basis.

2.4 In some cases additional licences for entertainment may be required under separate legislation, for example sexual entertainment venues may also require a licence under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or the venue may also require Performing Rights Society (PRS) or other permissions.

3. Other legislation, strategies and guidance

3.1 When carrying out its functions the Local Authority has duties, responsibilities and considerations under other legislation and strategies, for example:

- (a) Crime and Disorder Act 1998 (in particular obligations under section 17 relating to the prevention of crime and disorder);
- (b) The European Convention on Human Rights, given effect by the Human Rights Act 1998;
- (c) ~~Criminal Justice and Police Act 2001 (in particular the powers available under section 13 to make 'designated public place orders' or DPPO's to control the consumption of alcohol in a public place outside licensed premises);~~
- (c) Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000);
- (d) Anti-Social Behaviour, Crime and Policing Act 2014 (in particular powers available under section 80 relating to the closure of premises on the grounds of crime, disorder or nuisance);
- (f) ~~Violent Crime Reduction Act 2006 (including powers for Local Authorities and the Police to designate Alcohol Disorder Zones (ADZ's) to tackle alcohol related crime and disorder problems);~~
- (g) Environmental Protection Act 1990 (as amended) (in particular investigation of, and any enforcement action in relation to, statutory nuisances – including by noise, light or odour);
- (h) Health and Safety at Work etc Act 1974;
- (i) Noise Act 1996 (as amended);
- (j) Health Act 2006;
- (k) Clean Neighbourhoods and Environment Act 2005 (including powers for the Local Authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am);
- (l) Policing and Crime Act 2009;
- (m) The Council's published procedure for dealing with petitions and its obligations under the Local Democracy, Economic Development and Construction Act 2009;
- (n) Equality and diversity obligations; and

(o) European Union Services Directive.

- 3.2 **Premises operators/responsible persons within a business or activity** are normally responsible for compliance with any other separate statutory requirements which may apply, not dealt with directly by the Local Authority, for example compliance with the Regulatory Reform (Fire Safety) Order 2005.
- 3.3 The Licensing Authority will as far as possible seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be **appropriate** to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are **appropriate** to promote the licensing objectives that **tailored** and proportionate conditions **may** be attached to a licence.
- 3.4 Other Local Authority and **Central** Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them.
- 3.5 For example, the Licensing Authority will liaise closely with the local **Police/PCSOs** and/or Community Safety/**Locality Officers** to ensure that the Local Authority can develop effective strategies that take full account of **any** local crime and disorder issues.
- 3.6 It is the Local Authority's intention that it will, through its **officers and councillors** monitor how these matters, set out in 3.4 above, impact on the Authority's licensing and other functions, in order that it may seek to co-ordinate and integrate its licensing function with other relevant strategies.
- 3.7 The Local Authority may, in appropriate circumstances, consider seeking from the Licensing Authority premises licences in its own name for its own public spaces within the community. This may assist with the promotion of broader cultural activities and entertainments **which add value to our communities and the local economy**.
- 3.8 In respect of cultural strategies the Licensing Authority will, for example through **periodic** consultation with local **Communities/Locality** officers, consider whether the provision of **live music and** cultural activities and entertainments is being deterred by local licensing requirements, **whether by the Licensing Authority directly or other responsible authorities**. Where there is any indication that this is the case, the Licensing Authority may consider investigating how the situation might be reversed, and may if necessary in the light of such investigations consider a revision to the Statement of Licensing Policy.
- 3.9 Where it considers it appropriate to do so, and in order to seek proper integration of the licensing function, the Licensing Authority may directly or indirectly provide periodic reports to the Planning Authority on the general situation regarding licensed premises in the area, which may include reference to the impact of alcohol related crime and disorder. **Reports and intelligence may also be shared with Economic Development officers in relation to growth, regeneration and local skills and employment matters**.

4. Relationship with Planning Process

- 4.1 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.

- 4.2 It is strongly recommended that prospective licence applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible.
- 4.3 The Licensing Authority wishes to emphasise that the granting by the **Licensing** Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 4.4 The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid duplication and inefficiency. The Licensing and Planning regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. **However liaison will be undertaken between functions to provide a joined-up approach for service users, wherever possible.**
- 4.5 The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, and will not normally:
- ~~• cut across decisions taken by the Local Authority Planning Committee or following appeals decisions taken by that Committee; or~~
 - impose licensing conditions where the same or similar conditions have been imposed on a planning consent.
- 4.6 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.
- 4.7 Where as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of their planning permission - for which they may be liable to prosecution under planning law.

5. **Cumulative Impact and Early Morning Alcohol Restriction Orders (EMROs)**

- 5.1 The Licensing Authority recognises that the cumulative effect of licensed premises may have negative consequences which could include:
- an increase in crime against both property and persons;
 - an increase in noise causing disturbance to residents;
 - traffic congestion and/or parking difficulties; and
 - an increase in littering and fouling,
- and that enforcement action taken to ensure that conditions are complied with may not always resolve any problems experienced in the vicinity of licensed premises.
- 5.2 Licensing is only one means of addressing the problems identified above, and cannot in isolation provide a solution to many of the problems that may be experienced. Other mechanisms to address problems could include:
- Planning controls;
 - Powers of Local Authorities or Police to designate parts of the Local Authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
 - Police **and Local Authority** powers to close down premises or temporary events for up to 48 hours on the grounds of preventing **crime, disorder or nuisance disorder, the likelihood of disorder or excessive noise;**
 - ~~• Powers of the Local Authority and Police to designate Alcohol Disorder Zones (ADZ's);~~

- Prosecution of personal licence holders who sell alcohol to people who are drunk or underage;
- Police and Local Authority powers under ~~section 5 of~~ the Anti-Social Behaviour, **Crime and Policing Act 2014**;
- Powers available to responsible authorities under the provisions of the Policing and Crime Act 2009 or Violent Crime Reduction Act 2006.

5.3 Where the Licensing Authority is satisfied that there is evidence of a disproportionate detrimental effect on neighbouring businesses and residents and the operation of a number of premises in a defined area has the effect of undermining the licensing objectives, a special policy may be developed. Such a policy would ordinarily address the impact of a concentration of licensed premises selling alcohol for consumption on the premises, as it would not normally be justifiable to adopt such a policy on the basis of a concentration of shops, stores and supermarkets selling alcohol for consumption off the premises.

5.4 When setting such a policy, the Licensing Authority shall have due regard to the Guidance, and will follow the consultation, adoption and review procedures applicable to the process.

5.5 No special policy adopted for a specific area will be absolute, each application shall be considered individually on its own merits.

5.6 Whilst no part of the district is at the time of this policy revision subject to any Early Morning Alcohol Restriction Order (EMRO), the Licensing Authority is aware of the power conferred on it as set out in sections 172A to 172E of the 2003 Act to make, vary or revoke an EMRO. The exercise of the licensing authority's functions may be delegated by its committee to a sub-committee, other than the decision to make, vary or revoke an EMRO (which is exercised by full council). This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

5.7 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

5.8 Before the Licensing Authority would make a determination to recommend to full council that it makes a proposed EMRO, it will satisfy itself that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable the Licensing Authority to draw upon its experience from other licensing decisions it makes under the 2003 Act, such as the determination of applications for the grant of premises licences. The licensing authority would consider evidence from partners, including from responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

5.9 If at any point in time the licensing authority already has a Cumulative Impact Policy (CIP) in its Statement of Licensing Policy it will consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

6. Licensing Hours

6.1 The Licensing Authority, through the exercise of its licensing functions once its discretion is engaged, shall not seek to restrict the trading hours of any particular premises unless it is considered **appropriate** and proportionate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.

- 6.2 In the absence of any specific reasons linked to the licensing objectives, the Licensing Authority will not seek to restrict licensed retail outlets ability to sell alcohol for consumption off the premises throughout their general trading hours. A possible example of an occasion when a limitation could be considered would be following Police representations that a shop was known to be a focal point for crime and disorder due to groups congregating there.
- 6.3 The Licensing Authority recognises that providing consumers with greater choice and flexibility is an important consideration and that in some circumstances flexible licensing hours for the sale of alcohol, **in a well-managed environment**, can help to ensure that the concentrations of customers leaving premises simultaneously are avoided, which in turn can reduce friction **and congregations** at late night fast food outlets, taxi ranks and other **areas** which can lead to crime, disorder and disturbance.
- 6.4 The Licensing Authority also acknowledges that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for **business growth and diversification**, investment and employment locally and attractive to domestic and international tourists.
- 6.5 The Licensing Authority will however, where its discretion is engaged, always carefully balance the considerations in 6.3 and 6.4 above against its duty to promote the licensing objectives and protect the rights of local residents and businesses **impacted by** licensed premises.
- 6.6 The Licensing Authority will consider each application individually on its merits, once its discretion is engaged, and notes the Government's guidance that there is no general presumption in favour of lengthening licensing hours and that the four licensing objectives should be paramount considerations at all times. Where there are relevant representations against an application and the Licensing Committee believes that granting the licensing hours proposed would undermine the licensing objectives then it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 6.7 Irrespective of the hours of operation granted for a premises under any licence under the Act, the premises operators should ensure that they comply with any limitation on hours imposed under any other relevant legislation in force - for example planning law, Sunday Trading Act 1994 or Christmas Day (Trading) Act 2004.

7. Relevant Representations

- 7.1 A relevant representation is one that is made in writing and:
- is about the likely effect of the licence on the promotion of the licensing objectives **(for new applications representations may be probative/speculative and it will be for the Licensing Authority in each case to determine what weight to attach to representations and any supporting evidence)** ;
 - has been made by a responsible authority, **other person** or elected councillor **of the Licensing Authority,** as defined by the Act, within the relevant time period as prescribed by regulation;
 - has not been withdrawn; and
 - has not been determined by the Licensing Authority as frivolous or vexatious (or repetitious in respect of a review).
- 7.2 In 'borderline' cases, the Licensing Authority will normally give the benefit of the doubt to the **other person** or responsible authority making the representation, and any subsequent hearing would provide an opportunity for the person or body making the representation to amplify and clarify it. However, the Licensing Authority could decide not to take any action in respect of the application if, for example, the representation could not be supported.

7.3 Representations can be made in opposition to, or in support of, an application. In cases where only 'positive' representations are made, without qualifications, the Licensing Authority will consider whether a hearing is necessary, and may contact the interested parties concerned to give them an opportunity to withdraw their representations.

7.4 The Licensing Authority will determine, in accordance with its scheme of delegation, whether:

- the representation has been made by an 'other person' as defined under the Act; and
- any ordinary and reasonable person would consider the issue(s) raised in a representation as frivolous or vexatious (or repetitious in respect of a review).

A person aggrieved by a rejection of his representation on these grounds may challenge the Licensing Authority's decision by way of judicial review.

7.5 In addressing whether or not other persons, or incidents, are impacted by ~~in the vicinity~~ of licensed premises, the Licensing Authority will primarily focus on the direct impact of the activities taking place, or proposed to take place, at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

7.6 Where a relevant representation is made in respect of:

- an application; or
- an existing licensed premises

a hearing will be held, unless an agreement is reached between the Licensing Authority, the applicant and all of the parties who have made relevant representations, that a hearing is not required.

7.7 The Licensing Act 2003 provides a discretion for the Licensing Authority to facilitate a mediation process between parties. The Licensing Authority will attempt mediation between the relevant parties wherever it may be practicable or appropriate to do so, so as to avoid unnecessary hearings. It may also extend the normal time limits for hearings where it is considered to be in the public interest to do so (for example where all parties are on the point of reaching agreement or so as to ensure that it is possible for a party to attend the hearing). Mediation potential will be assessed case-by-case as each set of circumstances will be different. Where compromise may be viable to appropriately balance the interests of all stakeholders, and doing so will not prejudice any party's rights under the law, then the Licensing Authority will take all reasonable steps to facilitate such discussions.

7.8 Whilst pre-application discussion between licence applicants and responsible authorities, and the communities in which they operate, is strongly encouraged, once an application has been formally lodged the process of relevant representations, supported by evidence and witnesses where appropriate, should be observed as should the discretion of the Licensing Authority to facilitate mediation.

7.9 It should be noted that the usual hearing arrangements, following receipt of a relevant representation, do not apply to minor variations. For these processes the power to determine the application has been delegated to the Licensing Officer, and no hearing mechanism is involved. Relevant representations and statutory guidance will, however, be considered as part of this process, and applications shall be assessed individually and on merit by the relevant officer.

7.10 The Corporate Manager (Licensing) has been duly authorised by the Licensing Authority to perform the Licensing Authority role as a 'responsible authority' on behalf of Babergh District Council and this enables in relevant circumstances the raising of relevant representations about applications, or seeking the review of a licence or certificate on issue, when and if considered reasonably appropriate on a case-by-case basis. There is also a delegation enabling an authorised Licensing Officer to perform the same duties in circumstances where the Corporate Manager – Licensing is unavailable or excluded. The councillor approved protocol underpinning that delegation and process is available directly from the Licensing Team upon request.

8. Administration, Exercise and Delegations of Functions

8.1 The Council's published delegation scheme of functions under the Licensing Act 2003 is available on the Council website at www.babergh.gov.uk (see Part 3 of the Council's Constitution) or by contacting the Licensing Team.

8.2 Where an application has been lawfully made under the Act, and no relevant representations are outstanding, the Licensing Authority will grant the application, in accordance with the requirements of the Act under the authority delegated to an officer. The exceptions to this usual administrative process include minor variations and community premises mandatory conditions disapplication requests, as referred to elsewhere in this document.

8.3 Electronic applications will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009.

9. Hearings

(Subject to Regulations issued under s.183 of the Act)

9.1 Where a hearing is required, the relevant representations made will be put before the Licensing Sub-Committee. The representations, including the name and address of the person making them, will normally become part of a public document. The address of the person making the representation is relevant to ~~the 'in the vicinity'~~ consideration of their representation. If any person is deterred from making a representation due to these requirements, for example if they have a genuine and well-founded fear of intimidation or violence, then they should promptly contact the Licensing Team for advice.

9.2 The hearing will be conducted in accordance with the Licensing Authority's published procedure, which is available on the Council website at www.babergh.gov.uk or directly from the Licensing Team upon request. The hearing will take the form of an informal discussion led by the Licensing Authority.

9.3 Where an application is determined at a hearing, the Licensing Sub-Committee will give appropriate weight to the:

- relevant representations made;
- submissions and any evidence presented by all parties;
- Guidance issued under section 182 of the Act (as may be amended from time to time);
- Licensing Authority's Statement of Licensing Policy; and
- steps appropriate to promote the licensing objectives.

9.4 The Licensing Authority may use the power given within the hearings regulations to extend time limits where it considers this to be in the public interest. Extending time limits in the public interest will be assessed individually on a case-by-case basis.

~~9.5 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the Licensing Authority will be mindful of the legislative framework and any relevant government guidance.~~

10. Conditions

10.1 The 2003 Act (under sections 19, 19A, 20 and 21) makes provision for certain mandatory conditions which are summarised below. There are also mandatory conditions relating to a code of conduct for holders of on-licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 - arising from the Policing and Crime Act 2009. The Secretary of State has powers to set or amend mandatory conditions and may use this power from time to time.

- (a) Where a premises licence authorises the sale or supply of alcohol, no supply may be made at any time when there is:
- No designated premises supervisor (DPS) in respect of the licence; or
 - At a time when the designated premises supervisor does not hold a personal licence or it is suspended.

Note: an alternative mandatory condition may apply to community premises who have removed the usual DPS requirement, and this will place responsibility on the management committee/board.

- (b) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring that the admission of children is restricted in accordance with the recommendation of the film classification body, or where varied, the film classification awarded by the Licensing Authority. (Note: The Licensing Authority may either award a classification to an unclassified film or vary the classification of a film upon application in accordance with its policy).

The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes.

- (c) Where a licence includes a condition requiring that one or more individuals are present at the premises to carry out security activities, the licence must include a condition requiring such individuals to be licensed by the Security Industry Authority. This requirement will not normally apply to employees who benefit from any relevant exemption under the Private Security Industry Authority Act 2001 (the 2001 Act) or by virtue of any other legislation (for example the Violent Crime Reduction Act 2006).

Note: A premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as 'unlicensed premises' – being premises staging plays or exhibiting films, licensed gaming premises such as casinos and bingo halls, and premises where a club premises certificate is in force and when activities are being carried on under the authority of that certificate.

- (d) **Where a premises licence or club premises certificate authorises sale or supply of alcohol a condition relating to prohibiting irresponsible drinks promotions, providing potable water, age verification policy, availability of smaller measures and prohibition on below cost sales may apply.**

~~10.2 There are also mandatory conditions relating to a code of conduct for holders of ON licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 arising from the Policing and Crime Act 2009. The Secretary of State has powers to set further mandatory conditions and may use this power from time to time. The following conditions apply to ALL premises licensed for ON sales of alcohol from 06 April 2010 (conditions A to C) and from 01 October 2010 (conditions D and E):~~

~~(A) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this [condition], an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children —~~

~~(1) games or other activities which require or encourage, or are designed to require or encourage, individuals to —~~

- ~~○ drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or~~
- ~~○ drink as much alcohol as possible (whether within a time limit or otherwise);~~

~~(2) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);~~

~~(3) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;~~

~~(4) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on —~~

- ~~○ the outcome of a race, competition or other event or process, or~~
- ~~○ the likelihood of anything occurring or not occurring;~~

~~(5) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.~~

~~(B) The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).~~

~~(C) The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.~~

~~(D)(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.~~

~~(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.~~

~~(E) The responsible person shall ensure that—
(1) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
(i) beer or cider: ½ pint;
(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
(iii) still wine in a glass: 125 ml; and
(2) customers are made aware of the availability of these measures.~~

10.2 The Licensing Authority may not attach to a licence authorising the performance of plays any condition which restricts the nature or manner of performing those plays (other than on the grounds of public safety).

10.3 With the exception of the above mandatory conditions, once its discretion is engaged the Licensing Authority will only attach **appropriate** and proportionate conditions to a premises licence or club premises certificate where these:

- are consistent with the issues addressed in the operating schedule which the applicant submits as part of their application; and
- are **appropriate** for the promotion of the licensing objectives.

10.4 It is the intention of the Licensing Authority to express any such conditions in unequivocal and unambiguous terms and such conditions will be tailored to the specific premises concerned.

10.5 The Licensing Authority will avoid attaching standard conditions to premises licences or club premises certificates, but would draw applicants' attention to pools of possible measures to promote the licensing objectives **for specific types and scale of licensed operations. Various licence types, available to view on the Council's on-line public registers or upon request to the Licensing Team, may assist an applicant or licence holder with their own consideration of the licensing objectives. Such model wording and examples are purely provided to assist with an applicant formulating their own operating schedule who should base their proposals upon the individual nature, characteristics and activities of their own operation.** Applicants will not be obliged or required to use anything produced **or made available** by the Licensing Authority for this purpose.

10.6 The Licensing Authority will avoid, as far as possible, attaching conditions to licences/certificates that duplicate the same or similar duties that are already placed on an employer or operator of a premises under other existing laws. However, where these general duties do not *adequately* address specific issues additional and supplementary measures may be **appropriate** to promote the licensing objectives.

10.7 A committee or board of individuals with responsibility for the management of community premises ('the management committee') may apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence be made or authorised by the management committee.

11. Appeals

11.1 Entitlement to appeal against any decision of the Licensing Authority is set out in Schedule 5 of the Act. **Rights of appeal will be notified in writing to all parties to hearings as part of the decision notification.**

12. Enforcement

- 12.1 Where necessary, enforcement action will be considered in accordance with the **Regulators'** Code and the Council's General Enforcement Policy. These guidelines are available direct from Babergh District Council and may be subject to periodic amendment.
- 12.2 The emphasis will be upon a risk-assessed and targeted approach to inspections, concentrating on those premises which either:
- present a greater risk;
 - have a history of non-compliance with conditions/regulation; or
 - demonstrate poor management practice which undermines the licensing objectives.
- 12.3 The Licensing Authority will not normally undertake inspections routinely but may do so when and if they are considered by the Authority as reasonably necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with an enforcement role.
- 12.4 The Licensing Authority has adopted a joint enforcement protocol with partner authorities – available via the Council website at **www.babergh.gov.uk** or upon request from the Licensing Team. **This may be subject to periodic review and revision. In exercising its own compliance and enforcement remit the Licensing Authority will at all times be guided by its general enforcement policy based upon Regulators' Code principles, and where there is a shared remit for leading on enforcement matters with another agency (or agencies) the Licensing Authority will continue to observe its adopted corporate enforcement policy, accepting that other authorities are not bound to it and may have their own escalation policies or national guidance framework. The Licensing Authority will in all cases seek a collaborative and partnership approach to promotion of the licensing objectives and compliance support for licensed business, which includes that Regulators should:**
- carry out their activities in a way that supports those they regulate to comply and grow;
 - provide simple and straightforward ways to engage with those they regulate and hear their views;
 - base their regulatory activities on risk;
 - share information about compliance and risk;
 - ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
 - ensure that their approach to their regulatory activities is transparent.
- 12.5 The Licensing Authority will normally act as the enforcing authority in respect of offences under the Act, and for breaches of licence conditions, unless the circumstances of the particular case are such that it is appropriate for another responsible authority to act, in accordance with the agreed enforcement concordat, instead.
- 12.6 Suffolk Constabulary will retain responsibility as the enforcing authority in respect of the following offences under the Act:
- Section 97 Powers to enter and search
 - Section 143 Failure to leave licensed premises
 - Section 144 Keeping of smuggled goods
 - Section 155 Confiscation of alcohol;
 - Section 157 Power to prohibit sale of alcohol on a train; and
 - Part 8 offences with respect to closure of premises.

12.7 Suffolk County Council Trading Standards will retain responsibility as the enforcing authority in respect of the following offences under the Act, and may work in partnership where appropriate with Suffolk Constabulary in relation to the investigation and enforcement of underage sales:

- Section 146 Sale of alcohol to children
- Section 147 Allowing the sale of alcohol to children
- Section 147A Persistently selling alcohol underage
- Section 154 Weights and measures offences
(which enable Trading Standards Officers to conduct test purchases and authorise other persons to do so).

12.8 Where expedient for the promotion or protection of the interests of the inhabitants of their area, the Council may also take action under Section 222 of the Local Government Act 1972, and other relevant provisions including Section 80 of the **Anti-social Behaviour, Crime and Policing Act 2014** of the ~~Anti-Social Behaviour Act 2003~~. The Council will also have due regard to section 17 of the Crime and Disorder Act 1998 whilst carrying out its functions.

13. Closure Orders/Notices

13.1 Part 8 of the Licensing Act 2003 provides for the arrangements relating to closure orders, and there are also powers available to the Local Authority and/or responsible authorities/court to close premises via other legislation on grounds of serious crime or disorder, persistent nuisance or protection of children - for example under the Violent Crime Reduction Act 2006, Criminal Justice and Immigration Act 2008 and **Anti-social Behaviour, Crime & Policing Act 2014**.

13.2 Where a Magistrates' Court has determined to exercise its powers in respect of a closure order, the Licensing Authority must conduct a review of the relevant premises licence in accordance with procedures prescribed by regulation. This will normally involve:

- serving notice on the premises licence holder and responsible authorities and advertising the review in accordance with the regulations;
- holding a hearing in accordance with the procedures outlined in section 9 of this Statement of Licensing Policy to review the premises licence; and
- determining the review no later than 28 days after the day on which it receives the notification of the closure order from the Magistrates' Court.

13.3 When determining a review following the notification of a closure order, the Licensing Authority will consider:

- the closure order and any extension to it;
- any **magistrates' directives in relation to the** order ~~under section 165(2)~~; and
- any relevant representations; and will

take such steps as it considers **appropriate** to promote the licensing objectives as outlined in section 22.4 of this Statement of Licensing Policy.

13.4 The Licensing Authority will notify the licence holder, the Chief Officer of Police and any person who made relevant representations of the outcome of the review hearing, including reasons for the decision. The Licensing Authority may suspend the operation of its decision until the end of the period given to appeal, or until the appeal is disposed of (if not already suspended by the Magistrates' Court), **and will consider its powers under section 168 of the 2003 Act in that regard.**

14.1 Addressing the Licensing Objectives

- 14.1.1 In respect of addressing each of the four licensing objectives in their Operating Schedule, applicants should carefully consider what steps they **regards as appropriate** to promote the licensing objectives, relevant to the individual style and characteristics of their premises and activities. Reference could be made as to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract larger **or different demographic** audiences.
- 14.1.2 Whilst applicants are not required to seek the views of responsible authorities before formally submitting applications, the Licensing Authority strongly encourage applicants to do so when drafting their operating schedule as applicants may find this a source of useful advice when addressing the licensing objectives. This may in some instances reduce the possibility of responsible authorities, or **other persons**, raising representations against an application. Organisers of large, temporary outdoor events (such as music festivals, fairs, shows and carnivals) are strongly encouraged to engage as early as possible with the responsible authorities, **or any local Safety Advisory Group network**, to ensure that their planned event is developed in a way likely to promote the licensing objectives.
- 14.1.3 As steps volunteered by applicants within their operating schedule will very often directly translate to conditions on the licence, the Licensing Authority encourages applicants to state their proposed steps to promote the licensing objectives in unequivocal and unambiguous terms. **Pools of example conditions and model wording will be made available as an optional guidance tool to assist applicants/licence-holders.**

14.2 Prevention of Crime and Disorder

- 14.2.1 The Council is committed to further improving the quality of life in its area by continuing to help reduce crime and disorder and the fear of crime. To this end, the Licensing Authority strongly encourages applicants and licensees to ensure that relevant factors within their control which impact on crime and disorder have been considered, for example:
- underage drinking;
 - drunkenness on the premises;
 - drunkenness in public;
 - drugs;
 - violent behaviour; and
 - anti-social behaviour.
- 14.2.2 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
- 14.2.3 In order to promote the prevention of crime and disorder objective, the Licensing Authority encourages licence holders to become active partners with the Licensing and Responsible Authorities. Applicants are encouraged to demonstrate in their operating schedule that relevant, suitable and sufficient measures within their control have been considered and identified and will be implemented and maintained in order to reduce or prevent crime and disorder on, and in the **locality** of, their premises.
- 14.2.4 When addressing the issue of crime and disorder in their operating schedule, applicants may consider, but are not limited to, factors identified at paragraph 14.2.1 above.

- 14.2.5 Applicants may find it helpful to contact the local Safer Neighbourhood Team (SNT) or Community Safety **Officers** in advance of making their application, as the SNT/CSO may be able to offer expert advice and guidance on local crime and disorder issues and promotion of this licensing objective.
- 14.2.6 The following examples of control measures are given purely to assist applicants with development their operating schedule, having regard to their particular type of premises and/or activities. These are not in any way to be regarded as standard conditions or mandatory requirements:
- (a) effective and responsible management of premises
 - (b) prevention of overcrowding/**congregation flashpoints**
 - (c) training and supervision of staff (**including at periodic intervals**)
 - (d) adoption of best practice guidance and other industry codes of practice
 - (e) use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions (see [section 10](#) of this document)
 - (f) **banning individuals subject to court exclusion orders or PubWatch bans**
 - (g) provision and use of effective CCTV in and around premises (**subject to any relevant data protection codes of practice**)
 - (h) use of Security Industry Authority **registered** door staff (during specified days/times) **and random searches for prohibited items (such as a search ratio of 1:10 customers)**
 - (i) provision of toughened or plastic/polycarbonate glasses and polyethylene (PET) bottles
 - (j) provision of secure deposit boxes for confiscated items ('amnesty bins')
 - (k) provision of litter bins and security measures, such as lighting, outside premises
 - (l) control of customers entering and leaving with opened bottles/glasses – for example whilst they are observing smokefree regulations **or using external areas**.
 - (m) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
 - (n) searching policy; dispersal policy; risk assessment process to consider the crime and disorder implications of individual staff/performers - such as DJs and promoters.
 - (o) **recording of incidents, refusals, confiscated items and ejections**
 - (p) **effective and robust controls for third party hirings – for example hiring agreement and hirer vetting, premises supervision, signing-in books**
- 14.2.7 Within the operating schedule for a premises from which alcohol will be sold, a premises supervisor must be designated (Designated Premises Supervisor or 'DPS'), unless a relevant community premises disapplication has been applied for/authorised. The DPS will often have been given the day-to-day responsibility for running the premises by the premises licence holder and, as such, will usually be the first point of contact for authorised officers. In exceptional circumstances, the police may object to the designation of a new DPS where they believe that such an appointment would undermine the crime prevention objective.
- 14.2.8 Where the police object to an individual being appointed as a Designated Premises Supervisor, or object to an application made by community premises management committee for the inclusion of the alternative licence condition, the Licensing Authority will arrange for a hearing at which the issue can be considered in accordance with the procedure outlined in section 9 of this Statement of Licensing Policy.
- 14.2.9 The Licensing Sub-Committee considering the matter will confine their consideration to the prevention of crime and disorder objective.

14.2.10 Certain temporary events (see section 18 of this Statement of Licensing Policy) should be notified to the Licensing Authority using the Temporary Event Notice procedure. Depending on the nature and location of such temporary events these may, on occasion, have crime and disorder implications. Organisers of such events are encouraged to submit their notification as soon as reasonably practicable in advance of the event (and no later than 5 working days before the event in line with existing statutory requirements) to enable the Police and the Local Authority to work with them to identify and reduce the risk of crime and disorder.

14.3 Public Safety

14.3.1 The Council is committed to ensuring that the physical safety of any person visiting or working in licensed premises is not compromised. To this end, the Licensing Authority encourages applicants and licensees to conduct a risk assessment prior to completion of their operating schedule to ensure that relevant factors within their control which impact on public safety have been considered and identified. These factors may include, but are not limited to:

- (a) the occupancy capacity of the premises (including staff and performers). Note: If a capacity has been imposed/set through other legislation, for example under Fire Safety legislation, it would be unnecessary to reproduce it in a premises licence. Anticipated maximum capacity/attendance for large, temporary outdoor events should be made clear.
- (b) the age, design and layout of the premises, including means of escape in the event of fire or other emergency
- (c) the nature of the licensable activities to be provided and whether those activities are of a temporary, occasional or permanent nature
- (d) the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- (e) customer profile (such as age, disability or non-English first language)
- (f) the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- (g) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.

14.3.2 The Licensing Authority shall not seek to impose fire safety conditions where the Regulatory Reform (Fire Safety) Order 2005 adequately controls such matters.

14.3.3 The following examples of possible control measures are given purely to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not in any way to be regarded as standard conditions or mandatory requirements:

- (a) suitable and sufficient risk-assessments. Some applicants may wish to consider a commitment in their operating schedule to providing the relevant authorities with a full risk assessment prior to the commencement of licensable activities (this may be particular relevant to large temporary outdoor events).
- (b) effective and responsible management of premises
- (c) provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons/staff
- (d) appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- (e) adoption of best practice guidance and other voluntary codes of practice (Note: Applicants may wish to contact the local Health & Safety Officers or HSE for advice)
- (f) provision and use of effective CCTV in and around premises
- (g) provision of toughened or plastic/polycarbonate glasses and polyethylene (PET) bottles
- (h) implementation of crowd management measures

- (i) monitoring arrangements such as door staff, ticketing, attendance clickers or maintenance of attendance records
- (j) regular/periodic review and testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety

14.4 Prevention of Public Nuisance

14.4.1 Licensed premises can have significant potential to impact adversely on persons in the vicinity through public nuisances that arise from their operation.

14.4.2 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the **locality** of a licensed premises.

14.4.3 The Licensing Authority encourages applicants and licensees to conduct a risk assessment prior to completion of their operating schedule to ensure that relevant factors within their control which impact on public nuisance have been considered and identified.

14.4.4 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:

- they are situated in a residential or noise sensitive area;
- **events include amplified outdoor music or speech;** or
- extended opening hours are proposed.

14.4.5 When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered. These may include, but are not limited to:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, care homes, hospices and places of worship
- the hours of operation, particularly between 23.00hrs and 07.00hrs
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport/taxi and private hire services
- 'wind down period' between the end of the licensable activities and closure of the premises
- last admission time

14.4.6 The following examples of control measures are given purely to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, and are not to be regarded in any way as standard conditions or mandatory requirements, but include:

- (a) effective and responsible management of premises
- (b) appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- (c) control of operating hours for all or parts (such as garden, patio and terraced areas) of premises, including such matters as deliveries. **This may include an earlier cessation timing, or a frequency control, for outdoor activities.**

- (d) impact on neighbours due to customers opening doors/going outside **or congregating** to observe smokefree regulations
- (e) **preparing a noise management plan**, adoption of best practice guidance and other industry codes of practice. The local Environmental Protection Officer may be able to offer some helpful advice in this respect.
- (f) installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- (g) management of people, including staff, and traffic (and resulting queues) arriving and leaving premises, including a dispersal policy
- (h) liaison with public transport/taxi and private hire service providers
- (i) siting of external lighting, including security lighting. The local Environmental Protection Officer may assist in ensuring any external lighting minimises the potential for light pollution nuisance.
- (j) management arrangements for collection and disposal of litter
- (k) effective ventilation systems to prevent nuisance from odour **or noxious smells**
- (l) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
- (m) **making available a clear point of contact for responding promptly to nuisance complaints**

14.4.7 Please note that applicants should consider contacting the local Planning Authority for advice on whether any proposed installation of lighting, ventilation, soundproofing, smoking shelter or other works require planning approval from the Planning Authority. This may be particularly relevant where premises are a listed building.

14.5 Protection of Children from Harm

14.5.1 The Licensing Authority, once its discretion is engaged concerning an application, shall not seek to limit the access of children to any premises unless it is necessary for the prevention of their physical, moral or psychological harm. Consideration shall be given to the individual merits of each application.

14.5.2 Whilst the Licensing Authority cannot anticipate every possible issue of concern that could arise in respect of children in relation to individual premises, areas that will give rise to particular concern in respect of children would include premises:

- Where entertainment or services of an adult or sexual nature are provided (whether permanently or occasionally);
- Where there have been convictions of members of the current staff at the premises for selling alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises (but not for example the simple presence of a small number of cash prize gaming machines); and
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

14.5.3 Whilst it is not possible for the Licensing Authority to give an exhaustive list of what amounts to **relevant** entertainment or services of an adult or sexual nature, examples would generally include topless bar staff, striptease, lap-dancing, table-dancing, pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. It should be noted that premises deemed as 'sexual entertainment venues' under the Policing and Crime Act 2009 are also likely to require an additional licence under the Local Government (Miscellaneous Provisions) Act 1982.

- 14.5.4 The 2003 Act made it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Event Notice (TEN). 'Exclusively or primarily' in relation to the consumption of alcohol will bear their ordinary and natural meaning in the context of the particular circumstances.
- 14.5.5 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Event Notice (TEN).
- 14.5.6 The Licensing Authority considers that, subject only to the provisions of the 2003 Act and unless restriction of access is necessary to protect children from harm, this is a matter for the discretion of the licensee.
- 14.5.7 The Licensing Authority shall not seek to impose any condition on any licence or certificate requiring the admission of children.
- 14.5.8 Applicants are strongly encouraged to demonstrate in their operating schedule that they have considered and identified any suitable and sufficient measures relevant to the style, character and activities of their individual premises to protect children from harm.
- 14.5.9 Where it is necessary for promotion of the protection of children from harm licensing objective, there are a range of alternatives which may be considered for limiting the access of children. These could include:
- (a) Limitations on the hours when children may be present;
 - (b) Limitations excluding the presence of children under certain ages when particular activities are taking place;
 - (c) Limitations on the parts of premises to which children might be given access;
 - (d) Age limitations (below 18);
 - (e) Requirements for accompanying adults; and
 - (f) Full exclusion from those under 18 from the premises when any licensable activities are taking place.
- 14.5.10 The following examples of possible control measures are given purely to assist applicants with preparing their operating schedules, having regard to their particular type of premises and activities. These examples are not exhaustive, and are not in any way to be treated as standard conditions or mandatory requirements, but include:
- (a) provision of a sufficient number of people employed or engaged to secure the protection of children from harm
 - (b) appropriate instruction, training, supervision and background checks of those employed or engaged to secure the protection of children from harm
 - (c) adoption of best practice guidance (for example Public Places Charter)
 - (d) limitations on the hours when children may be present in all or parts of the premises
 - (e) the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises
 - (f) an adequate number of adult staff to be responsible for the child performers. [Disclosure and Barring Service \(DBS\)](#) checks on such adult staff may be appropriate.
 - (g) use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions (see [section 10](#) of this document)
 - (h) [Lost children arrangements \(for larger outdoor events\)](#)
 - (i) [Regular safety checks and signage in relation to children's play equipment](#)

- 14.5.11 Where film exhibitions are authorised at a premises, the licence shall include a mandatory condition (section 20 of the Act) requiring that children are restricted from viewing age-restricted films in accordance with the British Board of Film Classification (BBFC), or in accordance with any recommendation made by the Licensing Authority.
- 14.5.12 The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes.
- 14.5.13 Where an application is being made for a films activity, it is recommended that the applicant consider in their operating schedule how they will protect children from harm - for example a commitment to prohibiting or restricting the access of children to any film showing, or part thereof, that could give rise to concerns in protecting them from moral, psychological or physical harm.

For a non-BBFC rated film showing (for example the showing of a recorded television broadcast) the Licensing Authority may set an age restriction on the admission of children to that viewing.

The Licensing Authority seeks to work in partnership with licence holders in promotion of the licensing objectives, and Premises Licence/Club Premises Certificate holders may contact the Licensing Authority for guidance if they are planning to show a film that is not BBFC rated and may not be suitable for the presence of children. Where the Licensing Authority is minded to make any recommendation on a non-BBFC rated film showing it will do so in writing to the licence or certificate holder.

- 14.5.14 The Licensing Authority recognises the Suffolk Safeguarding Children Board (~~SSCB~~), ~~who have nominated their duties to the Suffolk Constabulary Child Protection Teams~~, as being competent to advise on matters relating to the protection of children from harm. Their contact details are www.suffolkscb.org.uk
- 14.5.15 Suffolk County Council Trading Standards and Suffolk Constabulary may, in **collaboration** with other appropriate agencies, conduct test purchases to check the compliance of retailers with the prohibition on underage sales of alcohol.

15. Personal Licences

(Subject to Regulations issued under s.117 and s.133 of the Act)

- 15.1 The Licensing Authority will grant a personal licence if the applicant has met the requirements set out in the Act and no objections are received.
- 15.2 Where an applicant is found to have an unspent conviction for a relevant offence or a foreign offence, and the Police object to the application on crime prevention grounds, the application will normally be referred to a Sub-Committee of the Licensing Committee.
- 15.3 Any hearing will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.
- 15.4 All personal licence holders should ensure they are aware of the offences relating to personal licences, for example the duty of the holder to advise the Court of the existence of their personal licence if charged with a relevant offence and to advise the Licensing Authority of changes to name or address.

15.5 In accordance with the Guidance issued under section 182 of the Licensing Act 2003, the Licensing Authority recommends that personal licence holders (and DPSs/authorised community premises management committees) overtly authorise individuals in writing to sell alcohol under the authority of their personal licence/duty where the personal licence holder or DPS/management committee is unable to authorise the transaction(s) in person.

16. Applications for Premises Licences

(Subject to Regulations issued under s.17, s.54 and s.55 of the Act)

16.1 **Central government** provides a written guide to making an application, and this is available free of charge by contacting the Licensing Team or visiting the government website at www.gov.uk. Local information, such as contact details for responsible authorities and other resources, is available on the Council website at www.babergh.gov.uk or by contacting the Licensing Team.

16.2 The Licensing Authority will make available examples and optional guidance purely to assist licence applicants and holders. Nothing produced for this purpose will be considered as required or mandatory. The Council's on-line licensing register is also a useful self-help resource for prospective licence applicants.

~~16.3 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the Licensing Authority will be mindful of the legislative framework and any relevant government guidance. It may also extend the normal time limits for hearings where it is considered in the public interest to do so (for example where all parties are on the point of reaching agreement, or so as to ensure that it is possible for a party to attend the hearing).~~

16.3 An application can be made to the Licensing Authority for any place within its area to be used for licensable activities or recognised club activities. The application requirements are prescribed by regulation and will normally include:

- a) the required fee;
- b) an operating schedule;
- c) plan of the premises, in accordance with regulatory requirements; and
- d) if it is intended that the premises be authorised to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the Premises Licence as the Designated Premises Supervisor (DPS), or else request to disapply this usual requirement if for an eligible 'community premises'.

16.5 The Operating Schedule will include a statement of:

- a) the relevant licensable activities, including a description of the style and character of the business and activities to be conducted on the premises;
- b) the times during which the applicant proposes that the relevant licensable activities are to take place;
- c) any other times during which the applicant proposes that the premises are to be open to the public;
- d) where the applicant wishes the licence to have effect for a limited period, that period;
- e) where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor and a consent form signed by that person including details of their personal licence (or else a 'community premises' disapplication request may be applicable);
- f) where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
- g) the steps which the applicant proposes to take to promote the licensing objectives; and

h) any other prescribed matters.

16.6 Where relevant representations are received about an application, and those representations are not withdrawn, the application will normally be referred to a Sub-Committee of the Licensing Act 2003 Committee, which will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

16.7 Where a premises licence application is being applied for to authorise a large scale outdoor event of a temporary nature (for example a music concert, street fair, show or carnival) the Licensing Authority strongly recommends that applicants contact the responsible authorities, **and any local Safety Advisory Group network**, as soon as possible in advance of making their application in order to seek expert advice and guidance on formulation of their operating schedule to ensure that the event runs safely and with a view to promoting the four licensing objectives.

17. Club Premises Certificates

(Subject to Regulations issued under s.71, s.91 and s.92 of the Act):

17.1 Paragraphs 16.1 to 16.3 above apply

17.2. The application requirements for a Club Premises Certificate are set by regulation and will normally include provision of:

- a) the relevant fee;
- b) the Club Operating Schedule;
- c) a plan of the premises in accordance with regulatory requirements;
- d) a copy of the rules of the Club; and
- e) details to verify that the Club is a qualifying Club

17.3 The Club Operating Schedule will contain the following information:

- a) details of the recognised Club activities to which the application relates;
- b) the times during which it is proposed the recognised Club activities take place;
- c) any other times during which it is proposed the premises are open to members and their guests;
- d) the steps which it is proposed to take to promote the licensing objectives; and
- e) any other prescribed matters.

17.4. Where relevant representations are received in respect of an application, and those representations are not withdrawn, the application will normally be referred to a Sub-Committee of the Licensing Committee, and the hearing will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

18. Temporary Events Notices (TENS)

18.1 The Act sets out the terms and conditions under which an application for a TEN may be made. **Standard** TENS must be applied for a minimum of 10 working days prior to the first day of the event, and the Licensing Authority recommend that wherever possible notice-givers submit their TEN a minimum of 28 days prior to the commencement of the event. Should any statutory modifications be made to the TENS system, for example relating to service requirements, then the Licensing Authority shall have due regard to these and publicise any such changes including via its website at **www.babergh.gov.uk**

- 18.2 Where a TEN is given and one or more of the relevant statutory limits are exceeded, the Licensing Authority will serve a Counter-Notice on the notice giver in accordance with section 107 of the Licensing Act 2003 to prevent the licensable activities from going ahead. There is no provision under the Act to appeal against the issue of a Counter-Notice.
- 18.3 Where a TEN complies with the statutory requirements, and the Chief Officer of Police or Environmental Health Officer has not submitted an objection notice to the Licensing Authority within the prescribed time, the Licensing Authority shall record the notice in its licensing register and send an authorised copy of the Notice to the premises user. The event may then proceed in accordance with the submission within the Temporary Event Notice.
- 18.4 Where the Chief Officer of Police or Environmental Health Officer has issued an objection notice, the Licensing Authority will normally consider this at a hearing (unless the objection notice is withdrawn before the hearing date). The hearing will be confined to consideration of the licensing objectives and will be held in accordance with the procedure outlined in section 9 above.
- 18.5 The Licensing Authority will notify the applicant of its decision at least 24 hours before the beginning of the event period specified in the temporary event notice.

19. Provisional Statements

(Subject to Regulations issued under s.29 and s.30 of the Act)

- 19.1. The Act sets out the terms and conditions under which an application for a provisional statement may be made.
- 19.2 Where a Provisional Statement has been issued and a person subsequently applies for a Premises Licence in respect of the premises in accordance with the provisions of the Licensing Act, and:
- (a) Given the information in the application for a Provisional Statement the person objecting could have made the same, or substantially the same, representations about the application but failed to do so without reasonable excuse; and,
 - (b) There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

representations made by that person to the Licensing Authority cannot be taken into account.

20. Variations of Licences

(Subject to Regulations issued under s.34, s.37 and s.84 of the Act)

- 20.1 Where a premises licence holder wishes to amend the licence the Act allows, in most cases, for an application to be made to vary the licence rather than requiring an application to be made for a new licence. It should be noted that 'substantial variations' may not be applied for using the variation procedures prescribed by section 34 of the Act, instead substantial changes, for example an amendment to the duration of the licence or transfer of the licence from one premises to another, will require a new application under section 17 of the Act. In the case of a change of name or address of someone named in the licence (section 33) or application to vary the individual specified in the licence as DPS (section 37) there are simplified processes for making such applications.

- 20.2 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 (SI 2009/1724) **amended** the 2003 Act to allow certain ‘community premises’ which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) of the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act. These **new** provisions took effect from 29 July 2009.
- 20.2 The Act and Guidance set out the terms, conditions and considerations under which an application for a minor variation, or request from the management of ‘community premises’ to disapply the usual mandatory conditions, may be made. Minor variation processes may be applied for in some circumstances, subject to some specific exclusions, to reduce the normal service, advertising and consultation requirements (and associated financial impacts in cost and time).
- 20.3 The minor variation process is intended for some small variations to licences/certificates that will not adversely impact on promotion of the licensing objectives (for example small variations to layout or some minor alterations to activities, timing or conditions). In each case the Licensing Authority will consult the relevant Responsible Authorities and make a decision on whether the variation could impact adversely on the licensing objectives. This process also makes a more limited provision for ‘**other persons**’ to make comment on the proposals. In determining these applications, under his/her delegated authority on behalf of the Licensing Authority, the Licensing Officer shall carefully assess each application on a case-by-case basis in the light of government guidance and all relevant factors. The licence/certificate holder may wish to seek advice from responsible authorities, in advance of submitting an application, as to whether the licensing objectives are likely to be affected by the proposals.
- 20.4 If relevant representations are made and not withdrawn the Licensing Authority will normally hold a hearing, unless a minor variation, will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy, and at that hearing the Licensing Authority may:
- a) Grant the application as applied for, subject only to any conditions consistent with the operating schedule and any relevant mandatory conditions;
 - b) Modify the conditions (either by means of omission, inclusion or amendment) of the licence; or
 - c) Reject the application in whole or in part.
- 20.5 The Licensing Authority may determine a licence so that different conditions may apply to:
- a) different parts of the premises concerned; and
 - b) different licensable activities,
- where to do so would be considered **appropriate** and proportionate for promotion of the licensing objectives.
- 20.6 Where the police submit an objection to an application to vary a Designated Premises Supervisor (DPS), or from a community premises to disapply the usual mandatory conditions, because they consider that the circumstances are such that granting it would undermine the crime and disorder objective then a hearing will normally be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

21. Transfer of Premises Licences (Subject to Regulations issued under s.42 of the Act)

- 21.1. Where an application is lawfully made under the Act for the transfer of a licence and the Police submit an objection to the application, the Licensing Authority will normally hold a hearing in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy. This hearing will be confined to consideration of the crime and disorder objective and the application may be rejected where the Licensing Authority considers it **appropriate** for the promotion of the crime prevention objective to do so.

22. Reviews

(Subject to Regulations issued under s.51, s.87 and s.167 of the Act):

- 22.1 The review of a premises licence or club premises certificate is a key protection for local communities where problems associated with one or more of the licensing objectives are occurring and these are **causally** linked to the operation of licensed premises.
- 22.2 Where relevant representations are made about an existing licence or certificate the Licensing Authority will normally hold a hearing which will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy to consider them unless:
- a) the representation is considered frivolous, vexatious or to be repetitious (that is, identical or substantially similar to a ground specified in an earlier application for a licence, provisional statement or review)
 - ~~b) All parties to the hearing, including those persons making representations, agree that the hearing is not necessary.~~
- 22.3 A review of the premises licence will normally also follow:
- ~~a) any action instigated by the Police to close down the premises for up to 24 hours on grounds of disorder or public nuisance;~~
 - (a) summary review powers of the Police pursuant to section 21 of the Violent Crime Reduction Act 2006 (regarding serious crime and disorder) ; or
 - (b) any exercise of the closure order powers available to the magistrates' court.
- 22.4 In determining a review application at a hearing, the Licensing Authority may take such steps as it considers necessary to promote the licensing objectives, which include:
- a) modifying the conditions of the licence (by inclusion, amendment or omission);
 - b) excluding a licensable activity from the scope of a licence;
 - c) removing a designated premises supervisor;
 - d) suspending the licence for a period not exceeding three months; or
 - e) revoking the licence.
- 22.5 Where the Police make application for summary review under section 53A of the Licensing Act 2003 the relevant licensing authority will normally consider whether it is necessary **(noting that this provision has not been amended to 'appropriate')** to take interim steps pending the determination of the review applied for. Such consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority. The interim steps the relevant licensing authority must consider taking are -
- (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence; and
 - (d) the suspension of the licence.

Should a summary review be instigated, the Licensing Authority shall follow the procedures as set out in the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007.

- 22.6 Applications may also be made for the review of licences which are held by a management committee in respect of community premises, and which include the alternative licence condition instead of the normal mandatory conditions. In relation to such applications, the licensing authority may determine that the normal mandatory conditions should apply instead of the alternative condition if it considers this to be necessary for the promotion of the licensing objectives. Such a determination may be reached following the usual procedure for review applications set out in sections 51 to 53 of the Act.
- 22.7 The outcome of a review hearing will not ordinarily have effect until such time as the period given for appealing (normally 21 days) expires or an appeal is disposed of. **For reviews following a closure order the Licensing Authority will consider its powers in the context of section 168 of the Licensing Act 2003.**

RESPONSE FROM POLICE & CRIME COMMISSIONER

19 OCTOBER 2015

From: Scott, Vanessa [mailto:Vanessa.Scott@suffolk.pnn.police.uk]
Sent: 19 October 2015 17:04
To: Licensing Mailbox
Subject: Licensing Act 2003: Local Policy (2016-2021): Statement of Licensing Policy response from Tim Passmore

Thank you for the opportunity to respond to this consultation. Having read through the consultation our main observation is that we feel there is a real benefit in dialogue between agencies regarding licensing matters.

You mention at 3.5 that the licensing authority liaises closely with police/PCSOs and Community Safety/Locality officers to ensure that strategies take full account of any crime and disorder issues. We fully support this approach.

We feel it is imperative that partner agencies are engaged during application discussions and prior to licences being granted. In relation to using cumulative impact and EMROs effectively, then early discussions would be helpful.

Best wishes, Vanessa (On behalf of the PCC, Tim Passmore).

Vanessa Scott
Policy Officer
Office of the Police & Crime Commissioner
01473 782775
www.suffolk-pcc.gov.uk



RESPONSE FROM CORPORATE MANAGER (SAFER COMMUNITIES)

15 SEPTEMBER 2015

From: Peta Jones
Sent: 15 September 2015 16:43
To: Lee Carvell
Subject: Consultation re Licensing Act Statement of policy

Hi Lee,

Thank you for hosting the consultation workshop last week on the new legislation.

In the Licensing document I would particularly like to comment on section 14.7 Protection of Children from Harm.

This is a robust section of the policy containing good detail that make the requirements clear. For example section 14.7.9 suggests some very helpful and practical ways in which licensed premises can protect children and 14.7.10 again gives some excellent examples of ways in which operating schedules can be prepared to have due regard to the safety of children and young people.

Mid Suffolk and Babergh have a joint Safeguarding Children Policy which references this policy as being supportive of the safeguarding agenda.

Regards

Peta Jones

Corporate Manager – Safe Communities

Babergh and Mid Suffolk District Councils – Working Together
t: 01449 724642 or 07825112757

e: peta.jones@baberghmidsuffolk.gov.uk
w: www.babergh.gov.uk www.midsuffolk.gov.uk



APPENDIX C

BABERGH DISTRICT COUNCIL

CONSULTATION LIST FOR LICENSING ACT 2003 & GAMBLING ACT 2005 POLICY REVISIONS

1. All existing premises/club licence holders
2. Glemsford Library
3. Great Cornard Library
4. Hadleigh Library
5. Lavenham Library
6. Long Melford Library
7. Sudbury Library
8. The Institute of Entertainment and Arts
9. BECTU
10. ALMR
11. The Portman Group
12. NOCTIS
13. Arts Development UK
14. Federation of Licensed Victuallers Association
15. Independent Street Arts Network
16. Equity
17. UK Cinema Association
18. British Retail Consortium
19. British Board of Film Classification
20. Association of Town Centre Managers
21. Association of Convenience Stores
22. British Transport Police
23. Suffolk Trading Standards
24. Health and Safety Executive
25. Police and Crime Commissioner
26. Association of Licensed Multiple Retailers
27. British Beer and Pub Association
28. Campaign for Real Ale
29. British Institute of Innkeeping
30. Greene King Retailing Limited
31. Punch Taverns
32. J D Wetherspoon Plc
33. Admiral Taverns Ltd
34. Ormiston Sudbury Academy
35. Thomas Gainsborough School
36. Holbrook Academy
37. East Bergholt High School
38. Old Buckenham Hall
39. Hadleigh High School
40. Woolverstone Parish Council
41. Wherstead Parish Council
42. Whatfield Parish Council
43. Wenham Parva Parish Meeting
44. Wenham Magna Parish Meeting
45. Wattisham Parish Council
46. Thorpe Morieux Parish Council
47. Tattingstone Parish Council

48. Sudbury Town Council
49. Stutton Parish Council
50. Stratford St Mary Parish Council
51. Stanstead Parish Council
52. Sproughton Parish Council
53. Shotley Parish Council
54. Shelley Parish Council
55. Semer Parish Council
56. Preston St Mary Parish Council
57. Pinewood Parish Council
58. Nedging -with-Naughton Parish Council
59. Milden Parish Meeting
60. Long Melford Parish Council
61. Mrs Vicky Waples (Lindsey & Monks Eleigh)
62. Mrs D Hattrell (Boxford, Leavenheath & Nayland-with-Wissington)
63. Mrs A Robinson (Edwardstone, Groton & Stoke By Naylad)
64. Mr Dave Crimmin (Assington, Chilton, G Waldingfield, L Cornard, L Waldingfield, Newton & Polstead)
65. Mrs Samantha Barber (Burstall, Chattisham & Hintlesham and Belstead)
66. Mrs J Cryer (Layham & Raydon)
67. Lawshall Parish Council
68. Lavenham Parish Council
69. Kettlebaston Parish Council
70. Kersey Parish Council
71. Holton St Mary Parish Council
72. Holbrook Parish Council
73. Hitcham Parish Council
74. Higham Parish Meeting
75. Hartest Parish Council
76. Harkstead Parish Council
77. Hadleigh Town Council
78. Great Cornard Parish Council
79. Glemsford Parish Council
80. Freston Parish Council
81. Erwarton Parish Council
82. Elmsett Parish Council
83. East Bergholt Parish Council
84. Copdock and Washbrook Parish Council
85. Cockfield Parish Council
86. Chelsworth Parish Meeting
87. Chelmondiston Parish Council
88. Capel St Mary Parish Council
89. Bures St Mary Parish Council
90. Brettenham Parish Council
91. Brent Eleigh Parish Council
92. Brantham Parish Council
93. Boxted Parish Council
94. Bildeston Parish Council
95. Bentley Parish Council
96. Alpheton Parish Council
97. Aldham Parish Council
98. Acton Parish Council
99. H M Revenues and Customs
100. Suffolk Constabulary
101. Ali Spalding LSCB Manager

102. Gambling Commission
103. Planning Control Division
104. Environmental Health Department
105. Chief Officer of Police
106. Chief Fire Officer
107. National Stud
108. Mr B Deane
109. Inspired Gaming
110. Home Start (South Suffolk & District)
111. West Suffolk Crossroads
112. The National Casino Industry Forum
113. The Lotteries Council
114. Suffolk County Council
115. Suffolk Adult Safeguarding Board
116. Suffolk Safeguarding Children's Board
117. Society for Study of Gambling
118. Responsibility in Gambling Trust
119. Racecourse Association Ltd
120. National Youth Agency
121. National Association of Bookmakers Ltd
122. Narcotics Anonymous
123. Mencap Suffolk
124. Learning Disability Partnership Board
125. Independent Betting Adjudication Service
126. Horeserace Betting Levy Board
127. Greyhound Board of Britain
128. Gordon Moody Association
129. Gamestec Leaisure Ltd
130. GamCare
131. Gamblers Anonymous
132. Essex Leisure
133. C L Jennings
134. Citizens Advice Bureau
135. Chilvers Automatics Ltd
136. Casino Operators Association UK
137. British Horseracing Authority
138. British Association of Leisure Parks,Piers & Attractions Ltd
139. Bingo Association
140. BACTA
141. Association of British Bookmakers Ltd
142. Alcoholics Anonymous
143. Age UK Suffolk
144. Age UK
145. Advertising Association
146. ADFAM Families Drugs and Alcohol
147. Sudbury & District Chamber of Commerce Bank Buildings, Station Road, Sudbury CO10 2SP
148. New Anglia Growth Hub, Felaw Maltings, 42 Felaw Street, Ipswich, Suffolk IP2 8SQ
149. jeanette.thurtle@fsb.org.uk
150. Poppleston Allen LLP
151. Coral (licence holder)

LICENSING ACT 2003 'Statement of Licensing Policy' (2015 revision)

Summary of revisions and reasons

1. Introduction

- General update on national position/context
- Local context update - being greater integration and links of this policy with strategic priorities and other functions/projects etc. in particular a greater commitment to *balance* – encouraging growth, start-ups, diversification etc. but with appropriate controls and encouraging 'well managed' venues

2. The Babergh District

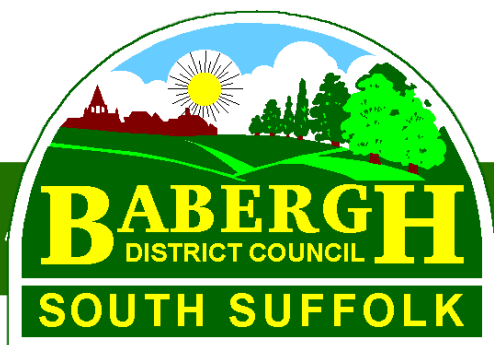
- The local scene has been updated – especially reference to increased events and noting their value towards the local economy
- The numbers of licence types etc. will be updated for the draft that goes back to committee after the consultation.
- Further clarity around mediation referenced here and later in the document. Mainly to be clearer to partners that it is the LA discretion whether and how mediation occurs (and this is time sensitive)

3. Generally (rest of document)

- Removal of 'in the vicinity' references due to law changes. We now talk about *locality* and those directly affected by licensed premises being an each on merit consideration
- Again, enhanced references to balancing the rights of all involved with an interest
- Greater links expressed to our corporate strategic priorities
- Stronger emphasis on collaboration and transparency
- Clarification about what is generally within the direct control of the licensee and their staff, and the need to demonstrate a 'causal link' to specific premises if problems in a particular locality
- Revisions consequential to regulatory reform around entertainment (de-regulatory)
- Updates to 'other legislation' especially updating around the Anti-social Behaviour, Crime and Policing Act 2014 which now overrides section 160/161 of the LA2003 in relation to closure orders, and gives the LA powers as well as the Police (and up to 48hr closure via a closure *notice* – used to be 24hr limit)
- References about 'necessary' to promote licensing objectives changed to 'appropriate' following legislative reform
- Strengthening corporate recognition of the positive effect of leisure businesses and events, and cultural activities, to the local economy and communities. This serves to also demonstrate to Applicants, communities and responsible authorities (RAs) the wider context in which the LA operates.
- Strengthening the links to Economic Development (better intelligence sharing, local skills, business engagement and relationship management etc.)

- Clarification around planning relationship and a commitment to join-up better, where viable
- Added reference to Early Morning Alcohol Restriction Orders (EMROs) – new area via legislative reform. Context in which we will evidence and consider. Unlikely to be used in our district due to limited NTE (same as for late night levy).
- Reference that representations about *new* premises may be speculative/probative and thus weighted accordingly. Also a reference to providing ‘supportive evidence’.
- ‘Interested party’ references updated to ‘other persons’ due to legislative reform
- Stronger references to scheme of delegation (to future-proof and aid any challenges via the courts)
- Much clearer reference to mediation process, to support our working with RAs including the Police. References to encourage pre-application discussions and also referencing to the delegation for the LA acting as RA (and that separate protocol exists for transparency/any challenge)
- Updated references regarding mandatory conditions – regulatory reform changes
- Various references to the optional guidance/self-help we provide so as to help reduce applicant’s costs and increase the quality of applications at the point we receive them (aiding our resources later, and demonstrating our ‘open for business’ approach). Also supports our work as an ‘active partner’ aiding compliance support and stepped approach methodology (including Regulators’ Code)
- Greater reference to onward rights of appeal and clarifying that we advise appeal rights in writing with decisions taken
- Enforcement section has been updated in consultation with the Corporate Manager – Environmental Protection. This references our corporate enforcement policy and Regulators’ Code. This update is important to identify to partner agencies the LAs expectations and clarifies key issues that may arise when working with other enforcing authorities including Police and Trading Standards.
- Clarity around the section 168 differences applying to review decisions following closure order (i.e. they can take immediate effect when usually stayed by appeal process)
- We have updated all control suggestions so as greater clarity, and consistency, for applicants about the LA’s expectations. Also this serves to inform other RAs including Police, and enhances the (statutory) Statement of Policy as a reference point for all stakeholders.
- Update regarding Suffolk Safeguarding Children Board being recognised by the LA as the ‘competent body’ for local child protection issues
- Reference to engaging with the Safety Advisory Group (SAG) for larger scale public outdoor events, where the scheme is operational
- Updated reference to TENs being open to EHO consultation not just Police, and promoting early application. We are deliberately not referencing the ‘late’ TENs process as that is risky for the applicant and should be an ‘emergency’ provision only, not normal practice

Corporate Manager – Licensing
August 2015



Babergh District Council

Licensing Act 2003 Statement of Licensing Policy

2015 REVISION – POST CONSULTATION DRAFT

RED = pre-consultation draft revisions
BLUE = post-consultation draft revisions



4th EDITION: Adopted by Council on XXX

BABERGH DISTRICT COUNCIL

LICENSING ACT 2003: STATEMENT OF LICENSING POLICY

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BABERGH DISTRICT COUNCIL **Licensing Act 2003 Statement of Licensing Policy (Fourth Edition)**

INTRODUCTION

The Licensing Act 2003 became fully implemented on 24 November 2005, and brought about the single biggest change to the licensing arrangements for many types of leisure premises in 40 years. **The legislation has been amended several times since 2005. Licensing legislation and national statutory guidance continue to evolve, be tested by the Courts and be amended.**

The Act integrated six separate licensing regimes covering the sale and supply of alcohol, the provision of regulated entertainment, the provision of late night hot food or drink (between the hours of 11pm and 5am), night café, theatres and cinemas.

This document is the **fourth** version of the local 'Statement of Licensing Policy' for Babergh District Council. Revisions endeavour to incorporate the Authority's practical experience of the legislation to date, law updates, feedback from all relevant stakeholders and achieve **greater integration with its other functions and local priorities since the last revision in 2011.** This version of the policy endeavours to strike the right balance between supporting growth and diversification, in all licensed sectors, with proportionate controls and protections which are appropriate to promote the licensing objectives. It is in everybody's interests for leisure businesses and events to be well managed, successful and sustainable.

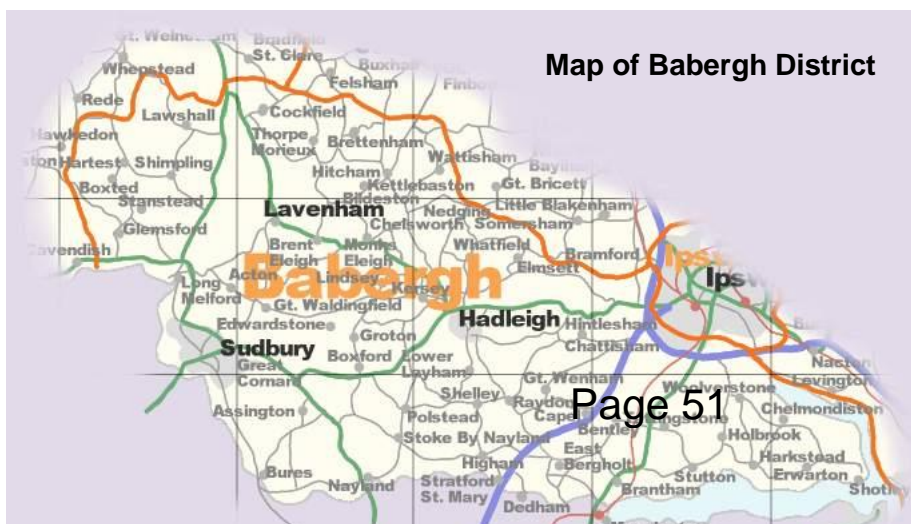
The Licensing Authority recognises that it is not always straightforward to reach decisions that satisfy all parties, but the Authority shall always endeavour to carefully balance the interests of owners, employees, customers and neighbours of licensable premises, and will remain focused on the promotion of the four licensing objectives, which are:

- 1. The prevention of crime and disorder**
- 2. Public safety**
- 3. The prevention of public nuisance**
- 4. The protection of children from harm**

~~The Secretary of State for Culture, Media & Sport (under the previous administration) had commented in the introduction of revised guidance to Licensing Authorities issued in March 2010, that the Act:~~

- ~~○ Allows local people a bigger voice in licensing decisions, with local people becoming more aware of and engaged in the licensing process;~~
- ~~○ Assists with providing a better system of regulation for business, greater choice for consumers, and where possible help for areas in need of economic regeneration;~~
- ~~○ Is evidencing that licensees are making good progress towards taking their responsibilities seriously, and are actively working with the Police and each other to eliminate sales of alcohol to underage persons and to combat alcohol related crime and disorder;~~
- ~~○ Encourages effective multi-agency partnership working to target 'problem' premises, and that new closure and review powers are working to help clamp down on the irresponsible minority of retailers; and~~
- ~~○ Cannot in isolation provide a solution to many of the problems associated with alcohol misuse, and must be part of a broader strategy to achieve better management of the night time economy and a better balance between the rights and responsibilities of everyone living and working in each community.~~

THE BABERGH DISTRICT



Babergh is an attractive district in the southern part of Suffolk and has a long border with the county of Essex. Whilst it remains predominately rural, it is within close and convenient distance of London and the Continent. The district has a population of approximately 87,000 residents divided between 76 parishes. It covers an area of 230 square miles and contains several areas of historical significance, including the nationally renowned villages of Lavenham and Long Melford - both of which retain much of their original outstanding character and appearance.

The largest town in Babergh is Sudbury which, along with its neighbouring village of Great Cornard, has a population of approximately 20,500. The other market town of Hadleigh - where the Council's offices are currently located - has a population of approximately 8,500. Ipswich (10 miles from Hadleigh) is now spilling over into the district, and has a population in excess of 130,000 people.

The highest concentrations of licensed premises in the district are, predictably, within the Sudbury and Hadleigh town centre areas. The main licensing activity arises as a consequence of the **significant** leisure and tourism industry. Most premises are under economic pressure within the community, as a result of which many are seeking to diversify and offer more flexibility and greater choice to the consumer. Many traditional public houses now offer both food and entertainment to improve their economic viability, and many village halls and community facilities are seeking additional flexibility in their relevant licences in order to provide their local communities with a greater choice in how to spend their leisure time. **There are a growing number of both small and large scale outdoor public events, music food and drink festivals (including showcasing local produce, crafts and heritage) as well as other cultural activities involving licensable elements now taking place at various locations across the district, and within Suffolk generally. Babergh District Council recognises the value and importance of such activity to the local economy, tourism, supply chains and contributing to the profile of the district as a great place to reside, visit and work.**

The Licensing Act 2003 catches 'any premises' involved in providing licensable activities, and Babergh District Council have issued licences to a broad variety of different types of premises, including:

- **Pubs, commercial clubs, restaurants, hotels, conference centres**
- **Private members clubs**
- **Shops, supermarkets, off-licences, breweries, farm shops, village tearooms**
- **Village halls, community facilities, schools, sports clubs**
- **Warehouses for mail order and internet sales of alcohol**
- **Mobile late night fast food vans, florists, garages**
- **Festivals, concerts, street fairs, bonfire parties, agricultural shows, fairs**
- **Takeaways (serving hot food or drink between 11pm and 5am)**
- **Local Authority public open spaces**

As of November 2015, Babergh District Council has on issue 430 premises licences, 50 club premises certificates, 975 personal licences and authorises approximately 500 Temporary Event Notices per annum. Since 2005 the Licensing Authority has arranged in excess of 200 licensing hearings to determine contested applications, and helped facilitate mediated agreements for many more.

THE ROLE OF THE LICENSING AUTHORITY IN THE DECISION MAKING PROCESS

It is important for any person reading this Statement of Licensing Policy to note that the Licensing Authority's decision making role, referred to throughout this Statement of Licensing Policy, is only engaged following a relevant representation/**objection** being lodged in respect of an application, and where that representation **or objection** is not withdrawn. **From 2012 the power to raise representations was extended to Licensing Authorities in their own right.** The **relevant** application **would** then ordinarily be heard by a sub-committee of the Council's **Licensing Act 2003 Committee (as the statutory Licensing Committee)**. However it **should also** be noted that, in contrast, the process and determination in respect of minor variations and community premises mandatory conditions **alternative** are exceptions to these usual arrangements, as referred to later in this document.

The Licensing Act 2003 provides **discretion for the Licensing Authority to facilitate** a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so, the Licensing Authority will be mindful of the legislative framework and any relevant government guidance.

In cases where a premises licence application or club premises certificate has been lawfully made, and no responsible authority or **other person** has made a representation, the Licensing Authority must grant the application on the terms sought, subject only to conditions which are consistent with the operating schedule and relevant mandatory conditions in the Act. This should be undertaken as an administrative process by the Licensing Authority's officers who will translate the proposals contained within the operating schedule to promote the licensing objectives into clear and understandable conditions. As **referred to** above, there are different arrangements in place for some minor processes under the Act.

It is the intention of the Licensing Authority to work closely and collaboratively with licensees and their representatives, responsible authorities, local communities, other persons and partner agencies in order to promote the licensing objectives and minimise the burden on all involved to ensure that as far as possible the licensing arrangements work satisfactorily and successfully.

STATEMENT OF LICENSING POLICY (4th edition)

<p>This policy was adopted by the Council on [DATE] and is effective from 07 January 2015 until revised (whether under statutory or voluntary arrangements)</p>
--

1. Licensing Objectives

- 1.1 This policy must be read in conjunction with the Licensing Act 2003 (the Act), secondary legislation and the Guidance issued under s.182 of the Licensing Act 2003 (the Guidance).
- 1.2 Where revisions are made to the legislation or Guidance issued by the Secretary of State, there may be a period of time when the local Statement of Licensing Policy is inconsistent with **such** revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, Guidance and its own Statement of Licensing Policy.
- 1.3 In preparing this Statement of Licensing Policy the Licensing Authority has consulted in accordance with the requirements of the Act, and has had due regard to the Guidance. For details of the consultation see the Minutes of the Licensing Act 2003 Committee meeting held on **[DATE]**.
- 1.4 The Licensing Authority recognises that balancing the interests of owners, employees, customers and neighbours of licensable premises will not always be straightforward, but it will always be guided by the four licensing objectives of the Act, which are :
 - a) the prevention of crime and disorder;
 - b) the prevention of public nuisance;
 - c) public safety; and
 - d) the protection of children from harm

The Licensing Authority's general approach to addressing these four licensing objectives is set out in section 14 of this Statement of Licensing Policy.

- 1.5 In exercising its licensing functions, once its discretion is engaged, the Licensing Authority will primarily focus on the direct impact of the licensable activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the **locality of the licensed premises, and steps which are appropriate to promote the licensing objectives.**
- 1.6 **The area impacted by the presence of licensed premises is a question of fact and will depend on the particular circumstances of each case.**
- 1.7 The aims of this Statement of Licensing Policy include:

- a) Helping to encourage and support strong and inclusive **communities** that balance the rights of **licensable businesses and event organisers, customers and local residents/businesses**; and
- b) Integrating the Licensing Authority's aims and objectives with other **strategic local priorities**, initiatives and strategies that will help to:
 - reduce crime and disorder, and the fear of crime;
 - encourage tourism, **economic growth** and cultural diversity;
 - reduce alcohol misuse **and contribute towards the better health and wellbeing of persons in our communities** ;
 - encourage the self sufficiency of local communities; and
 - reduce the burden of **unnecessary** regulation on business **through collaboration, transparency and accessibility**.

1.8 This Statement of Licensing Policy does not seek to undermine the right of any individual to apply under the terms of the Act for a variety of permissions and to have such an application considered on its individual merits, where the Licensing Authority's discretion has been engaged. It does not seek to override the right of any person to make representations on or about an application or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

1.9 The licensing process can only seek to control those measures within the control of the licensee or certificate holder (and their staff/agents), ~~and in the vicinity of the premises involved in licensable activities~~. Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from such premises and beyond the direct control of the licence holder, nor is it **a cure-all for community problems. If a licence holder has taken all appropriate steps to promote the licensing objectives whilst carrying on authorised licensable activities, and there is no causal link established between problem issues in the locality and a specific premises then it is unlikely that licensing processes are the mechanism to address them.**

2. Purpose of the Statement of Licensing Policy

2.1 The purpose of this Statement of Licensing Policy is to:

- inform the elected **councillors** serving on the **Licensing** Committee of the parameters within which licensing decisions can be made;
- inform applicants, **responsible authorities**, residents and businesses of the parameters within which the Licensing Authority will make licensing decisions;
- inform residents and businesses about how the Licensing Authority will make licensing decisions; and
- provide a basis for decisions made by the Licensing Authority if these decisions are challenged in a court of law.

2.2 This policy relates to the following licensable activities as defined by the Act:

- Retail sale of alcohol;
- Supply of alcohol by or on behalf of a club, or to the order of a member of the club
- Provision of regulated entertainment, which **generally includes music, film, plays, indoor sporting events, boxing or wrestling, dance and similar activities. It should be noted that some entertainment activities may be subject to full or limited exemption in particular circumstances.**
- Provision of late night refreshment

- ~~○ a performance of a play~~
- ~~○ an exhibition of a film~~
- ~~○ an indoor sporting event~~
- ~~○ a boxing or wrestling entertainment~~
- ~~○ a performance of live music~~
- ~~○ any playing of recorded music~~
- ~~○ a performance of dance~~
- ~~○ entertainment of a similar description to the performance of live music, the playing of recorded music or the performance of dance~~

- ~~● Provision of entertainment facilities for making music, dancing or entertainment of a similar description~~

2.3 It should be noted that some previous licensable activities, and locations, are now deregulated (whether fully or partially) via amendments made to the 2003 Act (~~Part 2 of Schedule 1~~) makes provision for exempt or unregulated activities or locations. Further information on these is available from www.gov.uk. Whether activities/locations may be entitled to benefit from an exemption or de-regulation would be assessed on a case-by-case basis.

2.4 In some cases additional licences for entertainment may be required under separate legislation, for example sexual entertainment venues may also require a licence under schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, or the venue may also require Performing Rights Society (PRS) or other permissions.

3. Other legislation, strategies and guidance

3.1 When carrying out its functions the Local Authority has duties, responsibilities and considerations under other legislation and strategies, for example:

- (a) Crime and Disorder Act 1998 (in particular obligations under section 17 relating to the prevention of crime and disorder);
- (b) The European Convention on Human Rights, given effect by the Human Rights Act 1998;
- (c) ~~Criminal Justice and Police Act 2001 (in particular the powers available under section 13 to make 'designated public place orders' or DPPO's to control the consumption of alcohol in a public place outside licensed premises);~~
- (c) Race Relations Act 1976 (as amended by the Race Relations (Amendment) Act 2000);
- (d) Anti-Social Behaviour, Crime and Policing Act 2014 (in particular powers available under section 80 relating to the closure of premises on the grounds of crime, disorder or nuisance);
- (f) ~~Violent Crime Reduction Act 2006 (including powers for Local Authorities and the Police to designate Alcohol Disorder Zones (ADZ's) to tackle alcohol related crime and disorder problems);~~
- (g) Environmental Protection Act 1990 (as amended) (in particular investigation of, and any enforcement action in relation to, statutory nuisances – including by noise, light or odour);
- (h) Health and Safety at Work etc Act 1974;
- (i) Noise Act 1996 (as amended);
- (j) Health Act 2006;
- (k) Clean Neighbourhoods and Environment Act 2005 (including powers for the Local Authority to issued fixed penalty notices to licensed premises emitting noise that exceeds the permitted level between 11pm and 7am);
- (l) Policing and Crime Act 2009;
- (m) The Council's published procedure for dealing with petitions and its obligations under the Local Democracy, Economic Development and Construction Act 2009;
- (n) Equality and diversity obligations; and

(o) European Union Services Directive.

- 3.2 **Premises operators/responsible persons within a business or activity** are normally responsible for compliance with any other separate statutory requirements which may apply, not dealt with directly by the Local Authority, for example compliance with the Regulatory Reform (Fire Safety) Order 2005.
- 3.3 The Licensing Authority will as far as possible seek to avoid duplication with other regulatory regimes when dealing with the licensing function. If other existing law already places certain statutory responsibilities on an employer or operator of premises, it cannot be **appropriate** to impose the same or similar duties on the premises licence holder or club. Once the discretion of the Licensing Authority is engaged, it is only where additional and supplementary measures are **appropriate** to promote the licensing objectives that **tailored** and proportionate conditions **may** be attached to a licence.
- 3.4 Other Local Authority and **Central** Government policies, strategies, responsibilities, and guidance documents may also refer to the licensing function, and the Licensing Authority may liaise with the relevant authorities or its directorates with regard to these. Whilst some of these may not be directly related to the promotion of the four licensing objectives, they can indirectly impact upon them.
- 3.5 For example, the Licensing Authority will liaise closely with the local **Police/PCSOs** and/or Community Safety/**Locality Officers** to ensure that the Local Authority can develop effective strategies that take full account of **any** local crime and disorder issues.
- 3.6 It is the Local Authority's intention that it will, through its **officers and councillors** monitor how these matters, set out in 3.4 above, impact on the Authority's licensing and other functions, in order that it may seek to co-ordinate and integrate its licensing function with other relevant strategies.
- 3.7 The Local Authority may, in appropriate circumstances, consider seeking from the Licensing Authority premises licences in its own name for its own public spaces within the community. This may assist with the promotion of broader cultural activities and entertainments **which add value to our communities and the local economy**.
- 3.8 In respect of cultural strategies the Licensing Authority will, for example through **periodic** consultation with local **Communities/Locality** officers, consider whether the provision of **live music and** cultural activities and entertainments is being deterred by local licensing requirements, **whether by the Licensing Authority directly or other responsible authorities**. Where there is any indication that this is the case, the Licensing Authority may consider investigating how the situation might be reversed, and may if necessary in the light of such investigations consider a revision to the Statement of Licensing Policy.
- 3.9 Where it considers it appropriate to do so, and in order to seek proper integration of the licensing function, the Licensing Authority may directly or indirectly provide periodic reports to the Planning Authority on the general situation regarding licensed premises in the area, which may include reference to the impact of alcohol related crime and disorder. **Reports and intelligence may also be shared with Economic Development officers in relation to growth, regeneration and local skills and employment matters**.

4. Relationship with Planning Process

- 4.1 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the Local Planning Authority.

- 4.2 It is strongly recommended that prospective licence applicants contact the Local Planning Authority in advance of making a licence application in order to check, or seek advice on, any planning consents or any conditions relevant to the use of the premises. It clearly makes operational sense to ensure that planning and licensing are compatible.
- 4.3 The Licensing Authority wishes to emphasise that the granting by the **Licensing** Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control where appropriate.
- 4.4 The Local Authority will aim to properly separate planning, building control and licensing regimes in order to avoid duplication and inefficiency. The Licensing and Planning regimes involve consideration of different (albeit related) matters. For instance, licensing considers public nuisance whereas planning considers amenity. **However liaison will be undertaken between functions to provide a joined-up approach for service users, wherever possible.**
- 4.5 The Licensing Authority will avoid treating licensing applications as a re-run of planning applications, and will not normally:
- ~~cut across decisions taken by the Local Authority Planning Committee or following appeals decisions taken by that Committee; or~~
 - impose licensing conditions where the same or similar conditions have been imposed on a planning consent.
- 4.6 The Licensing Authority is not bound by decisions made by the Planning Committee and vice versa.
- 4.7 Where as a condition of planning permission a terminal hour has been set for the use of premises for commercial purposes that is different to the licensing hours, the licensee must observe the earlier closing time in order to avoid any breach of their planning permission - for which they may be liable to prosecution under planning law.

5. **Cumulative Impact and Early Morning Alcohol Restriction Orders (EMROs)**

- 5.1 The Licensing Authority recognises that the cumulative effect of licensed premises may have negative consequences which could include:
- an increase in crime against both property and persons;
 - an increase in noise causing disturbance to residents;
 - traffic congestion and/or parking difficulties; and
 - an increase in littering and fouling,
- and that enforcement action taken to ensure that conditions are complied with may not always resolve any problems experienced in the vicinity of licensed premises.
- 5.2 Licensing is only one means of addressing the problems identified above, and cannot in isolation provide a solution to many of the problems that may be experienced. Other mechanisms to address problems could include:
- Planning controls;
 - Powers of Local Authorities or Police to designate parts of the Local Authority area as places where alcohol may not be consumed publicly and confiscation of alcohol in these areas;
 - Police **and Local Authority** powers to close down premises or temporary events for up to 48 hours on the grounds of preventing **crime, disorder or nuisance disorder, the likelihood of disorder or excessive noise;**
 - ~~Powers of the Local Authority and Police to designate Alcohol Disorder Zones (ADZ's);~~

- Prosecution of personal licence holders who sell alcohol to people who are drunk or underage;
- Police and Local Authority powers under ~~section 5 of~~ the Anti-Social Behaviour, **Crime and Policing Act 2014**;
- Powers available to responsible authorities under the provisions of the Policing and Crime Act 2009 or Violent Crime Reduction Act 2006.

5.3 Where the Licensing Authority is satisfied that there is evidence of a disproportionate detrimental effect on neighbouring businesses and residents and the operation of a number of premises in a defined area has the effect of undermining the licensing objectives, a special policy may be developed. Such a policy would ordinarily address the impact of a concentration of licensed premises selling alcohol for consumption on the premises, as it would not normally be justifiable to adopt such a policy on the basis of a concentration of shops, stores and supermarkets selling alcohol for consumption off the premises.

5.4 When setting such a policy, the Licensing Authority shall have due regard to the Guidance, and will follow the consultation, adoption and review procedures applicable to the process.

5.5 No special policy adopted for a specific area will be absolute, each application shall be considered individually on its own merits.

5.6 Whilst no part of the district is at the time of this policy revision subject to any Early Morning Alcohol Restriction Order (EMRO), the Licensing Authority is aware of the power conferred on it as set out in sections 172A to 172E of the 2003 Act to make, vary or revoke an EMRO. The exercise of the licensing authority's functions may be delegated by its committee to a sub-committee, other than the decision to make, vary or revoke an EMRO (which is exercised by full council). This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.

5.7 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.

5.8 Before the Licensing Authority would make a determination to recommend to full council that it makes a proposed EMRO, it will satisfy itself that it has sufficient evidence to demonstrate that making the EMRO would be appropriate for the promotion of the licensing objectives. The requirement to take an evidence-based decision to promote the licensing objectives should enable the Licensing Authority to draw upon its experience from other licensing decisions it makes under the 2003 Act, such as the determination of applications for the grant of premises licences. The licensing authority would consider evidence from partners, including from responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

5.9 If at any point in time the licensing authority already has a Cumulative Impact Policy (CIP) in its Statement of Licensing Policy it will consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

6. Licensing Hours

6.1 The Licensing Authority, through the exercise of its licensing functions once its discretion is engaged, shall not seek to restrict the trading hours of any particular premises unless it is considered **appropriate** and proportionate to promote one or more of the licensing objectives. Each application will be considered individually on its own merits.

- 6.2 In the absence of any specific reasons linked to the licensing objectives, the Licensing Authority will not seek to restrict licensed retail outlets ability to sell alcohol for consumption off the premises throughout their general trading hours. A possible example of an occasion when a limitation could be considered would be following Police representations that a shop was known to be a focal point for crime and disorder due to groups congregating there.
- 6.3 The Licensing Authority recognises that providing consumers with greater choice and flexibility is an important consideration and that in some circumstances flexible licensing hours for the sale of alcohol, **in a well-managed environment**, can help to ensure that the concentrations of customers leaving premises simultaneously are avoided, which in turn can reduce friction **and congregations** at late night fast food outlets, taxi ranks and other **areas** which can lead to crime, disorder and disturbance.
- 6.4 The Licensing Authority also acknowledges that licensing hours should not inhibit the development of thriving and safe evening and night-time local economies which are important for **business growth and diversification**, investment and employment locally and attractive to domestic and international tourists.
- 6.5 The Licensing Authority will however, where its discretion is engaged, always carefully balance the considerations in 6.3 and 6.4 above against its duty to promote the licensing objectives and protect the rights of local residents and businesses **impacted by** licensed premises.
- 6.6 The Licensing Authority will consider each application individually on its merits, once its discretion is engaged, and notes the Government's guidance that there is no general presumption in favour of lengthening licensing hours and that the four licensing objectives should be paramount considerations at all times. Where there are relevant representations against an application and the Licensing Committee believes that granting the licensing hours proposed would undermine the licensing objectives then it may reject the application or grant it with appropriate conditions and/or different hours from those requested.
- 6.7 Irrespective of the hours of operation granted for a premises under any licence under the Act, the premises operators should ensure that they comply with any limitation on hours imposed under any other relevant legislation in force - for example planning law, Sunday Trading Act 1994 or Christmas Day (Trading) Act 2004.

7. Relevant Representations

- 7.1 A relevant representation is one that is made in writing and:
- is about the likely effect of the licence on the promotion of the licensing objectives **(for new applications representations may be probative/speculative and it will be for the Licensing Authority in each case to determine what weight to attach to representations and any supporting evidence)** ;
 - has been made by a responsible authority, **other person** or elected councillor **of the Licensing Authority,** as defined by the Act, within the relevant time period as prescribed by regulation;
 - has not been withdrawn; and
 - has not been determined by the Licensing Authority as frivolous or vexatious (or repetitious in respect of a review).
- 7.2 In 'borderline' cases, the Licensing Authority will normally give the benefit of the doubt to the **other person** or responsible authority making the representation, and any subsequent hearing would provide an opportunity for the person or body making the representation to amplify and clarify it. However, the Licensing Authority could decide not to take any action in respect of the application if, for example, the representation could not be supported.

7.3 Representations can be made in opposition to, or in support of, an application. In cases where only 'positive' representations are made, without qualifications, the Licensing Authority will consider whether a hearing is necessary, and may contact the interested parties concerned to give them an opportunity to withdraw their representations.

7.4 The Licensing Authority will determine, in accordance with its scheme of delegation, whether:

- the representation has been made by an 'other person' as defined under the Act; and
- any ordinary and reasonable person would consider the issue(s) raised in a representation as frivolous or vexatious (or repetitious in respect of a review).

A person aggrieved by a rejection of his representation on these grounds may challenge the Licensing Authority's decision by way of judicial review.

7.5 In addressing whether or not other persons, or incidents, are impacted by ~~in the vicinity~~ of licensed premises, the Licensing Authority will primarily focus on the direct impact of the activities taking place, or proposed to take place, at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

7.6 Where a relevant representation is made in respect of:

- an application; or
- an existing licensed premises

a hearing will be held, unless an agreement is reached between the Licensing Authority, the applicant and all of the parties who have made relevant representations, that a hearing is not required.

7.7 The Licensing Act 2003 provides a discretion for the Licensing Authority to facilitate a mediation process between parties. The Licensing Authority will attempt mediation between the relevant parties wherever it may be practicable or appropriate to do so, so as to avoid unnecessary hearings. It may also extend the normal time limits for hearings where it is considered to be in the public interest to do so (for example where all parties are on the point of reaching agreement or so as to ensure that it is possible for a party to attend the hearing). Mediation potential will be assessed case-by-case as each set of circumstances will be different. Where compromise may be viable to appropriately balance the interests of all stakeholders, and doing so will not prejudice any party's rights under the law, then the Licensing Authority will take all reasonable steps to facilitate such discussions.

7.8 Whilst pre-application discussion between licence applicants and responsible authorities, and the communities in which they operate, is strongly encouraged, once an application has been formally lodged the process of relevant representations, supported by evidence and witnesses where appropriate, should be observed as should the discretion of the Licensing Authority to facilitate mediation.

7.9 It should be noted that the usual hearing arrangements, following receipt of a relevant representation, do not apply to minor variations. For these processes the power to determine the application has been delegated to the Licensing Officer, and no hearing mechanism is involved. Relevant representations and statutory guidance will, however, be considered as part of this process, and applications shall be assessed individually and on merit by the relevant officer.

7.10 The Corporate Manager (Licensing) has been duly authorised by the Licensing Authority to perform the Licensing Authority role as a 'responsible authority' on behalf of Babergh District Council and this enables in relevant circumstances the raising of relevant representations about applications, or seeking the review of a licence or certificate on issue, when and if considered reasonably appropriate on a case-by-case basis. There is also a delegation enabling an authorised Licensing Officer to perform the same duties in circumstances where the Corporate Manager – Licensing is unavailable or excluded. The councillor approved protocol underpinning that delegation and process is available directly from the Licensing Team upon request.

8. Administration, Exercise and Delegations of Functions

8.1 The Council's published delegation scheme of functions under the Licensing Act 2003 is available on the Council website at www.babergh.gov.uk (see Part 3 of the Council's Constitution) or by contacting the Licensing Team.

8.2 Where an application has been lawfully made under the Act, and no relevant representations are outstanding, the Licensing Authority will grant the application, in accordance with the requirements of the Act under the authority delegated to an officer. The exceptions to this usual administrative process include minor variations and community premises mandatory conditions disapplication requests, as referred to elsewhere in this document.

8.3 Electronic applications will be administered in accordance with the requirements of the Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009.

9. Hearings

(Subject to Regulations issued under s.183 of the Act)

9.1 Where a hearing is required, the relevant representations made will be put before the Licensing Sub-Committee. The representations, including the name and address of the person making them, will normally become part of a public document. The address of the person making the representation is relevant to ~~the 'in the vicinity'~~ consideration of their representation. If any person is deterred from making a representation due to these requirements, for example if they have a genuine and well-founded fear of intimidation or violence, then they should promptly contact the Licensing Team for advice.

9.2 The hearing will be conducted in accordance with the Licensing Authority's published procedure, which is available on the Council website at www.babergh.gov.uk or directly from the Licensing Team upon request. The hearing will take the form of an informal discussion led by the Licensing Authority.

9.3 Where an application is determined at a hearing, the Licensing Sub-Committee will give appropriate weight to the:

- relevant representations made;
- submissions and any evidence presented by all parties;
- Guidance issued under section 182 of the Act (as may be amended from time to time);
- Licensing Authority's Statement of Licensing Policy; and
- steps appropriate to promote the licensing objectives.

9.4 The Licensing Authority may use the power given within the hearings regulations to extend time limits where it considers this to be in the public interest. Extending time limits in the public interest will be assessed individually on a case-by-case basis.

~~9.5 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the Licensing Authority will be mindful of the legislative framework and any relevant government guidance.~~

10. Conditions

10.1 The 2003 Act (under sections 19, 19A, 20 and 21) makes provision for certain mandatory conditions which are summarised below. There are also mandatory conditions relating to a code of conduct for holders of on-licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 - arising from the Policing and Crime Act 2009. The Secretary of State has powers to set or amend mandatory conditions and may use this power from time to time.

- (a) Where a premises licence authorises the sale or supply of alcohol, no supply may be made at any time when there is:
- No designated premises supervisor (DPS) in respect of the licence; or
 - At a time when the designated premises supervisor does not hold a personal licence or it is suspended.

Note: an alternative mandatory condition may apply to community premises who have removed the usual DPS requirement, and this will place responsibility on the management committee/board.

- (b) Where a premises licence authorises the exhibition of films, the licence must include a condition requiring that the admission of children is restricted in accordance with the recommendation of the film classification body, or where varied, the film classification awarded by the Licensing Authority. (Note: The Licensing Authority may either award a classification to an unclassified film or vary the classification of a film upon application in accordance with its policy).

The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes.

- (c) Where a licence includes a condition requiring that one or more individuals are present at the premises to carry out security activities, the licence must include a condition requiring such individuals to be licensed by the Security Industry Authority. This requirement will not normally apply to employees who benefit from any relevant exemption under the Private Security Industry Authority Act 2001 (the 2001 Act) or by virtue of any other legislation (for example the Violent Crime Reduction Act 2006).

Note: A premises licence need not impose such a requirement in relation to those licensed premises which the 2001 Act treats as 'unlicensed premises' – being premises staging plays or exhibiting films, licensed gaming premises such as casinos and bingo halls, and premises where a club premises certificate is in force and when activities are being carried on under the authority of that certificate.

- (d) Where a premises licence or club premises certificate authorises sale or supply of alcohol a condition relating to prohibiting irresponsible drinks promotions, providing potable water, age verification policy, availability of smaller measures and prohibition on below cost sales may apply.**

~~10.2 There are also mandatory conditions relating to a code of conduct for holders of ON licensed premises, via the Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 arising from the Policing and Crime Act 2009. The Secretary of State has powers to set further mandatory conditions and may use this power from time to time. The following conditions apply to ALL premises licensed for ON sales of alcohol from 06 April 2010 (conditions A to C) and from 01 October 2010 (conditions D and E):~~

~~(A) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises. In this [condition], an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children —~~

~~(1) games or other activities which require or encourage, or are designed to require or encourage, individuals to —~~

- ~~○ drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or~~
- ~~○ drink as much alcohol as possible (whether within a time limit or otherwise);~~

~~(2) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);~~

~~(3) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;~~

~~(4) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on —~~

- ~~○ the outcome of a race, competition or other event or process, or~~
- ~~○ the likelihood of anything occurring or not occurring;~~

~~(5) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.~~

~~(B) The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).~~

~~(C) The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.~~

~~(D)(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.~~

~~(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.~~

~~(E) The responsible person shall ensure that—
(1) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures—
(i) beer or cider: ½ pint;
(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and
(iii) still wine in a glass: 125 ml; and
(2) customers are made aware of the availability of these measures.~~

10.2 The Licensing Authority may not attach to a licence authorising the performance of plays any condition which restricts the nature or manner of performing those plays (other than on the grounds of public safety).

10.3 With the exception of the above mandatory conditions, once its discretion is engaged the Licensing Authority will only attach **appropriate** and proportionate conditions to a premises licence or club premises certificate where these:

- are consistent with the issues addressed in the operating schedule which the applicant submits as part of their application; and
- are **appropriate** for the promotion of the licensing objectives.

10.4 It is the intention of the Licensing Authority to express any such conditions in unequivocal and unambiguous terms and such conditions will be tailored to the specific premises concerned.

10.5 The Licensing Authority will avoid attaching standard conditions to premises licences or club premises certificates, but would draw applicants' attention to pools of possible measures to promote the licensing objectives **for specific types and scale of licensed operations. Various licence types, available to view on the Council's on-line public registers or upon request to the Licensing Team, may assist an applicant or licence holder with their own consideration of the licensing objectives. Such model wording and examples are purely provided to assist with an applicant formulating their own operating schedule who should base their proposals upon the individual nature, characteristics and activities of their own operation.** Applicants will not be obliged or required to use anything produced **or made available** by the Licensing Authority for this purpose.

10.6 The Licensing Authority will avoid, as far as possible, attaching conditions to licences/certificates that duplicate the same or similar duties that are already placed on an employer or operator of a premises under other existing laws. However, where these general duties do not *adequately* address specific issues additional and supplementary measures may be **appropriate** to promote the licensing objectives.

10.7 A committee or board of individuals with responsibility for the management of community premises ('the management committee') may apply to have an alternative licence condition included in a premises licence in place of the normal mandatory conditions. The alternative condition is that every supply of alcohol under the licence be made or authorised by the management committee.

11. Appeals

11.1 Entitlement to appeal against any decision of the Licensing Authority is set out in Schedule 5 of the Act. **Rights of appeal will be notified in writing to all parties to hearings as part of the decision notification.**

12. Enforcement

- 12.1 Where necessary, enforcement action will be considered in accordance with the **Regulators'** Code and the Council's General Enforcement Policy. These guidelines are available direct from Babergh District Council and may be subject to periodic amendment.
- 12.2 The emphasis will be upon a risk-assessed and targeted approach to inspections, concentrating on those premises which either:
- present a greater risk;
 - have a history of non-compliance with conditions/regulation; or
 - demonstrate poor management practice which undermines the licensing objectives.
- 12.3 The Licensing Authority will not normally undertake inspections routinely but may do so when and if they are considered by the Authority as reasonably necessary. The 2003 Act does not require inspections to take place save at the discretion of those charged with an enforcement role.
- 12.4 The Licensing Authority has adopted a joint enforcement protocol with partner authorities – available via the Council website at **www.babergh.gov.uk** or upon request from the Licensing Team. **This may be subject to periodic review and revision. In exercising its own compliance and enforcement remit the Licensing Authority will at all times be guided by its general enforcement policy based upon Regulators' Code principles, and where there is a shared remit for leading on enforcement matters with another agency (or agencies) the Licensing Authority will continue to observe its adopted corporate enforcement policy, accepting that other authorities are not bound to it and may have their own escalation policies or national guidance framework. The Licensing Authority will in all cases seek a collaborative and partnership approach to promotion of the licensing objectives and compliance support for licensed business, which includes that Regulators should:**
- carry out their activities in a way that supports those they regulate to comply and grow;
 - provide simple and straightforward ways to engage with those they regulate and hear their views;
 - base their regulatory activities on risk;
 - share information about compliance and risk;
 - ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
 - ensure that their approach to their regulatory activities is transparent.
- 12.5 The Licensing Authority will normally act as the enforcing authority in respect of offences under the Act, and for breaches of licence conditions, unless the circumstances of the particular case are such that it is appropriate for another responsible authority to act, in accordance with the agreed enforcement concordat, instead.
- 12.6 Suffolk Constabulary will retain responsibility as the enforcing authority in respect of the following offences under the Act:
- Section 97 Powers to enter and search
 - Section 143 Failure to leave licensed premises
 - Section 144 Keeping of smuggled goods
 - Section 155 Confiscation of alcohol;
 - Section 157 Power to prohibit sale of alcohol on a train; and
 - Part 8 offences with respect to closure of premises.

12.7 Suffolk County Council Trading Standards will retain responsibility as the enforcing authority in respect of the following offences under the Act, and may work in partnership where appropriate with Suffolk Constabulary in relation to the investigation and enforcement of underage sales:

- Section 146 Sale of alcohol to children
- Section 147 Allowing the sale of alcohol to children
- Section 147A Persistently selling alcohol underage
- Section 154 Weights and measures offences
(which enable Trading Standards Officers to conduct test purchases and authorise other persons to do so).

12.8 Where expedient for the promotion or protection of the interests of the inhabitants of their area, the Council may also take action under Section 222 of the Local Government Act 1972, and other relevant provisions including Section 80 of the **Anti-social Behaviour, Crime and Policing Act 2014** of the ~~Anti-Social Behaviour Act 2003~~. The Council will also have due regard to section 17 of the Crime and Disorder Act 1998 whilst carrying out its functions.

13. Closure Orders/Notices

13.1 Part 8 of the Licensing Act 2003 provides for the arrangements relating to closure orders, and there are also powers available to the Local Authority and/or responsible authorities/court to close premises via other legislation on grounds of serious crime or disorder, persistent nuisance or protection of children - for example under the Violent Crime Reduction Act 2006, Criminal Justice and Immigration Act 2008 and **Anti-social Behaviour, Crime & Policing Act 2014**.

13.2 Where a Magistrates' Court has determined to exercise its powers in respect of a closure order, the Licensing Authority must conduct a review of the relevant premises licence in accordance with procedures prescribed by regulation. This will normally involve:

- serving notice on the premises licence holder and responsible authorities and advertising the review in accordance with the regulations;
- holding a hearing in accordance with the procedures outlined in section 9 of this Statement of Licensing Policy to review the premises licence; and
- determining the review no later than 28 days after the day on which it receives the notification of the closure order from the Magistrates' Court.

13.3 When determining a review following the notification of a closure order, the Licensing Authority will consider:

- the closure order and any extension to it;
- any **magistrates' directives in relation to the** order ~~under section 165(2)~~; and
- any relevant representations; and will

take such steps as it considers **appropriate** to promote the licensing objectives as outlined in section 22.4 of this Statement of Licensing Policy.

13.4 The Licensing Authority will notify the licence holder, the Chief Officer of Police and any person who made relevant representations of the outcome of the review hearing, including reasons for the decision. The Licensing Authority may suspend the operation of its decision until the end of the period given to appeal, or until the appeal is disposed of (if not already suspended by the Magistrates' Court), **and will consider its powers under section 168 of the 2003 Act in that regard.**

14.1 Addressing the Licensing Objectives

- 14.1.1 In respect of addressing each of the four licensing objectives in their Operating Schedule, applicants should carefully consider what steps they **regards as appropriate** to promote the licensing objectives, relevant to the individual style and characteristics of their premises and activities. Reference could be made as to whether additional measures will be taken on an occasional or specific basis such as when a special event or promotion is planned, which is intended to, or likely to attract larger **or different demographic** audiences.
- 14.1.2 Whilst applicants are not required to seek the views of responsible authorities before formally submitting applications, the Licensing Authority strongly encourage applicants to do so when drafting their operating schedule as applicants may find this a source of useful advice when addressing the licensing objectives. This may in some instances reduce the possibility of responsible authorities, or **other persons**, raising representations against an application. Organisers of large, temporary outdoor events (such as music festivals, fairs, shows and carnivals) are strongly encouraged to engage as early as possible with the responsible authorities, **or any local Safety Advisory Group network**, to ensure that their planned event is developed in a way likely to promote the licensing objectives.
- 14.1.3 As steps volunteered by applicants within their operating schedule will very often directly translate to conditions on the licence, the Licensing Authority encourages applicants to state their proposed steps to promote the licensing objectives in unequivocal and unambiguous terms. **Pools of example conditions and model wording will be made available as an optional guidance tool to assist applicants/licence-holders.**

14.2 Prevention of Crime and Disorder

- 14.2.1 The Council is committed to further improving the quality of life in its area by continuing to help reduce crime and disorder and the fear of crime. To this end, the Licensing Authority strongly encourages applicants and licensees to ensure that relevant factors within their control which impact on crime and disorder have been considered, for example:
- underage drinking;
 - drunkenness on the premises;
 - drunkenness in public;
 - drugs;
 - violent behaviour; and
 - anti-social behaviour.
- 14.2.2 Section 17 of the Crime and Disorder Act 1998 imposes a duty on each Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area.
- 14.2.3 In order to promote the prevention of crime and disorder objective, the Licensing Authority encourages licence holders to become active partners with the Licensing and Responsible Authorities. Applicants are encouraged to demonstrate in their operating schedule that relevant, suitable and sufficient measures within their control have been considered and identified and will be implemented and maintained in order to reduce or prevent crime and disorder on, and in the **locality** of, their premises.
- 14.2.4 When addressing the issue of crime and disorder in their operating schedule, applicants may consider, but are not limited to, factors identified at paragraph 14.2.1 above.

- 14.2.5 Applicants may find it helpful to contact the local Safer Neighbourhood Team (SNT) or Community Safety **Officers** in advance of making their application, as the SNT/CSO may be able to offer expert advice and guidance on local crime and disorder issues and promotion of this licensing objective.
- 14.2.6 The following examples of control measures are given purely to assist applicants with development their operating schedule, having regard to their particular type of premises and/or activities. These are not in any way to be regarded as standard conditions or mandatory requirements:
- (a) effective and responsible management of premises
 - (b) prevention of overcrowding/**congregation flashpoints**
 - (c) training and supervision of staff (**including at periodic intervals**)
 - (d) adoption of best practice guidance and other industry codes of practice
 - (e) use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions (see [section 10](#) of this document)
 - (f) **banning individuals subject to court exclusion orders or PubWatch bans**
 - (g) provision and use of effective CCTV in and around premises (**subject to any relevant data protection codes of practice**)
 - (h) use of Security Industry Authority **registered** door staff (during specified days/times) **and random searches for prohibited items (such as a search ratio of 1:10 customers)**
 - (i) provision of toughened or plastic/polycarbonate glasses and polyethylene (PET) bottles
 - (j) provision of secure deposit boxes for confiscated items ('amnesty bins')
 - (k) provision of litter bins and security measures, such as lighting, outside premises
 - (l) control of customers entering and leaving with opened bottles/glasses – for example whilst they are observing smokefree regulations **or using external areas**.
 - (m) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
 - (n) searching policy; dispersal policy; risk assessment process to consider the crime and disorder implications of individual staff/performers - such as DJs and promoters.
 - (o) **recording of incidents, refusals, confiscated items and ejections**
 - (p) **effective and robust controls for third party hirings – for example hiring agreement and hirer vetting, premises supervision, signing-in books**
- 14.2.7 Within the operating schedule for a premises from which alcohol will be sold, a premises supervisor must be designated (Designated Premises Supervisor or 'DPS'), unless a relevant community premises disapplication has been applied for/authorised. The DPS will often have been given the day-to-day responsibility for running the premises by the premises licence holder and, as such, will usually be the first point of contact for authorised officers. In exceptional circumstances, the police may object to the designation of a new DPS where they believe that such an appointment would undermine the crime prevention objective.
- 14.2.8 Where the police object to an individual being appointed as a Designated Premises Supervisor, or object to an application made by community premises management committee for the inclusion of the alternative licence condition, the Licensing Authority will arrange for a hearing at which the issue can be considered in accordance with the procedure outlined in section 9 of this Statement of Licensing Policy.
- 14.2.9 The Licensing Sub-Committee considering the matter will confine their consideration to the prevention of crime and disorder objective.

14.2.10 Certain temporary events (see section 18 of this Statement of Licensing Policy) should be notified to the Licensing Authority using the Temporary Event Notice procedure. Depending on the nature and location of such temporary events these may, on occasion, have crime and disorder implications. Organisers of such events are encouraged to submit their notification as soon as reasonably practicable in advance of the event (and no later than 5 working days before the event in line with existing statutory requirements) to enable the Police and the Local Authority to work with them to identify and reduce the risk of crime and disorder.

14.3 Public Safety

14.3.1 The Council is committed to ensuring that the physical safety of any person visiting or working in licensed premises is not compromised. To this end, the Licensing Authority encourages applicants and licensees to conduct a risk assessment prior to completion of their operating schedule to ensure that relevant factors within their control which impact on public safety have been considered and identified. These factors may include, but are not limited to:

- (a) the occupancy capacity of the premises (including staff and performers). Note: If a capacity has been imposed/set through other legislation, for example under Fire Safety legislation, it would be unnecessary to reproduce it in a premises licence. Anticipated maximum capacity/attendance for large, temporary outdoor events should be made clear.
- (b) the age, design and layout of the premises, including means of escape in the event of fire or other emergency
- (c) the nature of the licensable activities to be provided and whether those activities are of a temporary, occasional or permanent nature
- (d) the hours of operation (differentiating the hours of opening from the hours when licensable activities are provided, if different)
- (e) customer profile (such as age, disability or non-English first language)
- (f) the use of special effects such as lasers, pyrotechnics, smoke machines, foam machines, etc.
- (g) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.

14.3.2 The Licensing Authority shall not seek to impose fire safety conditions where the Regulatory Reform (Fire Safety) Order 2005 adequately controls such matters.

14.3.3 The following examples of possible control measures are given purely to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not in any way to be regarded as standard conditions or mandatory requirements:

- (a) suitable and sufficient risk-assessments. Some applicants may wish to consider a commitment in their operating schedule to providing the relevant authorities with a full risk assessment prior to the commencement of licensable activities (this may be particular relevant to large temporary outdoor events).
- (b) effective and responsible management of premises
- (c) provision of a sufficient number of people employed or engaged to secure the safety of the premises and patrons/staff
- (d) appropriate instruction, training and supervision of those employed or engaged to secure the safety of the premises and patrons
- (e) adoption of best practice guidance and other voluntary codes of practice (Note: Applicants may wish to contact the local Health & Safety Officers or HSE for advice)
- (f) provision and use of effective CCTV in and around premises
- (g) provision of toughened or plastic/polycarbonate glasses and polyethylene (PET) bottles
- (h) implementation of crowd management measures

- (i) monitoring arrangements such as door staff, ticketing, attendance clickers or maintenance of attendance records
- (j) regular/periodic review and testing (and certification where appropriate) of procedures, appliances, systems etc pertinent to safety

14.4 Prevention of Public Nuisance

14.4.1 Licensed premises can have significant potential to impact adversely on persons in the vicinity through public nuisances that arise from their operation.

14.4.2 The Licensing Authority interprets 'public nuisance' in its widest sense, and takes it to include such issues as noise, light, odour, litter and anti-social behaviour, where these matters impact on those living, working or otherwise engaged in normal activity in the **locality** of a licensed premises.

14.4.3 The Licensing Authority encourages applicants and licensees to conduct a risk assessment prior to completion of their operating schedule to ensure that relevant factors within their control which impact on public nuisance have been considered and identified.

14.4.4 The Licensing Authority recommends that licensees apply a high standard of control to minimise the potential for any public nuisance that may arise from their operation of the premises, particularly where:

- they are situated in a residential or noise sensitive area;
- **events include amplified outdoor music or speech;** or
- extended opening hours are proposed.

14.4.5 When addressing the issue of prevention of public nuisance in their operating schedule, the applicant may identify steps to show that those factors that impact on the prevention of public nuisance objective have been considered. These may include, but are not limited to:

- the location of premises and proximity to residential and other noise sensitive premises, such as hospitals, care homes, hospices and places of worship
- the hours of operation, particularly between 23.00hrs and 07.00hrs
- the nature of activities to be provided, including whether those activities are of a temporary or permanent nature and whether they are to be held inside or outside
- the design and layout of premises and in particular the presence of noise limiting features
- the occupancy capacity of the premises
- the availability of public transport/taxi and private hire services
- 'wind down period' between the end of the licensable activities and closure of the premises
- last admission time

14.4.6 The following examples of control measures are given purely to assist applicants when preparing their operating schedules, having regard to their particular type of premises and/or activities. These are not exhaustive, and are not to be regarded in any way as standard conditions or mandatory requirements, but include:

- (a) effective and responsible management of premises
- (b) appropriate instruction, training and supervision of those employed or engaged to prevent incidents of public nuisance
- (c) control of operating hours for all or parts (such as garden, patio and terraced areas) of premises, including such matters as deliveries. **This may include an earlier cessation timing, or a frequency control, for outdoor activities.**

- (d) impact on neighbours due to customers opening doors/going outside **or congregating** to observe smokefree regulations
- (e) **preparing a noise management plan**, adoption of best practice guidance and other industry codes of practice. The local Environmental Protection Officer may be able to offer some helpful advice in this respect.
- (f) installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- (g) management of people, including staff, and traffic (and resulting queues) arriving and leaving premises, including a dispersal policy
- (h) liaison with public transport/taxi and private hire service providers
- (i) siting of external lighting, including security lighting. The local Environmental Protection Officer may assist in ensuring any external lighting minimises the potential for light pollution nuisance.
- (j) management arrangements for collection and disposal of litter
- (k) effective ventilation systems to prevent nuisance from odour **or noxious smells**
- (l) demarcation, capacity control, supervision and monitoring of areas immediately in the vicinity of the premises, used by smokers.
- (m) making available a clear point of contact for responding promptly to nuisance complaints**

14.4.7 Please note that applicants should consider contacting the local Planning Authority for advice on whether any proposed installation of lighting, ventilation, soundproofing, smoking shelter or other works require planning approval from the Planning Authority. This may be particularly relevant where premises are a listed building.

14.5 Protection of Children from Harm

14.5.1 The Licensing Authority, once its discretion is engaged concerning an application, shall not seek to limit the access of children to any premises unless it is necessary for the prevention of their physical, moral or psychological harm. Consideration shall be given to the individual merits of each application.

14.5.2 Whilst the Licensing Authority cannot anticipate every possible issue of concern that could arise in respect of children in relation to individual premises, areas that will give rise to particular concern in respect of children would include premises:

- Where entertainment or services of an adult or sexual nature are provided (whether permanently or occasionally);
- Where there have been convictions of members of the current staff at the premises for selling alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises (but not for example the simple presence of a small number of cash prize gaming machines); and
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

14.5.3 Whilst it is not possible for the Licensing Authority to give an exhaustive list of what amounts to **relevant** entertainment or services of an adult or sexual nature, examples would generally include topless bar staff, striptease, lap-dancing, table-dancing, pole-dancing, performances involving feigned violence or horrific incidents, feigned or actual sexual acts or fetishism, or entertainment involving strong and offensive language. It should be noted that premises deemed as 'sexual entertainment venues' under the Policing and Crime Act 2009 are also likely to require an additional licence under the Local Government (Miscellaneous Provisions) Act 1982.

- 14.5.4 The 2003 Act made it an offence to permit children under the age of 16 who are not accompanied by an adult to be present on premises being used exclusively or primarily for supply of alcohol for consumption on those premises under the authorisation of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Event Notice (TEN). 'Exclusively or primarily' in relation to the consumption of alcohol will bear their ordinary and natural meaning in the context of the particular circumstances.
- 14.5.5 In addition, it is an offence to permit the presence of children under 16 who are not accompanied by an adult between midnight and 5am at other premises supplying alcohol for consumption on the premises under the authority of a premises licence, club premises certificate or where that activity is carried on under the authority of a Temporary Event Notice (TEN).
- 14.5.6 The Licensing Authority considers that, subject only to the provisions of the 2003 Act and unless restriction of access is necessary to protect children from harm, this is a matter for the discretion of the licensee.
- 14.5.7 The Licensing Authority shall not seek to impose any condition on any licence or certificate requiring the admission of children.
- 14.5.8 Applicants are strongly encouraged to demonstrate in their operating schedule that they have considered and identified any suitable and sufficient measures relevant to the style, character and activities of their individual premises to protect children from harm.
- 14.5.9 Where it is necessary for promotion of the protection of children from harm licensing objective, there are a range of alternatives which may be considered for limiting the access of children. These could include:
- (a) Limitations on the hours when children may be present;
 - (b) Limitations excluding the presence of children under certain ages when particular activities are taking place;
 - (c) Limitations on the parts of premises to which children might be given access;
 - (d) Age limitations (below 18);
 - (e) Requirements for accompanying adults; and
 - (f) Full exclusion from those under 18 from the premises when any licensable activities are taking place.
- 14.5.10 The following examples of possible control measures are given purely to assist applicants with preparing their operating schedules, having regard to their particular type of premises and activities. These examples are not exhaustive, and are not in any way to be treated as standard conditions or mandatory requirements, but include:
- (a) provision of a sufficient number of people employed or engaged to secure the protection of children from harm
 - (b) appropriate instruction, training, supervision and background checks of those employed or engaged to secure the protection of children from harm
 - (c) adoption of best practice guidance (for example Public Places Charter)
 - (d) limitations on the hours when children may be present in all or parts of the premises
 - (e) the presence of an adequate number of adult staff to control the access and egress of children and to protect them from harm whilst on the premises
 - (f) an adequate number of adult staff to be responsible for the child performers. [Disclosure and Barring Service \(DBS\)](#) checks on such adult staff may be appropriate.
 - (g) use of accredited 'proof of age' schemes (for example Challenge 21 or Challenge 25) where it is intended to operate more stringent measures than those contained within mandatory conditions (see [section 10](#) of this document)
 - (h) [Lost children arrangements \(for larger outdoor events\)](#)
 - (i) [Regular safety checks and signage in relation to children's play equipment](#)

- 14.5.11 Where film exhibitions are authorised at a premises, the licence shall include a mandatory condition (section 20 of the Act) requiring that children are restricted from viewing age-restricted films in accordance with the British Board of Film Classification (BBFC), or in accordance with any recommendation made by the Licensing Authority.
- 14.5.12 The Licensing Authority recognise the British Board of Film Classification (BBFC), or any successor person or persons designated as the authority under section 4 of the Video Recordings Act 1984, as the relevant film classification body for these purposes.
- 14.5.13 Where an application is being made for a films activity, it is recommended that the applicant consider in their operating schedule how they will protect children from harm - for example a commitment to prohibiting or restricting the access of children to any film showing, or part thereof, that could give rise to concerns in protecting them from moral, psychological or physical harm.

For a non-BBFC rated film showing (for example the showing of a recorded television broadcast) the Licensing Authority may set an age restriction on the admission of children to that viewing.

The Licensing Authority seeks to work in partnership with licence holders in promotion of the licensing objectives, and Premises Licence/Club Premises Certificate holders may contact the Licensing Authority for guidance if they are planning to show a film that is not BBFC rated and may not be suitable for the presence of children. Where the Licensing Authority is minded to make any recommendation on a non-BBFC rated film showing it will do so in writing to the licence or certificate holder.

- 14.5.14 The Licensing Authority recognises the Suffolk Safeguarding Children Board (~~SSCB~~), ~~who have nominated their duties to the Suffolk Constabulary Child Protection Teams~~, as being competent to advise on matters relating to the protection of children from harm. Their contact details are www.suffolkscb.org.uk
- 14.5.15 Suffolk County Council Trading Standards and Suffolk Constabulary may, in **collaboration** with other appropriate agencies, conduct test purchases to check the compliance of retailers with the prohibition on underage sales of alcohol.

15. Personal Licences

(Subject to Regulations issued under s.117 and s.133 of the Act)

- 15.1 The Licensing Authority will grant a personal licence if the applicant has met the requirements set out in the Act and no objections are received.
- 15.2 Where an applicant is found to have an unspent conviction for a relevant offence or a foreign offence, and the Police object to the application on crime prevention grounds, the application will normally be referred to a Sub-Committee of the Licensing Committee.
- 15.3 Any hearing will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.
- 15.4 All personal licence holders should ensure they are aware of the offences relating to personal licences, for example the duty of the holder to advise the Court of the existence of their personal licence if charged with a relevant offence and to advise the Licensing Authority of changes to name or address.

15.5 In accordance with the Guidance issued under section 182 of the Licensing Act 2003, the Licensing Authority recommends that personal licence holders (and DPSs/authorised community premises management committees) overtly authorise individuals in writing to sell alcohol under the authority of their personal licence/duty where the personal licence holder or DPS/management committee is unable to authorise the transaction(s) in person.

16. Applications for Premises Licences

(Subject to Regulations issued under s.17, s.54 and s.55 of the Act)

16.1 **Central government** provides a written guide to making an application, and this is available free of charge by contacting the Licensing Team or visiting the government website at www.gov.uk. Local information, such as contact details for responsible authorities and other resources, is available on the Council website at www.babergh.gov.uk or by contacting the Licensing Team.

16.2 The Licensing Authority will make available examples and optional guidance purely to assist licence applicants and holders. Nothing produced for this purpose will be considered as required or mandatory. The Council's on-line licensing register is also a useful self-help resource for prospective licence applicants.

~~16.3 The Licensing Act 2003 provides for a mediation process between parties. Where it is appropriate for the Licensing Authority to do so, following a relevant representation being made, the Authority shall make all reasonable efforts to facilitate mediation. In doing so the Licensing Authority will be mindful of the legislative framework and any relevant government guidance. It may also extend the normal time limits for hearings where it is considered in the public interest to do so (for example where all parties are on the point of reaching agreement, or so as to ensure that it is possible for a party to attend the hearing).~~

16.3 An application can be made to the Licensing Authority for any place within its area to be used for licensable activities or recognised club activities. The application requirements are prescribed by regulation and will normally include:

- a) the required fee;
- b) an operating schedule;
- c) plan of the premises, in accordance with regulatory requirements; and
- d) if it is intended that the premises be authorised to sell alcohol, a form of consent given by the person the applicant wishes to have specified in the Premises Licence as the Designated Premises Supervisor (DPS), or else request to disapply this usual requirement if for an eligible 'community premises'.

16.5 The Operating Schedule will include a statement of:

- a) the relevant licensable activities, including a description of the style and character of the business and activities to be conducted on the premises;
- b) the times during which the applicant proposes that the relevant licensable activities are to take place;
- c) any other times during which the applicant proposes that the premises are to be open to the public;
- d) where the applicant wishes the licence to have effect for a limited period, that period;
- e) where the relevant licensable activities include the sale by retail of alcohol, the name and address of the individual whom the applicant wishes to have specified as the Designated Premises Supervisor and a consent form signed by that person including details of their personal licence (or else a 'community premises' disapplication request may be applicable);
- f) where the relevant licensable activities include the sale by retail of alcohol, whether such sales are proposed to be for consumption on the premises or off the premises, or both;
- g) the steps which the applicant proposes to take to promote the licensing objectives; and

h) any other prescribed matters.

16.6 Where relevant representations are received about an application, and those representations are not withdrawn, the application will normally be referred to a Sub-Committee of the Licensing Act 2003 Committee, which will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

16.7 Where a premises licence application is being applied for to authorise a large scale outdoor event of a temporary nature (for example a music concert, street fair, show or carnival) the Licensing Authority strongly recommends that applicants contact the responsible authorities, **and any local Safety Advisory Group network**, as soon as possible in advance of making their application in order to seek expert advice and guidance on formulation of their operating schedule to ensure that the event runs safely and with a view to promoting the four licensing objectives.

17. Club Premises Certificates

(Subject to Regulations issued under s.71, s.91 and s.92 of the Act):

17.1 Paragraphs 16.1 to 16.3 above apply

17.2. The application requirements for a Club Premises Certificate are set by regulation and will normally include provision of:

- a) the relevant fee;
- b) the Club Operating Schedule;
- c) a plan of the premises in accordance with regulatory requirements;
- d) a copy of the rules of the Club; and
- e) details to verify that the Club is a qualifying Club

17.3 The Club Operating Schedule will contain the following information:

- a) details of the recognised Club activities to which the application relates;
- b) the times during which it is proposed the recognised Club activities take place;
- c) any other times during which it is proposed the premises are open to members and their guests;
- d) the steps which it is proposed to take to promote the licensing objectives; and
- e) any other prescribed matters.

17.4. Where relevant representations are received in respect of an application, and those representations are not withdrawn, the application will normally be referred to a Sub-Committee of the Licensing Committee, and the hearing will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

18. Temporary Events Notices (TENS)

18.1 The Act sets out the terms and conditions under which an application for a TEN may be made. **Standard** TENS must be applied for a minimum of 10 working days prior to the first day of the event, and the Licensing Authority recommend that wherever possible notice-givers submit their TEN a minimum of 28 days prior to the commencement of the event. Should any statutory modifications be made to the TENS system, for example relating to service requirements, then the Licensing Authority shall have due regard to these and publicise any such changes including via its website at **www.babergh.gov.uk**

- 18.2 Where a TEN is given and one or more of the relevant statutory limits are exceeded, the Licensing Authority will serve a Counter-Notice on the notice giver in accordance with section 107 of the Licensing Act 2003 to prevent the licensable activities from going ahead. There is no provision under the Act to appeal against the issue of a Counter-Notice.
- 18.3 Where a TEN complies with the statutory requirements, and the Chief Officer of Police or Environmental Health Officer has not submitted an objection notice to the Licensing Authority within the prescribed time, the Licensing Authority shall record the notice in its licensing register and send an authorised copy of the Notice to the premises user. The event may then proceed in accordance with the submission within the Temporary Event Notice.
- 18.4 Where the Chief Officer of Police or Environmental Health Officer has issued an objection notice, the Licensing Authority will normally consider this at a hearing (unless the objection notice is withdrawn before the hearing date). The hearing will be confined to consideration of the licensing objectives and will be held in accordance with the procedure outlined in section 9 above.
- 18.5 The Licensing Authority will notify the applicant of its decision at least 24 hours before the beginning of the event period specified in the temporary event notice.

19. Provisional Statements

(Subject to Regulations issued under s.29 and s.30 of the Act)

- 19.1. The Act sets out the terms and conditions under which an application for a provisional statement may be made.
- 19.2 Where a Provisional Statement has been issued and a person subsequently applies for a Premises Licence in respect of the premises in accordance with the provisions of the Licensing Act, and:
- (a) Given the information in the application for a Provisional Statement the person objecting could have made the same, or substantially the same, representations about the application but failed to do so without reasonable excuse; and,
 - (b) There has been no material change in circumstances relating either to the relevant premises or to the area in the vicinity of those premises.

representations made by that person to the Licensing Authority cannot be taken into account.

20. Variations of Licences

(Subject to Regulations issued under s.34, s.37 and s.84 of the Act)

- 20.1 Where a premises licence holder wishes to amend the licence the Act allows, in most cases, for an application to be made to vary the licence rather than requiring an application to be made for a new licence. It should be noted that 'substantial variations' may not be applied for using the variation procedures prescribed by section 34 of the Act, instead substantial changes, for example an amendment to the duration of the licence or transfer of the licence from one premises to another, will require a new application under section 17 of the Act. In the case of a change of name or address of someone named in the licence (section 33) or application to vary the individual specified in the licence as DPS (section 37) there are simplified processes for making such applications.

- 20.2 The Legislative Reform (Supervision of Alcohol Sales in Church and Village Halls etc.) Order 2009 (SI 2009/1724) **amended** the 2003 Act to allow certain ‘community premises’ which have, or are applying for, a premises licence that authorises alcohol sales to also apply to include the alternative licence condition in sections 25A(2) and 41D(3) of the 2003 Act in the licence instead of the usual mandatory conditions in sections 19(2) and 19(3) of the 2003 Act. These **new** provisions took effect from 29 July 2009.
- 20.2 The Act and Guidance set out the terms, conditions and considerations under which an application for a minor variation, or request from the management of ‘community premises’ to disapply the usual mandatory conditions, may be made. Minor variation processes may be applied for in some circumstances, subject to some specific exclusions, to reduce the normal service, advertising and consultation requirements (and associated financial impacts in cost and time).
- 20.3 The minor variation process is intended for some small variations to licences/certificates that will not adversely impact on promotion of the licensing objectives (for example small variations to layout or some minor alterations to activities, timing or conditions). In each case the Licensing Authority will consult the relevant Responsible Authorities and make a decision on whether the variation could impact adversely on the licensing objectives. This process also makes a more limited provision for ‘**other persons**’ to make comment on the proposals. In determining these applications, under his/her delegated authority on behalf of the Licensing Authority, the Licensing Officer shall carefully assess each application on a case-by-case basis in the light of government guidance and all relevant factors. The licence/certificate holder may wish to seek advice from responsible authorities, in advance of submitting an application, as to whether the licensing objectives are likely to be affected by the proposals.
- 20.4 If relevant representations are made and not withdrawn the Licensing Authority will normally hold a hearing, unless a minor variation, will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy, and at that hearing the Licensing Authority may:
- a) Grant the application as applied for, subject only to any conditions consistent with the operating schedule and any relevant mandatory conditions;
 - b) Modify the conditions (either by means of omission, inclusion or amendment) of the licence; or
 - c) Reject the application in whole or in part.
- 20.5 The Licensing Authority may determine a licence so that different conditions may apply to:
- a) different parts of the premises concerned; and
 - b) different licensable activities,
- where to do so would be considered **appropriate** and proportionate for promotion of the licensing objectives.
- 20.6 Where the police submit an objection to an application to vary a Designated Premises Supervisor (DPS), or from a community premises to disapply the usual mandatory conditions, because they consider that the circumstances are such that granting it would undermine the crime and disorder objective then a hearing will normally be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy.

21. Transfer of Premises Licences (Subject to Regulations issued under s.42 of the Act)

- 21.1. Where an application is lawfully made under the Act for the transfer of a licence and the Police submit an objection to the application, the Licensing Authority will normally hold a hearing in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy. This hearing will be confined to consideration of the crime and disorder objective and the application may be rejected where the Licensing Authority considers it **appropriate** for the promotion of the crime prevention objective to do so.

22. Reviews

(Subject to Regulations issued under s.51, s.87 and s.167 of the Act):

- 22.1 The review of a premises licence or club premises certificate is a key protection for local communities where problems associated with one or more of the licensing objectives are occurring and these are **causally** linked to the operation of licensed premises.
- 22.2 Where relevant representations are made about an existing licence or certificate the Licensing Authority will normally hold a hearing which will be held in accordance with the procedure referred to in section 9 of this Statement of Licensing Policy to consider them unless:
- a) the representation is considered frivolous, vexatious or to be repetitious (that is, identical or substantially similar to a ground specified in an earlier application for a licence, provisional statement or review)
 - ~~b) All parties to the hearing, including those persons making representations, agree that the hearing is not necessary.~~
- 22.3 A review of the premises licence will normally also follow:
- ~~a) any action instigated by the Police to close down the premises for up to 24 hours on grounds of disorder or public nuisance;~~
 - (a) summary review powers of the Police pursuant to section 21 of the Violent Crime Reduction Act 2006 (regarding serious crime and disorder) ; or
 - (b) any exercise of the closure order powers available to the magistrates' court.
- 22.4 In determining a review application at a hearing, the Licensing Authority may take such steps as it considers necessary to promote the licensing objectives, which include:
- a) modifying the conditions of the licence (by inclusion, amendment or omission);
 - b) excluding a licensable activity from the scope of a licence;
 - c) removing a designated premises supervisor;
 - d) suspending the licence for a period not exceeding three months; or
 - e) revoking the licence.
- 22.5 Where the Police make application for summary review under section 53A of the Licensing Act 2003 the relevant licensing authority will normally consider whether it is necessary **(noting that this provision has not been amended to 'appropriate')** to take interim steps pending the determination of the review applied for. Such consideration may take place without the holder of the premises licence having been given an opportunity to make representations to the relevant licensing authority. The interim steps the relevant licensing authority must consider taking are -
- (a) the modification of the conditions of the premises licence;
 - (b) the exclusion of the sale of alcohol by retail from the scope of the licence;
 - (c) the removal of the designated premises supervisor from the licence; and
 - (d) the suspension of the licence.

Should a summary review be instigated, the Licensing Authority shall follow the procedures as set out in the Licensing Act 2003 (Summary Review of Premises Licences) Regulations 2007.

- 22.6 Applications may also be made for the review of licences which are held by a management committee in respect of community premises, and which include the alternative licence condition instead of the normal mandatory conditions. In relation to such applications, the licensing authority may determine that the normal mandatory conditions should apply instead of the alternative condition if it considers this to be necessary for the promotion of the licensing objectives. Such a determination may be reached following the usual procedure for review applications set out in sections 51 to 53 of the Act.
- 22.7 The outcome of a review hearing will not ordinarily have effect until such time as the period given for appealing (normally 21 days) expires or an appeal is disposed of. **For reviews following a closure order the Licensing Authority will consider its powers in the context of section 168 of the Licensing Act 2003.**

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RESPONSE FROM POLICE & CRIME COMMISSIONER

19 OCTOBER 2015

From: Scott, Vanessa [mailto:Vanessa.Scott@suffolk.pnn.police.uk]
Sent: 19 October 2015 17:04
To: Licensing Mailbox
Subject: Licensing Act 2003: Local Policy (2016-2021): Statement of Licensing Policy response from Tim Passmore

Thank you for the opportunity to respond to this consultation. Having read through the consultation our main observation is that we feel there is a real benefit in dialogue between agencies regarding licensing matters.

You mention at 3.5 that the licensing authority liaises closely with police/PCSOs and Community Safety/Locality officers to ensure that strategies take full account of any crime and disorder issues. We fully support this approach.

We feel it is imperative that partner agencies are engaged during application discussions and prior to licences being granted. In relation to using cumulative impact and EMROs effectively, then early discussions would be helpful.

Best wishes, Vanessa (On behalf of the PCC, Tim Passmore).

Vanessa Scott
Policy Officer
Office of the Police & Crime Commissioner
01473 782775
www.suffolk-pcc.gov.uk



RESPONSE FROM CORPORATE MANAGER (SAFER COMMUNITIES)

15 SEPTEMBER 2015

From: Peta Jones
Sent: 15 September 2015 16:43
To: Lee Carvell
Subject: Consultation re Licensing Act Statement of policy

Hi Lee,

Thank you for hosting the consultation workshop last week on the new legislation.

In the Licensing document I would particularly like to comment on section 14.7 Protection of Children from Harm.

This is a robust section of the policy containing good detail that make the requirements clear. For example section 14.7.9 suggests some very helpful and practical ways in which licensed premises can protect children and 14.7.10 again gives some excellent examples of ways in which operating schedules can be prepared to have due regard to the safety of children and young people.

Mid Suffolk and Babergh have a joint Safeguarding Children Policy which references this policy as being supportive of the safeguarding agenda.

Regards

Peta Jones

Corporate Manager – Safe Communities

Babergh and Mid Suffolk District Councils – Working Together

t: 01449 724642 or 07825112757

e: peta.jones@baberghmidsuffolk.gov.uk

w: www.babergh.gov.uk www.midsuffolk.gov.uk



APPENDIX C

BABERGH DISTRICT COUNCIL

CONSULTATION LIST FOR LICENSING ACT 2003 & GAMBLING ACT 2005 POLICY REVISIONS

1. All existing premises/club licence holders
2. Glemsford Library
3. Great Cornard Library
4. Hadleigh Library
5. Lavenham Library
6. Long Melford Library
7. Sudbury Library
8. The Institute of Entertainment and Arts
9. BECTU
10. ALMR
11. The Portman Group
12. NOCTIS
13. Arts Development UK
14. Federation of Licensed Victuallers Association
15. Independent Street Arts Network
16. Equity
17. UK Cinema Association
18. British Retail Consortium
19. British Board of Film Classification
20. Association of Town Centre Managers
21. Association of Convenience Stores
22. British Transport Police
23. Suffolk Trading Standards
24. Health and Safety Executive
25. Police and Crime Commissioner
26. Association of Licensed Multiple Retailers
27. British Beer and Pub Association
28. Campaign for Real Ale
29. British Institute of Innkeeping
30. Greene King Retailing Limited
31. Punch Taverns
32. J D Wetherspoon Plc
33. Admiral Taverns Ltd
34. Ormiston Sudbury Academy
35. Thomas Gainsborough School
36. Holbrook Academy
37. East Bergholt High School
38. Old Buckenham Hall
39. Hadleigh High School
40. Woolverstone Parish Council
41. Wherstead Parish Council
42. Whatfield Parish Council
43. Wenham Parva Parish Meeting
44. Wenham Magna Parish Meeting
45. Wattisham Parish Council
46. Thorpe Morieux Parish Council
47. Tattingstone Parish Council

48. Sudbury Town Council
49. Stutton Parish Council
50. Stratford St Mary Parish Council
51. Stanstead Parish Council
52. Sproughton Parish Council
53. Shotley Parish Council
54. Shelley Parish Council
55. Semer Parish Council
56. Preston St Mary Parish Council
57. Pinewood Parish Council
58. Nedging -with-Naughton Parish Council
59. Milden Parish Meeting
60. Long Melford Parish Council
61. Mrs Vicky Waples (Lindsey & Monks Eleigh)
62. Mrs D Hattrell (Boxford, Leavenheath & Nayland-with-Wissington)
63. Mrs A Robinson (Edwardstone, Groton & Stoke By Naylnad)
64. Mr Dave Crimmin (Assington, Chilton, G Waldingfield, L Cornard, L Waldingfield, Newton & Polstead)
65. Mrs Samantha Barber (Burstall, Chattisham & Hintlesham and Belstead)
66. Mrs J Cryer (Layham & Raydon)
67. Lawshall Parish Council
68. Lavenham Parish Council
69. Kettlebaston Parish Council
70. Kersey Parish Council
71. Holton St Mary Parish Council
72. Holbrook Parish Council
73. Hitcham Parish Council
74. Higham Parish Meeting
75. Hartest Parish Council
76. Harkstead Parish Council
77. Hadleigh Town Council
78. Great Cornard Parish Council
79. Glemsford Parish Council
80. Freston Parish Council
81. Erwarton Parish Council
82. Elmsett Parish Council
83. East Bergholt Parish Council
84. Copdock and Washbrook Parish Council
85. Cockfield Parish Council
86. Chelsworth Parish Meeting
87. Chelmondiston Parish Council
88. Capel St Mary Parish Council
89. Bures St Mary Parish Council
90. Brettenham Parish Council
91. Brent Eleigh Parish Council
92. Brantham Parish Council
93. Boxted Parish Council
94. Bildeston Parish Council
95. Bentley Parish Council
96. Alpheton Parish Council
97. Aldham Parish Council
98. Acton Parish Council
99. H M Revenues and Customs
100. Suffolk Constabulary
101. Ali Spalding LSCB Manager

102. Gambling Commission
103. Planning Control Division
104. Environmental Health Department
105. Chief Officer of Police
106. Chief Fire Officer
107. National Stud
108. Mr B Deane
109. Inspired Gaming
110. Home Start (South Suffolk & District)
111. West Suffolk Crossroads
112. The National Casino Industry Forum
113. The Lotteries Council
114. Suffolk County Council
115. Suffolk Adult Safeguarding Board
116. Suffolk Safeguarding Children's Board
117. Society for Study of Gambling
118. Responsibility in Gambling Trust
119. Racecourse Association Ltd
120. National Youth Agency
121. National Association of Bookmakers Ltd
122. Narcotics Anonymous
123. Mencap Suffolk
124. Learning Disability Partnership Board
125. Independent Betting Adjudication Service
126. Horeserace Betting Levy Board
127. Greyhound Board of Britain
128. Gordon Moody Association
129. Gamestec Leisure Ltd
130. GamCare
131. Gamblers Anonymous
132. Essex Leisure
133. C L Jennings
134. Citizens Advice Bureau
135. Chilvers Automatics Ltd
136. Casino Operators Association UK
137. British Horseracing Authority
138. British Association of Leisure Parks,Piers & Attractions Ltd
139. Bingo Association
140. BACTA
141. Association of British Bookmakers Ltd
142. Alcoholics Anonymous
143. Age UK Suffolk
144. Age UK
145. Advertising Association
146. ADFAM Families Drugs and Alcohol
147. Sudbury & District Chamber of Commerce Bank Buildings, Station Road, Sudbury CO10 2SP
148. New Anglia Growth Hub, Felaw Maltings, 42 Felaw Street, Ipswich, Suffolk IP2 8SQ
149. jeanette.thurtle@fsb.org.uk
150. Poppleston Allen LLP
151. Coral (licence holder)

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LICENSING ACT 2003 'Statement of Licensing Policy' (2015 revision)

Summary of revisions and reasons

1. Introduction

- General update on national position/context
- Local context update - being greater integration and links of this policy with strategic priorities and other functions/projects etc. in particular a greater commitment to *balance* – encouraging growth, start-ups, diversification etc. but with appropriate controls and encouraging 'well managed' venues

2. The Babergh District

- The local scene has been updated – especially reference to increased events and noting their value towards the local economy
- The numbers of licence types etc. will be updated for the draft that goes back to committee after the consultation.
- Further clarity around mediation referenced here and later in the document. Mainly to be clearer to partners that it is the LA discretion whether and how mediation occurs (and this is time sensitive)

3. Generally (rest of document)

- Removal of 'in the vicinity' references due to law changes. We now talk about *locality* and those directly affected by licensed premises being an each on merit consideration
- Again, enhanced references to balancing the rights of all involved with an interest
- Greater links expressed to our corporate strategic priorities
- Stronger emphasis on collaboration and transparency
- Clarification about what is generally within the direct control of the licensee and their staff, and the need to demonstrate a 'causal link' to specific premises if problems in a particular locality
- Revisions consequential to regulatory reform around entertainment (de-regulatory)
- Updates to 'other legislation' especially updating around the Anti-social Behaviour, Crime and Policing Act 2014 which now overrides section 160/161 of the LA2003 in relation to closure orders, and gives the LA powers as well as the Police (and up to 48hr closure via a closure *notice* – used to be 24hr limit)
- References about 'necessary' to promote licensing objectives changed to 'appropriate' following legislative reform
- Strengthening corporate recognition of the positive effect of leisure businesses and events, and cultural activities, to the local economy and communities. This serves to also demonstrate to Applicants, communities and responsible authorities (RAs) the wider context in which the LA operates.
- Strengthening the links to Economic Development (better intelligence sharing, local skills, business engagement and relationship management etc.)

- Clarification around planning relationship and a commitment to join-up better, where viable
- Added reference to Early Morning Alcohol Restriction Orders (EMROs) – new area via legislative reform. Context in which we will evidence and consider. Unlikely to be used in our district due to limited NTE (same as for late night levy).
- Reference that representations about *new* premises may be speculative/probative and thus weighted accordingly. Also a reference to providing ‘supportive evidence’.
- ‘Interested party’ references updated to ‘other persons’ due to legislative reform
- Stronger references to scheme of delegation (to future-proof and aid any challenges via the courts)
- Much clearer reference to mediation process, to support our working with RAs including the Police. References to encourage pre-application discussions and also referencing to the delegation for the LA acting as RA (and that separate protocol exists for transparency/any challenge)
- Updated references regarding mandatory conditions – regulatory reform changes
- Various references to the optional guidance/self-help we provide so as to help reduce applicant’s costs and increase the quality of applications at the point we receive them (aiding our resources later, and demonstrating our ‘open for business’ approach). Also supports our work as an ‘active partner’ aiding compliance support and stepped approach methodology (including Regulators’ Code)
- Greater reference to onward rights of appeal and clarifying that we advise appeal rights in writing with decisions taken
- Enforcement section has been updated in consultation with the Corporate Manager – Environmental Protection. This references our corporate enforcement policy and Regulators’ Code. This update is important to identify to partner agencies the LAs expectations and clarifies key issues that may arise when working with other enforcing authorities including Police and Trading Standards.
- Clarity around the section 168 differences applying to review decisions following closure order (i.e. they can take immediate effect when usually stayed by appeal process)
- We have updated all control suggestions so as greater clarity, and consistency, for applicants about the LA’s expectations. Also this serves to inform other RAs including Police, and enhances the (statutory) Statement of Policy as a reference point for all stakeholders.
- Update regarding Suffolk Safeguarding Children Board being recognised by the LA as the ‘competent body’ for local child protection issues
- Reference to engaging with the Safety Advisory Group (SAG) for larger scale public outdoor events, where the scheme is operational
- Updated reference to TENs being open to EHO consultation not just Police, and promoting early application. We are deliberately not referencing the ‘late’ TENs process as that is risky for the applicant and should be an ‘emergency’ provision only, not normal practice

Corporate Manager – Licensing
August 2015

BABERGH DISTRICT COUNCIL and MID SUFFOLK DISTRICT COUNCIL

From: Corporate Manager - Licensing	Report Number: R78
To: MSDC Licensing Act 2003 Committee BDC Licensing Act 2003 Committee	Date of meeting: 4 December 2015 11 December 2015

GAMBLING ACT 2005 – STATEMENT OF PRINCIPLES STATUTORY THREE-YEARLY REVISION

1. Purpose of Report

- 1.1 To report back to the Licensing Act 2003 Committee the outcome of a full targeted and public consultation, which ran between 24 August 2015 and 19 October 2015, in respect of the above statutory policy revision relating to Gambling Act 2005 functions.
- 1.2 Since January 2007 local licensing authorities have been responsible for functions under the Gambling Act 2005, including issuing of licences and permits for gambling/gaming premises and associated matters.
- 1.3 Section 349 of the 2005 Act requires each licensing authority to prepare and publish a statement of the higher level principles it will apply when dispensing its various gambling functions. The 'Statement of Principles' must by law be reviewed and re-published every three years and sooner if so required. In 2015 the Authority revisited the statement which has been in effect since January 2013. This report seeks the approval by the Licensing Act 2003 Committee of the revised principles statement, now attached as Appendix A, for recommendation on to full Council so that it may be adopted for publication and ready to take effect from 31 January 2016.

2. Recommendations to Licensing Act 2003 Committee and Council

- 2.1 That the post-consultation draft 'Statement of Principles' in respect of Gambling Act 2005 functions, as attached at Appendix A, be approved.
- 2.2 That the draft 'Statement of Principles' referred to in paragraph 2.1 of this report be adopted, for publication and to take effect for three years (unless sooner revised) from 31 January 2016.

The Committee is able to resolve 2.1 above, and is asked to make a recommendation to Council on 2.2 above.

3. Financial Implications

- 3.1 This is a statutory function. The Licensing Team has to date undertaken the necessary preparatory and consultation work within existing resources and by working collaboratively, wherever viable.

3.2 Mid Suffolk and Babergh Councils have the same application fee structure in place – being the maxima permissible under the Gambling Act 2005 fee regulations. These fee levels were re-adopted by the Licensing Act 2003 Committee for each Council on 7 August 2015 (MSDC) and 14 August 2015 (BDC) respectively, under the authority delegated to those Committees by the Councils.

3.3 Periodic fee reviews should take place to ensure that as far as possible fee income meets the cost to the Licensing Authority of administering and maintaining the functions, and minimise burden on local taxpayers. Whilst compliance and inspections can be recovered in the fee scheme, enforcement activity should be met from general funding and costs incurred in that regard (such as prosecuting of unlicensed operators) may be recoverable via the courts. It should be noted that the Councils also have a limited base of gambling authorisations and activity upon which to apportion some of the cost elements.

4. Legal Implications

4.1 Please refer to the information in section 5 below.

5. Risk Management

5.1 Failure to review, revise and re-consult upon the policy will result in legal challenge to Council decisions under the 2005 Act (including potentially by judicial review).

5.2 The risks that inherently apply to the Licensing Authority when carrying out its Gambling Act 2005 functions relate to promotion of the gambling licensing objectives, which are:

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

6. Consultations

6.1 This will be the fourth edition of the Council's 'Statement of Principles' under the Gambling Act 2005. The Licensing Team has the necessary experience, stakeholder contacts and networking in place to ensure that a wide and balanced consultation has taken place. The consultation took place over a period of eight weeks, through various channels/media.

6.2 Adoption of the Gambling Act 2005 'Statement of Principles' is a function reserved for full Council at both Authorities.

7. Equality Analysis

7.1 There are no equality implications arising directly from this report. This is a statutory revision to an existing policy. The Council recognises its obligations under the Equality Act 2010, in the exercise of its licensing functions, and has had due regard to any comments received during the policy consultation on equality issues.

8. Shared services / partnership implications

- 8.1 The 'Statement of Principles' document has been developed to be consistent across both Babergh and Mid Suffolk District Councils (subject to councillor approval at each authority). There are similar amounts of licensable activity and type across both districts. This development work has also involved working as part of the wider Suffolk Licensing Officers Group (which includes the Regional Inspector from the Gambling Commission).
- 8.2 Partner agencies have been pro-actively consulted on the proposed revisions, and have influenced the previous and proposed content. The Licensing Team works collaboratively with other Suffolk Licensing Authorities to ensure consistency of approach and avoid duplication of efforts across the County. Albeit there will be some minor local variations based on specific local circumstances, licensable activity and individual consultation responses, the common template should ensure that there is generally little variance between neighbouring authorities approach in the dispensation of functions under the Act.

9. Links to Strategic Joint Plan

- 9.1 This policy work and the statutory licensing objectives, link to strategic priorities including encouraging self-sufficient, safe and active communities, supporting local businesses to thrive and grow, coordinating our approach to regulation with Suffolk County Council (and other partners) to minimise the burdens on local business, and smaller, smarter and swifter delivery.

10. Key Information

- 10.1 The Licensing Committee established under section 6 of the Licensing Act 2003 is responsible for dealing with matters under the Gambling Act 2005. Some of these functions are delegated to a sub-committee or officers, but some functions may not be delegated. These exceptions are matters for full Council and include final approval of the three year 'Statement of Principles' document.
- 10.2 The 'Statement of Principles' must contain certain information as required by regulation. The statement must also have regard to guidance issued under section 25 of the Act by the Gambling Commission (a regulatory body independent of Central Government), and take into account the views expressed in any consultation responses from statutory consultees - including local communities and responsible authorities.
- 10.3 The redrafted statement, attached as Appendix A to this report, contains amendments (as highlighted) from the previous version published in 2013. Generally a licensing authority must when undertaking gambling licensing functions have regard to its own Statement of Principles and guidance issued by the Gambling Commission, as well as the licensing objectives and any codes of practice issued by the Gambling Commission.
- 10.4 The revised policy closer links the Council's gambling licensing functions to its wider strategic priorities, and it also intends to be more transparent about the Licensing Authority's expectations in relation to existing and new gambling businesses and operators in the district so as to greater balance growth and business diversification ('Open for Business') with appropriate controls to promote licensing objectives.

- 10.5 During the consultation, the draft document has been widely disseminated and open to input from across the organisation, including via drop-in workshop sessions held on 11 September 2015 (Needham) and 22 September 2015 (Hadleigh) - so that the Statement of Principles progresses to a more corporately referenced and accessible document. It has also been accessible to identified (and prescribed) stakeholders, the business community and general public.
- 10.6 The fourth statement, once approved and adopted, shall take effect for a three-year period from 31 January 2016 (although it may be revised sooner if necessary). It will then become a primary point of reference for councillors, officers, applicants and other responsible/interested parties.
- 10.7 The written responses received during the consultation period are attached at Appendix B. Any changes resulting from those responses are highlighted in Appendix A.

11. Appendices

Title	Location
A. Statement of Principles (2016-2019) - DRAFT	Attached
B. Consultation responses received	Attached
C. Consultee list (summary)	Attached
D. Summary of revisions and reasons	Attached

12. Background Documents

- 12.1 Gambling Act 2005
- 12.2 Guidance issued by the Gambling Commission under section 25 of the Gambling Act 2005

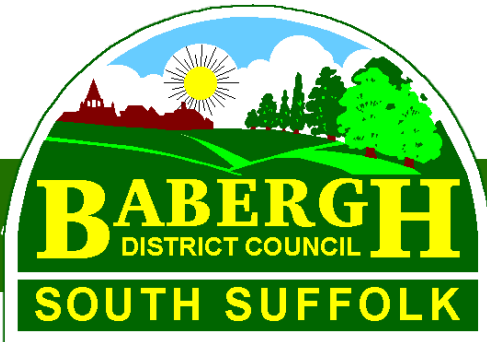
Authorship:

Lee Carvell
Corporate Manager - Licensing

01473 825719
licensing@babergh.gov.uk

ENVIRONMENT

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Babergh District Council

Gambling Act 2005 Statement of Principles

2015 REVISION – POST CONSULTATION DRAFT

RED = pre-consultation draft revisions
BLUE = post-consultation draft revisions

Adopted by Babergh District Council on XXXX

Effective: 31 January 2016 until 30 January 2019
(as may be revised)



Preface:

This '**Gambling Act 2005: Statement of Principles**' document has been drafted in partnership by the seven district and borough Licensing Authorities across Suffolk with an aim of creating a broadly consistent document for the benefit of all stakeholders and others with an interest in the Gambling Act 2005 functions.

Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies. This document is the third such statement for this Licensing Authority and must, by order of the Secretary of State, be published to take effect from **31 January 2016**.

This document has been developed with due regard to all available regulations, conditions, codes of practice, statutory guidance, practical experience of the legislation and any consultee responses. Should anything in future publications, legislative/regulatory changes or case law impact upon the content of this 'statement of principles' document, then it will be taken into account and the document may be updated at a later stage and with due consideration to the resource implications for the Licensing Authority.

All references made within this document to the Gambling Commission Guidance for Licensing Authorities, and any extracts quoted thereof, refer to the **fourth** edition Guidance document published in **February 2013**. **The Licensing Authority is aware of draft fifth edition Gambling Commission Guidance in the preparation of this document, but this had not been published in a final approved form within the preparation time for the Authority's statutory statement of principles revision. For further reference please see paragraph 2.6 of this statement of principles document.**

For further information please refer to:

www.gamblingcommission.gov.uk
www.gov.uk
www.babergh.gov.uk

Babergh District Council's website has an on-line public register, accessible 24 hours a day 7 days a week, for all Gambling Act 2005 matters for which it has responsibility. The Gambling Commission website gives details of both licensed and pending Gambling Operators.

**GAMBLING ACT 2005: STATEMENT OF PRINCIPLES
(FOURTH EDITION)**

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PART A: GENERAL MATTERS

1. The Licensing Objectives

- 1.1 In exercising most of its functions under the Gambling Act 2005, the Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005 ('the 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.**

The Gambling Commission has stated that, with limited exceptions, the intention of the Gambling Act 2005 is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments. The objective refers to protecting children from being 'harmed or exploited' by gambling. This means preventing them from taking part in gambling activities, except limited authorised activities (see schedule D), and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children (excepting category D machines).

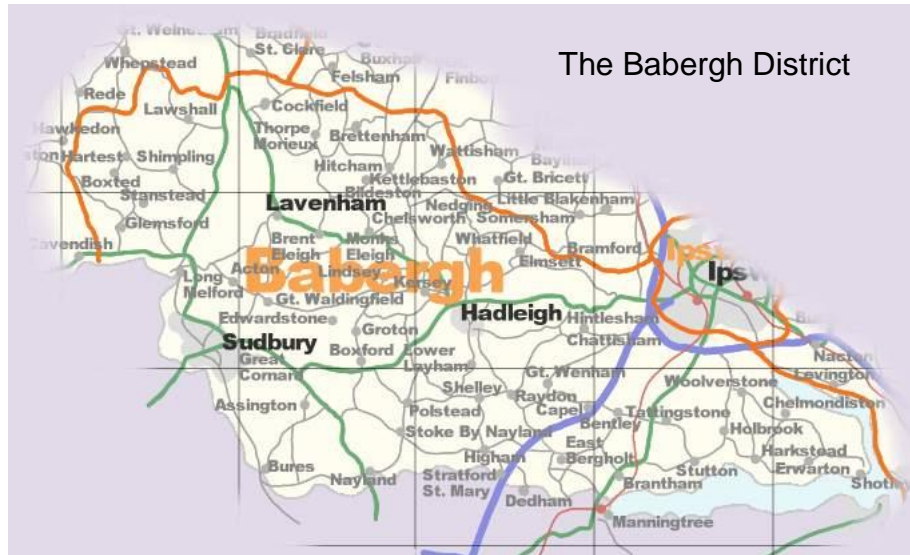
- 1.2 In accordance with section 153 of the Act, in making decisions about premises licences and temporary use notices the Licensing Authority should **aim to permit** the use of the premises for gambling purposes in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the Authority's statement of principles.

2. Introduction

- 2.1 Babergh District Council is situated in the County of Suffolk, which at the time this document was published, contains seven District / Borough Councils in total.

Whilst the Babergh District remains very rural, it is within close and convenient distance of London and the Continent. The District has a population of approximately 87,000. It covers an area of 230 square miles and contains several small towns and villages which still retain much of their original outstanding character and appearance, including the nationally recognised villages of Lavenham and Long Melford.

The largest town in Babergh is Sudbury which combined with its neighbouring village of Great Cornard has a population of approximately 20,500. The other market town of Hadleigh has a population of approximately 8,500. Ipswich (10 miles from Hadleigh) is now spilling over into the District, and has a population in excess of 130,000 people. These areas are shown in the map below:



Ease of communications, the many seaside resorts along the east coast and picturesque towns, villages and countryside make South Suffolk a very popular place to live, work and to visit.

The main gambling activities noted in the district since implementation of the Gambling Act 2005 are licensed off-course betting, gaming in alcohol licensed premises and members clubs (in the form of gaming machines, exempt and prescribed gaming), non-commercial gaming, occasional use notices for point-to-point track betting and small society lottery registrations.

2.2 Licensing Authorities are required by the Act to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from time to time and any amended parts must be re-consulted upon. Following any amendment and consultation, the revised statement will then be re-published.

2.3 Babergh District Council consulted widely upon this statement of principles before it was finalised and published. The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; 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 Gambling Act 2005

A list of the persons consulted by the Licensing Authority is attached to this document as Schedule A.

The consultation took place between [24 August 2015](#) and [19 October 2015](#)

The full list of any comments made and the consideration by the Licensing Authority of those comments is available upon request by contacting:

Babergh District Council
Licensing Team, Corks Lane, Hadleigh, IPSWICH, Suffolk IP7 6SJ
(☎ Tel: 01473 822801) (✉ e-mail: licensing@babergh.gov.uk)
website: www.babergh.gov.uk

- 2.4 The statement of principles was approved at a meeting of the full Council of Babergh District Council on **XXXX** and was published on the Council website by **03 January 2016**. Copies were placed in the public libraries within the District as well as being available at the Babergh District Council Offices. Should you have any comments concerning this document then please send them via e-mail or letter to the Licensing Team as above.
- 2.5 It should be noted that this statement of principles document shall not override the rights 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.
- 2.6 **Where revisions are made to the legislation or Guidance issued by the Gambling Commission, there may be a period of time when the local statement of principles is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, Guidance and its own statement of principles.**

3. Declaration

- 3.1 In producing this statement of principles the Licensing Authority declares that it has had due regard to the licensing objectives of the Gambling Act 2005 (see 1.1 of this document), the guidance issued by the Gambling Commission, and any responses from those consulted on the statement of principles.

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 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.

- 4.2 In accordance with the Gambling Commission Guidance for Licensing Authorities this Authority intends to designate the **Suffolk Safeguarding Children Board** for this purpose. ~~However, the Suffolk Safeguarding Children Board has an arrangement with the Suffolk Constabulary for the Constabulary to act as their nominated agent in relation to Gambling Act 2005, when considering applications in the context of protecting children from harm.~~
- 4.3 The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Babergh District Council website at www.babergh.gov.uk or available upon request to the Licensing Team.

5. Interested parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. The Gambling Act defines interested parties as persons who:
- a) live sufficiently close to the premises to be likely to be affected by the authorised activities,
 - b) have business interests that might be affected by the authorised activities, or
 - c) represent persons who satisfy paragraph (a) or (b).
- 5.2 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. These principles are:
- Each case will be decided upon its merits.
 - The Licensing Authority will not apply a rigid rule to its decision making. It may have regard to a number of factors, for example:
 - (i) The size of the premises;
 - (ii) The nature of activities the applicant proposes to provide at the premises; and
 - (iii) Guidance from the Gambling Commission that 'business interests' should be given the widest possible interpretation (paragraph 6.25 of the guidance refers).
- 5.3 Interested parties can include persons who are democratically elected such as county, parish and town councillors and MPs. Other than these persons, the Licensing Authority will normally require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities.
- 5.4 If individuals approach Councillors to ask them to represent their views then care should be taken to ensure that the Councillors are not subsequently appointed as part of a Licensing Sub-Committee who may be involved with determination of the licence application. If any further guidance is required, generally or in individual cases, then please contact the Licensing Team at Babergh District Council.

6. Exchange of Information

- 6.1 This Licensing Authority will, when exchanging information it holds relating to gambling premises, permits, registrations and temporary permissions, apply the following principles:
- (a) act in accordance with the provisions of the Gambling Act 2005;
 - (b) comply with the Data Protection Act 1998;
 - (c) comply with any relevant requirements of the Freedom of Information Act 2000;
 - (d) have regard to Part 13 of the Guidance issued by the Gambling Commission on this matter and the Gambling Commission's publication '*Advice to Licensing Authorities on information exchange with the Gambling Commission*' (as may be periodically updated); and
 - (e) any relevant regulations issued by the Secretary of State under the powers provided by the Gambling Act 2005.
- 6.2 Should any protocols be established pursuant to section 350 of the Act concerning information exchange with the other bodies as listed in Schedule 6(1) of the Act then these will be made available by the Licensing Authority.

7. Enforcement

- 7.1 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission Guidance (in particular Part 36), the Regulators' ~~Compliance~~ Code and its own Corporate Enforcement Policy. The Authority shall endeavour to regulate in the public interest and be:
- **Proportionate:** regulators should only intervene when necessary and remedies should be appropriate to the risk posed, and costs identified and minimised;
 - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
 - **Consistent:** rules and standards must be joined up and implemented fairly;
 - **Transparent:** regulators should be open, and keep regulation simple and user friendly; and
 - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 7.3 In accordance with the Gambling Commission Guidance, the Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 Any inspection programme, which may be adopted by the Licensing Authority, shall be risk-based ~~and may be combined with other functions~~.

- 7.5 The enforcement and compliance role for the Licensing Authority under the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for Operator and Personal Licences. Manufacture, supply or repair of gaming machines is dealt with by the Gambling Commission and not the Licensing Authority.
- 7.6 This Licensing Authority will also endeavour to work in partnership with and support local businesses, having due regard to the stated principles and any best practice guidelines/codes published by the **Better Regulation Delivery Office**, in respect of its responsibilities under the Gambling Act 2005 and other regulatory functions of the Local Authority. **This includes that Regulators should:**
- carry out their activities in a way that supports those they regulate to comply and grow;
 - provide simple and straightforward ways to engage with those they regulate and hear their views;
 - base their regulatory activities on risk;
 - share information about compliance and risk;
 - ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
 - ensure that their approach to their regulatory activities is transparent.
- 7.7 With due regard to the principle of transparency, any enforcement/compliance protocols or written agreements developed by the Licensing Authority shall be made available upon request to the Licensing Team.
- 7.8 In considering applications, and taking enforcement action, under the Gambling Act 2005 the Licensing Authority shall duly consider any Human Rights Act 1998 implications (in particular Article 1, Protocol 1 and Articles 6, 8 and 10).

8. Licensing Authority functions

- 8.1 The Act gives Licensing Authorities a number of important regulatory functions in relation to gambling, the main functions of which are to:
- Licence premises for gambling activities;
 - Consider notices given for the temporary use of premises for gambling;
 - Grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
 - Regulate gaming and gaming machines in alcohol-licensed premises;
 - Grant permits to Family Entertainment Centres (FEC's) for the use of certain lower stake gaming machines;
 - Grant permits for prize gaming;
 - Consider occasional use notices for betting at tracks;
 - Register small societies' lotteries;
 - Consider applications for provisional statements;
 - Provide information to the Gambling Commission regarding details of licences, permits, notices and registrations issued (see section 6 above on 'Exchange of Information');
 - Maintain registers of the permits, notices and licences that are issued under these functions; and

- Prepare and publish, every three years (or sooner if required), a statement of the principles it proposes to apply when exercising its functions under the Gambling Act 2005.

Additions or amendments to the list above notified by the Gambling Commission will be published on the Council website.

- 8.2 The Babergh District Council summary of delegations adopted under the Gambling Act 2005 is available separately via the Council website at www.babergh.gov.uk or upon request direct to the Licensing Team.
- 8.3 It should be noted that local Licensing Authorities are not responsible for licensing remote gambling. This is the responsibility of the Gambling Commission.

9. Appeals

- 9.1 Appeals relating to premises licensing and other decisions by Licensing Authorities are covered within the relevant legislation and regulations and are referred to in Part 12 of the Gambling Commission guidance.

PART B: PREMISES LICENSING

1. General Principles

- 1.1 Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations. The Act provides that licences may be subject to conditions in a number of ways:
- (a) automatically, having been set out on the face of the Act ;
 - (b) through regulations made by the Secretary of State;
 - (c) by the Gambling Commission, to operating and personal licences;
 - (d) by the Licensing Authority, to premises licences and some permits; and
 - (e) by the Licensing Authority, by excluding certain default conditions on a premises licence.
- 1.2 When determining an application, this Licensing Authority **aims 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.

1.3 **Definition of 'Premises':**

'Premises' is defined by the Act as 'any place'. A particular premises can not be granted more than one premises licence under the Gambling Act at any one time. It is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being separate premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can be properly regarded as different premises.

1.4 The Licensing Authority takes particular note of the Gambling Commission Guidance which states that Licensing Authorities should take particular care when considering applications for more than one premises licence for a single building, and applications for a premises licence where part of the premises is used for non-gambling purposes. In particular the Licensing Authority will consider whether:

- entrances and exits from parts of a building covered by one or more licences are to be separate and identifiable so that the separation of different premises is not compromised and that people can not 'drift' into a gambling area;
- premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating; and
- customers are able to participate in the principal gambling activity authorised by the premises licence.

1.5 The Licensing Authority takes particular note of the Gambling Commission Guidance which states that Licensing Authorities should pay particular attention to applications where access to the licensed premises is through other premises - whether licensed or unlicensed. The Licensing Authority will consider whether:

- entrances and exits from parts of a building covered by one or more licences are to be separate and identifiable so that the separation of different premises is not compromised and that people cannot 'drift' into a gambling area;
- premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating;
- customers are able to participate in the principal gambling activity authorised by the premises licence;
- children can gain access to the premises;
- the two establishments are compatible;
- the proposed licence holder would be able to comply with the requirements of the Act, for example mandatory operating licence conditions; and
- Gambling Commission Guidance in relation to division, separation or splitting of premises and primary gambling activity (Part 7 of statutory guidance).

In addition an overriding consideration for the Licensing Authority is 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.

- 1.6 Where an application is made in respect of a premises to be constructed or altered the Licensing Authority will consider each application on its own merits having due regard to the advice given by the Gambling Commission in its Guidance (particularly sections 7.59 to 7.66). The Licensing Authority will consider whether:
- (a) a future effective date on the licence is appropriate; or
 - (b) the licence should be issued subject to a condition that trading shall not commence until the premises have been completed in all respects and in accordance with the scale plans provided with the application.

The Licensing Authority may require inspection of the completed works or written confirmation from the applicant, their agent or surveyor to satisfy the Authority that the completed works comply with the original, or changed, plan attached to the premises licence.

- 1.7 **Location:** Demand or need for licensed premises cannot be considered with regard to the location of premises. In accordance with the Gambling Commission Guidance, the Licensing Authority will pay particular attention to 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 concerning areas where gambling premises should not be located, this principles statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the possibility that the applicant can show how any concerns may be overcome.~~ The Licensing Authority will carefully consider applications for premises licences and whether there is a need for condition(s) to mitigate risks, in respect of certain kinds of gambling located very close to a school or a centre for gambling addicts, in light of the third licensing objective. Each case will be decided on its merits and will depend to a large extent on the type of gambling that is proposed for the premises. The requirement for conditions might be determined by the operator's own risk assessment or the local area profile carried out by the licensing authority.

- 1.8 **Duplication with other regulatory regimes:** The Licensing Authority seeks to avoid any duplication with other statutory / regulatory systems wherever possible, including planning, building control, health and safety and fire safety. Should it come to the attention of the Licensing Authority that planning conditions or other regulatory restrictions/controls may impact on a premises operator's ability to comply with mandatory or default conditions then it may alert the applicant accordingly. The grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building control.

- 1.9 **Licensing objectives:** Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission Guidance and provides some commentary below:

(1) 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 takes the leading role in preventing gambling from being a source of crime. Where a particular area is associated with criminal activity the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be appropriate, for example the provision of door supervisors. There is a distinction between disorder and nuisance and the Licensing Authority will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed when determining applications under the Gambling Act 2005. [The Licensing Authority shares the view expressed by the Gambling Commission in their guidance that in the context of gambling premises licences, licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance.](#)

(2) Ensuring that gambling is conducted in a fair and open way.

The Gambling Commission states in its Guidance that it would, with the exception of tracks, generally not expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this is addressed via Operator and Personal licensing requirements. If the Licensing Authority suspects that gambling is not being conducted in a fair and open way then this will be brought to the attention of the Gambling Commission for its further consideration.

(3) Protecting children and other vulnerable persons from being harmed or exploited by gambling:

The Gambling Commission has stated, with limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments. The objective refers to protecting children from being 'harmed or exploited' by gambling. This means preventing them from taking part in gambling activities except limited authorised activities (see schedule D), and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children (excepting category D machines).

The Licensing Authority will therefore consider, as suggested in the Gambling Commission Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include such matters as supervision of entrances/machines or segregation of areas and the Licensing Authority will also have due regard to any relevant Codes of Practice issued by the Gambling Commission concerning this licensing objective in relation to specific premises.

The Gambling Commission does not provide a definition for the term 'vulnerable persons' but states that for regulatory purposes assumes that this group includes people who:

- gamble more than they want to;
- gamble beyond their means; and
- may not be able to make informed or balanced decisions about gambling due to mental health needs alcohol or drugs.

The Licensing Authority will consider this licensing objective on a case by case basis.

1.10 **Conditions:**

Since the Licensing Authority must aim to permit the use of premises for gambling, it will not attach conditions which limit the use of the premises for gambling, except where that is necessary as a result of the requirement to act:

- in accordance with the Gambling Commission Guidance, the Commission's codes of practice or this Licensing Authority's Statement of Policy; or
- in a way that is reasonably consistent with the licensing objectives.

This Licensing Authority notes that conditions on premises licences should only relate to gambling, and it is not necessary, proportionate or appropriate to impose conditions on a premises licence where the Gambling Commission's Licence Conditions and Codes of Practice, or other legislation, places the same or similar duties, responsibilities or restrictions on an employer or the operator of gambling premises.

This Licensing Authority shares the view of the Gambling Commission that the mandatory and default conditions set by the Secretary of State will normally be adequate for the general good conduct of gambling premises. However, where there are specific, evidenced risks or problems associated with a particular locality, specific premises, or class of premises in its area then the Licensing Authority may be able to attach individual conditions to address this.

Any conditions attached by the Licensing Authority to a premises licence shall be:

- carefully considered in view of the matters mentioned above at 1.10;
- proportionate and directly related to the premises and the type of licence applied for;
- relevant to the need to make the proposed building suitable as a gambling facility;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Sections 169 to 172 of the Act set out certain matters that may not be the subject of Licensing Authority conditions, and these are set out below:

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

The Licensing Authority will have due regard to these matters when considering the need for conditions.

1.11 The Licensing Authority will also consider specific measures which may be required for buildings which are the subject of more than one premises licence. In considering these matters the Licensing Authority shall have due regard to:

- any mandatory or default conditions of licence,
- any relevant Codes of Practice (particularly social responsibility provisions linked to operator licences) issued by the Gambling Commission; and
- Gambling Commission Guidance.

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 specific non-adult gambling premises in order to promote the licensing objectives.

1.12 The Licensing Authority must be satisfied that where category C or above machines are available 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 may apply to premises including buildings where more than one premises licence is applicable.

1.13 'Tracks' may be subject to one, or more than one, premises licence provided each licence relates to a specified area of the track. In accordance with the Gambling Commission Guidance, the Licensing Authority will consider the impact upon the protection of children 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 In accordance with Gambling Commission Guidance, the Licensing Authority may consider whether door supervisors are appropriate in particular circumstances in order to:

- prevent premises from becoming a source of crime or disorder; or
- protect children and vulnerable persons from being harmed or exploited by gambling.

Should the Licensing Authority consider that door supervisors are necessary and appropriate in particular circumstances to ~~promote~~ address specific risks regarding the licensing objectives for ~~a specific an individual~~ premises, it will normally expect that any person employed as a door supervisor at that premises will either:

- meet the minimum requirements necessary for that individual to be licensed by the Security Industry Authority (SIA) in normal circumstances (accepting that there is a specific exemption from the licensing of door supervisors by the SIA for in-house staff of casino and bingo premises); or
- the holder of the operator licence will have recruitment criteria for their door supervisors, which may specify:
 - (a) a minimum training standard (whether within the organisation, or a nationally accredited training course); and
 - (b) an assessment of whether that individual is fit and proper, for example by means of a subject access search, Criminal Records Bureau (CRB) disclosure or other means.

1.15 Operators should ensure their familiarity, and compliance where appropriate, with the Gambling Commission's published Licence Conditions and Codes of Practice (LCCP), which were substantially updated in February 2015. These provide sector-specific advice about steps that a business should take to meet its social responsibilities and reflect the licensing objectives. In particular this relates to those business activities which fall under the responsibility of the Licensing Authority i.e. in the areas of non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences. The exceptions to this are non-remote general betting (limited) and betting intermediary licences. See also **Schedule E** of this statement of principles relating to Local Area Profile and Risk Assessments.

2. Reviews

2.1 An application for review of a premises licence may be made by:

- a interested party;
- a responsible authority; and
- the Licensing Authority, for :
 - (i) a particular class of premises licence; or
 - (ii) in relation to a particular premises.

It is for the Licensing Authority to decide whether the review is to be carried-out.

2.2 Any request for a review should normally relate to matters relevant to one or more of the following:

- any relevant code of practice issued by the Gambling Commission;
- any relevant guidance issued by the Gambling Commission;
- the licensing objectives, and
- the Licensing Authority's statement of principles.

When considering any review request, or whether to instigate its own review, the Licensing Authority will have due regard to the guidance issued by the Gambling Commission and consider;

:

- each application on its merits;
- whether matters raised in the application are frivolous or vexatious;

- whether the application would certainly not cause it to amend/suspend or revoke the licence; or
- whether the request is substantially the same as any previous representations, requests made for a review or previous application for the same premises.

Officers of the Authority may attempt informal mediation or dispute resolution techniques, where practicable, prior to a review being conducted.

- 2.3 A review application must only be determined by a Sub-Committee, and not by an officer. The purpose of a review is to determine whether the Licensing Authority should take any action in relation to the licence. The Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations. If action is justified, the options are to:
- (a) add, remove or amend a licence condition imposed by the Licensing Authority;
 - (b) exclude a default condition imposed by the Secretary of State (relating to, for example, opening hours) or remove or amend such and exclusion;
 - (c) suspend the premises licence for a period not exceeding 3 months; or
 - (d) revoke the premises licence.

3. Provisional Statements

- 3.1 An applicant may apply for a full premises licence where the premises are uncompleted or unaltered. However an applicant for a provisional statement does not need the right of occupation or an operator licence (granted or applied for) which are required in order to apply for a premises licence.
- 3.2 An application may be made to the Licensing Authority, under section 204 of the Act, for a provisional statement in respect of premises that the applicant expects to;
- be constructed;
 - be altered;
 - acquire a right to occupy.

An application may also be made for a provisional statement for premises already having a premises licence (either for a different type of gambling or the same type).

- 3.3 When considering an application for a provisional statement the Licensing Authority shall have due regard to the guidance issued by the Gambling Commission (in particular Part 11). Subject to any necessary modifications, the process for considering an application for a provisional statement is the same as that for a premises licence, including the rights of interested parties and responsible authorities to make representations and rights of appeal.
- 3.4 If representations about a premises licence application, following the grant of a provisional statement, are received then they may not be taken into account unless they concern matters which could not have been addressed when determining the provisional statement, or they reflect a material change in the circumstances of the application. The Licensing Authority must determine the premises licence, referring only to matters:

- (a) which could not have been raised by way of representations at the provisional statement stage;
- (b) which in the Licensing Authority's opinion reflect a change in the operator's circumstances; or
- (c) where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. If there are substantial changes to the plan the Licensing Authority will discuss any concerns with the applicant before making a decision.

3.5 In accordance with section 210 of the Act (which applies to premises licences and provisional statements), the Licensing Authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

4. Temporary Use Notices

4.1 Temporary Use Notices (TUNS) allow the use of premises for gambling where there is no premises licence but where a licensed gambling operator wishes to use the premises for providing facilities for equal chance gaming. The Gambling Commission Guidance suggests that premises that might be suitable for TUNS include hotels, conference centres and sporting venues, and that equal chance gaming may include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker (but may not be provided by means of machine).

4.2 There are a number of statutory limits that apply in respect of Temporary Use Notices, including that a TUN may only be granted to a person or company holding a relevant operator licence, in effect a non-remote Casino Operating licence, and limitations on the number of times a 'set of premises' can be used under these provisions.

4.3 A 'set of premises', as referred to by section 218 of the Act, is the subject of a Temporary Use Notice if any part of the premises is the subject of a notice. This reference to 'premises' is not the same as that in Part 8 of the Act and prevents one large premises from serving TUNS for different parts of the premises and exceeding the statutory limit of 21 days in any 12 month period.

4.4 The Licensing Authority will take into account Gambling Commission Guidance when considering whether a place falls within the definition of a 'set of premises'. This consideration may include looking at the ownership, occupation and control of the premises. The Gambling Commission Guidance advises that being a new type of permission, Licensing Authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

4.5 Where a notice of objection is received in respect of a Temporary Use Notice, the Licensing Authority will hold a hearing and consider representations from:

- the person who gave the notice
- any person who objected to the notice; and
- any party who was entitled to receive a copy of the Temporary Use Notice.

Where all parties agree that a hearing is unnecessary, the hearing may be dispensed with.

- 4.6 Where objections are made, a modification to the Temporary Use Notice may be proposed, which could include a:
- reduction in the number of days when gambling occurs; and/or
 - restriction on the type of gambling which may take place.
- 4.7 Where, following a hearing or after a hearing has been dispensed with, the Licensing Authority considers that the Temporary Use Notice should not have effect, it must issue a counter-notice which may:
- prevent the temporary use notice from taking effect;
 - limit the activities that are permitted;
 - limit the time period of the gambling;
 - allow the activity to take place subject to a specified condition.

The principles which the Licensing Authority will apply in determining a TUN are those which it will apply when determining a premises licence, subject to its view as to whether it accords with:

- a Gambling Commission code of practice;
- the Guidance issued by the Gambling Commission;
- the Licensing Authority's statement of principles; and
- is reasonably consistent with the licensing objectives.

5. Occasional Use Notices

- 5.1 Occasional Use Notices (OUNS) permit licensed betting operators (with appropriate permission from the Gambling Commission) to use tracks for short periods for conducting betting, where the event upon which the betting is taking place is of a temporary, infrequent nature. The Occasional Use Notice dispenses with the need for a Betting Premises Licence for the track in these circumstances.
- 5.2 The OUN must be served by a person who is responsible for the administration of events on the track or by an occupier of the track.
- 5.3 The Licensing Authority must ensure that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will consider the definition of a 'track', which need not be a permanent fixture, and whether the applicant is eligible to serve the notice.

6. Casinos

- 6.1 This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but retains the power to do so. Any change will be published in this Statement of Principles and on the Council's website during any intervening period.
- 6.2 Where a Licensing Authority has the power to determine a premises licence application for a new style casino, it will do so following any regulations under Section 175 of the Gambling Act 2005 published by the Secretary of State.

6.3 The Act lays down a framework for a two-stage process for considering applications in circumstances where the number of applications exceeds the number of licences available, and this will be followed by the Licensing Authority.

6.4 **Licence considerations/conditions:** The Licensing Authority shall have due regard to Gambling Commission guidance in relation to the suitability and layout of casino premises, and also the guidance issued by the Commission on primary gambling activity at casino premises.

Conditions may be attached to casino operator licences by the Gambling Commission to restrict the types of casino games that may be made available, or specifying rules for casino or equal chance games played in a casino. The Licensing Authority will make itself aware of any operating, mandatory and default conditions, codes of practice and Gambling Commission guidance when considering applications, and attachment of any conditions, for casino premises licences.

6.5 **Betting machines:** Where betting is permitted in a casino the Licensing Authority will normally, in accordance with Gambling Commission 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 (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines (**self-service betting terminals**) an operator wants to make available.

7. Bingo premises

7.1 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 B or C or machines are made available for use on 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; and
- only adults are admitted to the area where the machines are located.

7.2 The Licensing Authority shall have due regard to relevant licence conditions and codes of practice in relation to the operation of bingo premises, and also the Gambling Commission's guidance about the particular issues that Licensing Authorities should take into account in relation to the suitability and layout of bingo premises. This includes guidance on primary gambling activity, split premises and operating licence conditions.

8. Betting premises

- 8.1 **Betting machines:** The Licensing Authority will normally, in accordance with Gambling Commission 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 (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines (**self-service betting terminals**) an operator wants to make available. Children and young persons will not be able to enter premises which hold a Betting Premises licence, unless the special rules applying to tracks are applicable.
- 8.2 The Licensing Authority shall have due regard to the Gambling Commission Guidance in relation to the suitability and layout of betting premises. This includes guidance on primary gambling activity, split premises and operating licence conditions.
- 8.3 Betting machines (**self-service betting terminals**) are not gaming machines under the Act, and do not accrue against the premises entitlement for gaming machines, unless the machine is designed or adapted for use to bet on **virtual** races (that is, images generated by computer to resemble races or other events) in which case it is considered a gaming machine. Where betting facilities are provided only by betting machines the number of betting machines must exceed the number of gaming machines made available for use.

9. Track premises

- 9.1 Tracks are defined under the Act as a 'horse race course, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place'. Examples of tracks may include:
- horse racecourse
 - greyhound track
 - point-to-point horse race meeting
 - football, cricket or rugby ground
 - athletics stadium
 - golf course
 - venues hosting darts, bowls or snooker tournaments
 - premises staging boxing matches
 - sections of river hosting a fishing competition
 - motor racing events

This list is not exhaustive, but gives an example of the types of venue which could accommodate the provision of betting facilities.

- 9.2 There are three types of authorisation under which betting facilities may be made available at a sporting event:
- an Occasional Use Notice (OUN);
 - a Temporary Use Notice (TUN); and
 - a Track Premises Licence.

Betting in relation to tracks may be provided either as on-course or off-course betting. The different types of betting are explained in detail in the Guidance issued by the Gambling Commission, and this is available via the Gambling Commission website at www.gamblingcommission.gov.uk

- 9.3 A Betting Premises Licence permits a premises to be used for the provision of facilities for betting, whether by:
- making or accepting bets;
 - acting as a betting intermediary; or
 - providing other facilities for the making or accepting of bets.
- 9.4 Tracks are the only class of premises that may be subject to more than one premises licence, provided that each licence relates to a specific area of the track. This allows track venues to develop leisure facilities such as a casino and apply for a (casino) premises licence for that part of the track.
- 9.5 There is no special class of Betting Premises Licence for a track, but the Act does contain rules which apply specifically to premises licences granted in respect of tracks.
- 9.6 Special rules apply to applicants for a premises licence in relation to a track. Most importantly the applicant need not hold an operator licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him but will be provided by other operators who come on-course. Since those people will require the necessary operator licence(s), the Act allows the track operator to obtain a premises licence without also having to hold an operator licence. This 'Track Premises Licence' then authorises anyone upon the premises with a valid operator licence to offer betting facilities.
- 9.7 Track premises licences are distinguished from all other premises licences because children and young persons are allowed to be present on the track while betting is taking place on those licensed premises.
- 9.8 Track premises that safeguard the achievement of the three licensing objectives may generally be considered fit for gambling, and some general principles whereby Licensing Authorities can establish whether a track is fit for the provision of gambling facilities are outlined as follows:

Licensing objective	Issues to consider	Reason to consider a track premises unfit for gambling purposes?
The protection of children and other vulnerable persons from being harmed or exploited by gambling	Tracks permit access to children.	No - Children are allowed access to tracks on race days.
	Self-service betting terminals in areas where there is no supervision which would allow children or young persons to use machines undetected.	No - It is a mandatory condition of the operating licence that operators ensure that self-service betting terminals are supervised. This is not an issue for the premises licence.

<p>The protection of children and other vulnerable persons from being harmed or exploited by gambling</p> <p>(...continued)</p>	<p>Children are allowed access to areas siting category B and C gaming machines.</p>	<p>It is a mandatory condition of the operating licence that operators ensure that children are not allowed access to areas where category B and C gaming machines are provided.</p> <p>However, section 182 of the Act also creates a premises licence condition that children and young persons must be excluded from areas where any gaming machines other than category D are located.</p>
	<p>Betting areas adjacent to areas where children or young persons are present such as play areas.</p>	<p>No - Children are allowed access to tracks on race days and so will be exposed to gambling areas. It is a mandatory condition of the operating licence that operators do not accept bets from children or young persons.</p>
	<p>Betting areas adjacent to areas where children or young persons are present such as play areas.</p>	<p>The Commission considers that the location of betting does not generally pose a risk to this licensing objective. Licensing authorities may impose their own local conditions where they perceive problems.</p>
<p>Ensure gambling is conducted in a fair and open way</p>	<p>The rules of betting are not displayed on the premises.</p>	<p>No (not an issue at application stage) - it is a mandatory condition of the premises licence that the rules of betting are displayed.</p>
	<p>Unlicensed betting operators are allowed to operate on tracks.</p>	<p>No (not an issue at application stage) - it is a mandatory condition of the premises licence that licence holders make arrangements to ensure that they only allow licensed operators on track.</p>
	<p>Betting takes place out of approved hours.</p>	<p>No (not an issue at application stage) - it is a mandatory condition of the premises licence that betting only takes place</p>

		within the specified hours.
Prevent gambling from being a source of crime and disorder	Betting is allowed in all parts of a track resulting in greater difficulties for track premises licence holders to identify instances of illegal betting.	No - the Commission's view is that this does not generally pose a risk to this objective. Licensing authorities may impose their own conditions should they perceive a problem.
	No formal exit/entry points allowing easy access for unapproved operators and customers.	No - the Commission's view is that this does not generally pose a risk to this objective. Licensing authorities may impose their own conditions should they perceive a problem.

The Licensing Authority will take any such guidance into consideration when determining an application for a track premises licence.

Access to premises and other parts of the track:

9.9 Access between premises licensed for gambling and non-gambling areas is an important local licensing consideration, for reasons that include the following:

- (a) to prevent operators from seeking to circumvent the Act by artificially subdividing a premises and securing separate premises licences for its composite parts;
- (b) to ensure that operators do not circumvent regulations governing the maximum number of gaming machines applicable to specific premises;
- (c) to ensure that people who have entered a premises for one type of gambling are not exposed to another, potentially harder, form of gambling;
- (d) to ensure that there is no direct access between gambling premises to which children have access and those which they are prohibited from entering;
- (e) to ensure that all gambling premises have publicly accessible entrances;
- (f) to ensure that gambling premises are not developed in the backrooms of other commercial premises.

Access by children - special dispensation for tracks:

9.10 The Act forbids all persons under 18 years old to enter premises when betting facilities are being provided, other than at tracks. This dispensation allows families to attend premises such as greyhound tracks or racecourses on event days, and children to be permitted into areas where betting facilities are provided, such as the betting ring, where betting takes place. This dispensation does not, however, apply to:

- o areas within a track where category C or above machines are provided; or
- o other premises to which under 18 year olds are specifically not permitted access.

Licensed betting operators at tracks are bound by their operating licence conditions which prevent them from accepting bets from persons who are under 18 years old. The track premises licence holder is also required through premises licence conditions to display a notice in a prominent place at every public entrance stating that no person under the age of 18 is permitted to bet on the premises.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.

- 9.11 Children and young persons will by law 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. The Licensing Authority will normally expect premises licence applicants to demonstrate suitable measures to ensure the children do not have access to adult only gambling facilities.

Appropriate measures may include:

- Proof of Age schemes
- CCTV
- Door Supervisors
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The location of gaming machines
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware.

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

Betting on event and non-event days:

- 9.12 **Hours of betting on event days:** Premises licence holders will be expected to comply with the mandatory and default conditions applicable to them on both event and non-event days. The Licensing Authority will not generally expect to re-assess a licence application as a result of a change to the dates of sporting events, but would expect applicants and licence holders to make information about sporting fixtures available as part of the application.

Significant changes to the fixture/events listing have a bearing on the licence conditions in that track premises licence holders will be expected to comply with the mandatory and default conditions applicable to them on both event and non-event days.

- 9.13 **Hours of betting on non-event days:** On days when no public sporting event is taking place on a track, gambling facilities may only be provided on the track between the hours of 7am and 10pm. Where the premises user intends to continue to offer facilities for gambling outside the proposed gambling hours on non-event days these facilities should be provided by means of an Occasional Use Notice (OUN).
- 9.14 On non-event days, tracks become similar to licensed betting offices on the high street. Tracks may achieve this requirement by:
- (a) locating all betting areas inside an area of the premises that is separated from the remainder of the premises by a physical barrier, thereby preventing access other than through a designated entrance;
 - (b) only admitting adults to the part of the track where betting areas are located, by establishing procedures for verifying customer ages and refusing entry to adult-only areas for those unable to produce an acceptable form of identification (and taking action where there are unlawful attempts to enter adult-only areas);
 - (c) placing prominent notices in front of and inside each entrance stating that access to the area is prohibited to persons under 18.
- 9.15 The Licensing Authority may consider reducing the default gambling hours, providing any reduction is consistent with the principles set out in section 153 of the Act.

Self-Service Betting Terminals

- 9.16 Licensed operators may install **self-service betting terminals** on tracks. There is no restriction on the number of **self-service betting terminals** that may be in use but operators must, by virtue of their operating licence conditions, supervise such terminals to prevent them being used by those under 18 years of age.

There is no formal requirement on track premises licence holders to involve themselves in the procedures used by betting operators to supervise their **self-service betting terminals** unless specific local conditions specifying supervisory arrangements are added to the track premises licence by the Licensing Authority terminals.

Gaming machines

- 9.17 A track premises licence does not of itself entitle the holder to provide gaming machines, as this type of premises licence can be held without any corresponding operating licence.

Where a track owner holds both a track premises licence *and* a pool betting operating licence issued by the Gambling Commission (in effect, greyhound tracks only), they may site up to four gaming machines within categories B2 to D on the track.

Some tracks may also hold a premises licence under the Licensing Act 2003. As such they will be automatically entitled under section 282 of the Act to two gaming machines of category C or D.

In such scenarios the operating licence entitlement does not take precedence, and each licence has its own requirements that must be complied with.

- 9.18 Applications for permits to allow additional gaming machines are not permitted where the premises is already covered by a track premises licence. It is a condition of section 282 of the Act that alcohol-licensed premises licence holders (not necessarily the owners) must comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine. The gaming machine permits code of practice can be found on the Gambling Commission website.
- 9.19 Where track premises licence holders possess a pool betting operating licence, the Commission places a mandatory licence condition on such operators that they must:
- have and put into effect documented policies and procedures to prevent underage gambling, and monitor the effectiveness of these.

Track administration:

- 9.20 **Administration of betting:** Administrative and quasi-regulatory arrangements in place to ensure that activities held on tracks run smoothly for paying customers, track operators and betting operators, are considered to be outside the remit of the Act unless they affect the licensing objectives.
- 9.21 **The role of track premises licence holders:** The responsibilities of track premises licence holders are established by the mandatory and default licence conditions attaching to their premises licence.

The licensed betting operators authorised by track owners to provide betting facilities at tracks must comply with their operating licence conditions and codes of practice issued by the Commission.

Track premises licence holders have a responsibility to report regulatory breaches or potential breaches relating to the premises itself or to betting operators.

- 9.22 **Acceptance of bets:** Track premises licences for greyhound tracks and racecourses are subject to mandatory licence conditions requiring access to be offered at the track-side to betting operators generally. This prevents track premises licence holders who are also pool betting operators from becoming a monopoly supplier of betting on tracks.

While this does not mean that there must be independent betting operators on tracks on event days, track premises licence holders cannot hold event days without at least making places available to licensed operators. This matter is the responsibility of the Gambling Commission and not the Licensing Authority.

Pool betting:

- 9.23 Under the Act, holders of track premises licences on licensed greyhound tracks are given exclusivity to offer pool betting facilities on greyhound racing. They may also authorise other people to conduct such pool betting on their behalf, although in all cases a relevant operating licence will be required to license this activity.

A totalisator on a licensed greyhound track will only be permitted while the public are admitted to the track for the purpose of attending greyhound races, and no other sporting events are taking place. A mandatory condition is attached to the premises licence to this effect.

Admission of betting operators:

- 9.24 It is a mandatory premises licence condition of track premises licences that the licence holder makes arrangements to ensure that the betting operators they admit to their track operate under valid operating licences.

Track premises licence holders are responsible for determining their own arrangements for the verification of betting operators. As part of this process, the track premises licence holder should make arrangements for ensuring that the betting operator holds an operating licence. Additionally, both parties should agree a procedure for assessing whether persons accepting bets on behalf of a betting operator either themselves hold operating licences in their own right, or are employed by the operator under a written contract of employment.

Removal of illegal betting operators:

- 9.25 Track premises licence holders are required by a mandatory licence condition to take reasonable steps to remove from the racecourse anybody found to be providing facilities for gambling without authorisation. Failure to uphold this requirement could result in action being taken against the premises licence holder.

Track premises licence holders are not expected to have pro-active policies and procedures for identifying illegal gambling other than the mandatory requirement to verify that betting operators offering betting facilities on their track hold suitable operating licences.

Display of rules:

- 9.26 It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks.

The track premises licence holder should make the necessary arrangements to ensure that betting rules are accessible to all customers, regardless of which area of the track they are in. If certain areas are restricted to certain customers (such as different stands within a football ground) then rules could be displayed at various parts of the track. Other measures could be taken to ensure that they are made available to the public, such as printing them in the race-card or programme. The requirement could also be met by making a copy of the rules available in leaflet form from the main track office, and customers could be given a copy if they request one.

Betting operators offering betting facilities on racecourses and at greyhound tracks are required through the conditions of their operating licence to clearly display any of their own rules that differ from those that the track premises licence holder elects to display, and their rules concerning voids, late bets, and maximum payouts. For racecourses and greyhound tracks, the maximum payout will vary according to the rules of individual on-course operators.

Approved betting areas:

9.27 **Betting areas:** In considering applications, the Licensing Authority will take into account the licensing objectives and assess whether these objectives are compromised by proposed betting arrangements. The location of betting areas (other than those for gaming machines and **self-service betting terminals**) is not considered a threat to the licensing objectives and therefore no additional conditions would normally be imposed by licensing authorities, unless the circumstances are such that the Licensing Authority considers that the licensing objectives would be undermined.

9.28 **Multiple licences:** The Act permits a Licensing Authority to issue more than one premises licence for a track provided that each licence relates to a distinct specified area of the track (although there cannot be more than one premises licence covering the same area of the track.) This enables track owners to extend existing facilities to provide other gambling facilities such as a casino on their existing tracks, whereby these additional gambling activities are covered by separate premises licences.

Where an application is made for an additional premises licence, the Licensing Authority will consider the following matters when determining an application:

- access issues in particular whether access to the desired premises will be allowed directly from the track. Direct access between a track and other betting premises (other than a track betting shop) is not permitted. The track owner would need to make arrangements so that access to a casino or bingo hall would be via a street, not via the track itself.

Where a particular area of a track is already subject to a premises licence, and a person wishes to apply for a licence to offer another type of activity in that area, an application must be made to the Licensing Authority to vary the original premises licence. The new track premises licence can only be granted at the same time as, or after, the original licence has been varied.

Where the Licensing Authority receives an application indicating separate betting areas that may not necessarily have clear physical boundaries, such as walls or fencing, it may grant the licence where it is satisfied that the area is clearly delineated, both in terms of making it clear to the public that they are entering a 'betting office', and to keep out persons aged under 18.

Where the Licensing Authority is not satisfied that a new activity in an existing area is clearly delineated, it may consider refusing the application.

Social responsibility considerations for tracks:

9.29 The Act places a condition on the track premises licence that the licensee shall ensure that children and young persons are excluded from any area where facilities for betting are provided (unless on race days at racetracks and at greyhound tracks).

10. Adult Gaming Centres

10.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will require applicants to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate measures may also be included within mandatory/default conditions and codes of practice and cover matters such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Access and Location of entry
- Notices / signage
- Self-barring schemes
- ATM location
- Prohibition of alcohol consumption
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware.

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

The Licensing Authority may determine the opening hours for Adult Gaming Centres, on a case-by-case basis, in the absence of any default conditions addressing this matter.

11. (Licensed) Family Entertainment Centres

11.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will require applicants to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only Category C gaming machine areas.

The Licensing Authority will require applicants to demonstrate that there will be sufficient measures to promote the licensing objectives. Appropriate measures may also be included within mandatory/default conditions and codes of practice and cover matters such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Access and Location of entry
- Notices / signage
- Challenging children or young persons attempting to play category C machines
- Self-barring schemes
- ATM location
- Prohibition of alcohol consumption
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware

- Measures / training for staff on how to deal with suspected truant school children on the premises

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

- 11.2 The Licensing Authority will, in accordance with the Gambling Commission Guidance, make itself aware of any conditions that may apply to Operator licences covering the way in which the area containing the category C machines should be delineated. The Licensing Authority will ensure that it has due regard to any mandatory or default conditions on these Premises Licences and Codes of Practice and guidance issued by the Gambling Commission when dispensing its functions in relation to licensed Family Entertainment Centres

The Licensing Authority may determine the opening hours for licensed FEC's, on a case-by-case basis, in the absence of any default conditions addressing this matter.

PART C: PERMITS, TEMPORARY USE NOTICES, OCCASIONAL USE NOTICES & SOCIETY LOTTERIES

1. Unlicensed Family Entertainment Centre (unlicensed FEC's) gaming machine permits

- 1.1 Unlicensed Family Entertainment Centres (FEC's) are commonly located at seaside resorts, in airports and at motorway service stations, catering for families - including unaccompanied children and young persons. Where a premises does not hold a Premises Licence but there is an intention to provide gaming machines (category D only), an application may be made to the Licensing Authority for the grant of this permit. The applicant must be an individual aged 18 or over, and he/she must occupy or plan to occupy the relevant premises. The Licensing Authority may only grant a permit where it is satisfied that the applicant intends to use the premises as an unlicensed FEC and where it has consulted the Chief Officer of Police on the application. Any duties on the applicant to comply with other legislation such as fire regulations or Health and Safety are not issues for the Licensing Authority under the Gambling Act 2005.
- 1.2 If the operator of a Family Entertainment Centre intends to make category C machines available, in addition to category D machines, then an application must be made for an Operator Licence from the Gambling Commission and a Premises Licence from the Licensing Authority (see Part B Section 11 on (Licensed) Family Entertainment Centres).
- 1.3 Detail of any up to date application requirements, including any supporting documentation required, is available via the Council website at www.babergh.gov.uk or from the Licensing Team direct.
- 1.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.
- 1.5 **Statement of Principles:**

The Licensing Authority will expect the applicant to satisfy it that that they and their employees can demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's. The applicant is expected to demonstrate that he has considered appropriate measures to promote the licensing objectives, and training for staff on issues such as:

- suspected truant school children on the premises;
- how staff would deal with unsupervised very young children being on the premises;
- children causing problems on or around the premises; and
- maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's

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

- 1.6 The Chief Officer of Police is a statutory consultee for all such permit applications, and any representations made by him will be considered by the Licensing Authority.
- 1.7 The Licensing Authority may also require the applicant to provide details of any relevant convictions, (those that are set out in Schedule 7 of the Act), and the following documents would be acceptable for such purposes:
 - basic Criminal Records Bureau disclosure; or
 - a police subject access search.

2. Club Gaming Permits

- 2.1 Members Clubs and Miners' welfare institutes (but not commercial Clubs) may apply for a Club Gaming Permit which authorises the premises to:
 - make available for use up to 3 gaming machines of categories B3A to D,
 - equal chance gaming (without restriction on the stakes and prizes); and
 - games of chance as prescribed by regulations (namely pontoon and chemin de fer).

The gaming which a club gaming permit allows is subject to the following conditions:

In respect of equal chance gaming:

- (a) The club must not deduct money from sums staked or won;
- (b) The participation fee must not exceed the amount prescribed in regulations;
- (c) The game takes place on the premises and must not be linked with a game on another set of premises. Two games are linked if:
 - (i) the result of one game is, or may be, wholly or partly determined by reference to the result of the other game; and
 - (ii) the amount of winnings available in one game is wholly or partly determined by reference to the amount of participation in the other game, and a game which is split so that part is played on one site and another part is played elsewhere is treated as two linked games

Only club members and their genuine guests participate.

In respect of other games of chance:

- (a) The game must be pontoon or chemin de fer only;
- (b) No participation fee may be charged otherwise than in accordance with the regulations;
- (c) no amount may be deducted from sums staked or won otherwise than in accordance with the regulations.

- 2.2 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. The Secretary of State has made such regulations covering bridge and whist clubs. A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

A club gaming permit may not be granted in respect of a vehicle or a vessel.

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

Where the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. In determining an application the Licensing Authority shall have regard to the relevant guidance issued by the Gambling Commission and, subject to that guidance, the licensing objectives.

- 2.4 Where a permit is granted, the permit holder must comply with statutory conditions:
- no child or young person may use a category B or C machine on the premises; and
 - the permit holder must comply with any relevant provision of a code of practice regarding the location and operation of gaming machines.

Clubs do not have to have a permanent premises or alcohol licence.

- 2.5 There is a 'fast-track' procedure available for premises where the club holds a Club Premises Certificate under section 72 of the Licensing Act 2003. Where an application is made under the fast track procedure, there is no opportunity for objections to be made by the Commission or the Suffolk Constabulary, and the grounds upon which an Authority can refuse a permit are limited as below:
- (a) the club is established primarily for gaming, other than gaming of a prescribed kind;
 - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

3. Club Machine Permits

- 3.1 Members clubs, Miners' welfare institutes and commercial clubs may apply for a Club Machine Permit, which enables the premises to make available for use up to 3 gaming machines of categories B4, C and D. Members clubs and Miner's welfare institutes only (i.e. not commercial clubs) may also make available for use category B3A machines offering lottery games in the club under a club machine permit.
- 3.2 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. The Secretary of State has made such regulations covering bridge and whist clubs. A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

Commercial clubs must have at least 25 members, but may be established with a view to making a profit, which is not returned to the members, but the proprietor(s) of the club. Examples of commercial clubs may include snooker clubs, clubs established for personal profit and most clubs established as private companies.

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

It should be noted that either type of permit may not be issued in respect of a vessel or vehicle.

- 3.4 There is also a 'fast-track' procedure available for premises where the club holds a Club Premises Certificate under section 72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for an objection to be made by the Commission or the Police, and the grounds upon which an Authority can refuse a permit are reduced. The grounds on which an application under the process may be refused are that:
- (a) the club is established primarily for gaming, other than gaming of a prescribed kind;
 - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) a club machine permit issued to the applicant in the last ten years has been cancelled.

- 3.5 There are statutory conditions concerning Club Machine Permits that no child or young person may use a category B or C machine on the premises and that the permit holder complies with any relevant provision of a code of practice regarding the location and operation of gaming machines.

4. (Alcohol) Licensed Premises Gaming Machine Permits

- 4.1 The Act makes provision for premises licensed to sell alcohol for general consumption on the premises to be entitled to make available up to 2 gaming machines, of categories C and/or D. The Licensing Act 2003 premises licence holder needs only to notify the Licensing Authority of this intention and pay the prescribed fee. The Licensing Authority may remove the automatic authorisation in respect of any particular premises only if it is satisfied that:

- 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.

Before making any such order the Licensing Authority shall give the licensee at least 21 days prior notice and consider any representations made by the applicant (at a hearing if requested by the licence holder).

- 4.2 If a Licensing Act 2003 premises licence holder wishes to use more than 2 gaming machines, then (s)he will need to apply to the Licensing Authority for a permit and the Licensing Authority must consider that application based upon:

- the licensing objectives;
- any guidance issued by the Gambling Commission; and
- 'such matters' as it thinks relevant.

This Licensing Authority considers that 'such matters' will be assessed on a case by case basis. Generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.

This permit replaces, and is not in addition, to the automatic entitlement notification.

- 4.3 The Licensing Authority expects the applicant to satisfy it that there will be sufficient measures in place to ensure that persons under the age of 18 do not have access to the adult only category C gaming machines. The applicant may consider appropriate measures to comply with Gambling Commission Codes of Practice and monitor access to machines. This may include:

- ensuring that the adult gaming machines are within sight of the bar, or within the sight of staff who can monitor that the machines are not being used by persons under the age of 18;

- notices and signage may also be an appropriate measure/safeguard;
- the provision of information leaflets / helpline numbers for organisations that give support to vulnerable persons such as GamCare and Gamble Aware.

4.4 The holder of a permit must comply with any relevant code of practice issued under section 24 of the Act by the Gambling Commission concerning the location and operation of the gaming machines.

4.5 It should be noted that the Licensing Authority can and may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached to the grant of this permit.

There is a similar mechanism for applying to vary the number and category of machines specified on an existing permit.

5. Prize Gaming and Prize Gaming Permits

5.1 **Statement of principles:**

The prize gaming 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 monetary 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.

It should be also noted that this permit cannot be issued in respect of a vessel or vehicle.

An application may only be made by an individual over the age of 18, who occupies or plans to occupy the relevant premises. An application for a permit can not be made if a premises licence or club gaming permit is already in effect for the same premises.

5.2 The Licensing Authority will expect the applicant to satisfy the Authority that that they and their employees can demonstrate a full understanding of the maximum stakes and prizes for the gaming offered and that the type of gaming offered is within the law. The applicant will normally be required to set out the types of gaming that he/she is intending to offer, and may wish to consider appropriate measures to promote the licensing objectives, and training for staff on:

- the type of gaming which they intend to provide; and
- the stakes and prizes which apply under the regulations relevant to the type of gaming they intend to offer.

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

- 5.3 In making its decision on an application for this permit the Licensing Authority may have regard to the licensing objectives and must have regard to any Gambling Commission Guidance. Given that the premises may be particularly appealing to children and young persons, the Licensing Authority will give appropriate weight to the consideration of child protection issues.
- 5.4 The Chief Officer of Police is a statutory consultee for all such permit applications. Any representations made by the Chief Officer of Police which are relevant to the licensing objectives will be considered by the Licensing Authority relevant considerations may include:
- whether the applicant has any convictions that would render them unsuitable to operate prize gaming, or
 - the suitability of the location of the premises in relation to any disorder issues.

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

- 5.5 It should be noted that whilst there may be conditions in the Gambling Act 2005 and Gambling Commission codes of practice (including on social responsibility) with which the permit holder must comply, the Licensing Authority cannot attach conditions to this permit. Where the Authority is minded to refuse a permit application it will notify the applicant and allow the opportunity for the applicant to make representations (which may be considered at a hearing).

6. Travelling Fairs

- 6.1 It is the duty of the Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit are 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.
- 6.2 The Licensing Authority will carefully consider whether an operator falls within the statutory definition of a travelling fair (provided by section 286 of the Act) and be 'wholly or principally' providing amusements.
- 6.3 The 27-day statutory maximum for the land being used as a fair is per calendar year, and that this 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. The Licensing Authority shall endeavour to work with neighbouring authorities to ensure that land which crosses district/borough boundaries is monitored so that the statutory limits are not exceeded.

7. Society Lotteries

- 7.1 The Council as the Licensing Authority is responsible for registering small society lotteries. A lottery is defined under the Act and in the guidance as:

A simple lottery if:

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of a class;
- the prizes are allocated by a process which relies wholly on chance.

A complex lottery if:

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of a class;
- the prizes are allocated by a series of processes;
- the first of those processes relies wholly on chance.

A society, or any separate branch of such a society, may be registered by the council to promote a small lottery where it is established and conducted:

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

and the proceeds of the lottery must be devoted to the purposes above. The society must not be established for the sole purpose of facilitating lotteries.

A small lottery is defined in the Act and the current limitations are published on the Council website at www.babergh.gov.uk Definitions of exempt lotteries are also published at the above address.

- 7.2 The Council may only register a society which wishes to promote a small lottery where the society's principal office is located within its area. If the Council believes that the society's principal office does not fall within its boundaries it will inform the society at the earliest opportunity.

If the society's status is unclear, the Council may ask for the society applying to register with it to supply a copy of its terms of reference or constitution to enable it to establish that the society is non-commercial, together with a declaration to the effect that it is non-commercial.

- 7.3 Registration of small society lotteries is a function which the Council has delegated to officers. Details of societies registered by the council will be published in a register maintained by the Council.

The registration is for an indefinite period unless the registration is cancelled by:

- the society; or
- the council on failure of the society to pay the annual charge.

- 7.4 The Council may refuse to register a small society lottery where:

- an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused;
- the society can not be deemed non-commercial;
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence;

- information provided in or with the application for registration is found to be false or misleading.

Where the Council proposes to refuse to register a small society lottery it will give the society an opportunity to make representations in writing or at a hearing. The Council will notify the society in writing of the outcome of the hearing and the reasons for the decision.

- 7.5 The Council may revoke a society lottery registration where it considers that it would have had to, or would be entitled to, refuse an application if it were to be made at that time.

SCHEDULE A

GAMBLING ACT 2005 STATEMENT OF PRINCIPLES: CONSULTEE LIST FOR BABERGH DISTRICT COUNCIL (AS MAY HAVE BEEN MODIFIED/UPDATED DURING CONSULTATION)

1. Association of British Bookmakers Ltd Norris House 4 Norris Street LONDON SW1Y 4RJ	2. GamCare 2 nd Floor 7-11 St.John's Hill LONDON SW11 1TR
3. British Horseracing Board 151 Shaftesbury Avenue LONDON WC2H 8AL	4. BACTA Alders House 133 Aldersgate Street LONDON EC1A 4JA
5. British Casino Association 38 Grosvenor Gardens LONDON SW1B 0EB	6. Leisure Link 3 The Maltings BURTON-ON-TRENT Staffordshire DE14 1SE
7. Bingo Association Lexham House 75 High Street North DUNSTABLE Bedforshire LU6 1JF	8. Essex Leisure Unit 26 West Station Industrial Estate MALDON CM9 6TW
9. Society for the Study of Gambling 16 Egerton Road LYMM WA13 0PA	10. Chilvers Automatics Ltd Langholm, Lodge Lane Langham COLCHESTER C04 5LZ
11. Gamestec Leisure Ltd Low Lane Horsforth LEEDS LS18 4YY	12. Alcoholics Anonymous P O Box 1 Stonebow House YORK Y01 7NJ
13. National Association of Bookmakers Ltd 19 Culm Valley Way Uffculme DEVON EX15 3XZ	14. Help the Aged 207-221 Pentonville Road LONDON N1 9UZ
15. British Greyhound Racing Board 32 Old Burlington Street LONDON W1S 3AT	16. Mencap Suffolk Ground Floor Davies House Kempson Way BURY ST EDMUNDS IP33 7AR
17. National Youth Agency Westgate House 19-23 Humberstone Road LEICESTER LE5 3GJ	18. Suffolk County Council Social Care Services Endeavour House 8 Russell Road IPSWICH IP1 2BX

19.	Age Concern Suffolk County Office 8 Northgate Street IPSWICH IP1 3BZ	20.	Narcotics Anonymous UK Service Office 202 City Road LONDON EC1V 2PH
21.	Gordon House Association 186 Mackenzie Road BECKENHAM BR3 4SF	22.	Learning Disability Partnership Board Social Services County Buildings SAXMUNDHAM IP7 1AL
23.	Suffolk Safeguarding Children Board Endeavour House Floor 3 Block 3 8 Russell Road IPSWICH IP1 2BX	24.	Horsing Betting Levy Board 52 Grosvenor Gardens LONDON SW1W 0AU Tel: 020 7333 0043 Fax: 020 7333 0041 www.hblb.org.uk
25.	National Stud Wavertree House NEWMARKET CB8 0XE Tel: 01638 663464 Fax: 01638 665173 www.nationalstud.co.uk	26.	Business in Sport & Leisure 17a Chartfield Avenue Putney LONDON SW15 6DX
27.	British Association of Leisure Parks, Piers & Attractions Limited (BALPA) Suite 12 37 Tanner Street LONDON SE1 3LF	28.	Mr B.Deane 9 Jennens Way Acton Lane SUDBURY CO10 0UZ
29.	C L Jennings 3-4 Gaol Lane SUDBURY CO10	30.	Corals Glebe House Vicarage Drive BARKING IG11 7NS
31.	Coral Estates Ltd 19-21 Station Road HAROLD WOOD Essex RM3 0BP	32.	William Hill Bridge House 47-55 Bridge Street WALSALL WS1 1JQ
33.	Delphi Club Newton Road SUDBURY CO10 2RR	34.	Ladbrokes Betting & Gaming Ltd Imperial House Imperial Drive, Rayners Lane HARROW Middlesex HA2 7JW
35.	Tesco Social Club Woodhall Business Park SUDBURY CO10	36.	Royal British Legion 48 Pall Mall LONDON SW1Y 5JY
37.	Tesco PLC Corporate Responsibility Team Delamare Road CHESHUNT EN8 9SL	38.	All parish and town hall clerks in the district.
39.	Persons representing a sample of premises licence holders/qualifying members clubs under the Licensing Act 2003 (including Greene King & Punch Taverns).	40.	All responsible authorities under the Gambling Act 2005.
41.	All schools in the district.		

SCHEDULE B

Section 353 of the Gambling Act 2005 gives some general interpretation and reference for some of the main terminology used within the Act and contained within this Statement of Principles document. Except where the context otherwise requires:

- "adult" means an individual who is not a child or young person
- "adult gaming centre" has the meaning given by section 237
- "alcohol licence" has the meaning given by section 277
- "authorised local authority officer" has the meaning given by section 304
- "authorised person" has the meaning given by that section
- "betting" has the meaning given by sections 9 to 11, 37 and 150
- "betting intermediary" has the meaning given by section 13
- "bingo" means any version of that game, irrespective of by what name it is described
- "casino" has the meaning given by section 7
- "casino game" has the meaning given by that section
- "Category A gaming machine" (or B, C or D) means a gaming machine falling within Category A (or B, C or D) as prescribed under section 236
- "chief constables of police forces" has the same meaning in relation to England and Wales as in the Police Act 1996 (c. 16)
- "child" has the meaning given by section 45
- "club gaming permit" has the meaning given by section 271
- "club machine permit" has the meaning given by section 273
- "commercial club" has the meaning given by section 267
- "the Commission" means the Gambling Commission
- "director" -
- (a) has the meaning given by section 741 of the Companies Act 1985 (c. 6), and
 - (b) includes a shadow director within the meaning of that section
- "dog track" means premises which are designed, used or adapted for use for dog-racing
- "draw", in relation to a lottery, has the meaning given by section 255
- "EEA State" means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time)
- "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament
- "enforcement officer" means a person designated or appointed as an enforcement officer under section 303
- "equal chance gaming" has the meaning given by section 8
- "exempt lottery" has the meaning given by section 258
- "external lottery manager" has the meaning given by section 257
- "fair" has the meaning given by section 286
- "family entertainment centre" has the meaning given by section 238
- "family entertainment centre gaming machine permit" has the meaning given by section 247
- "football pools" means an arrangement whereby -
- (a) people compete for prizes by forecasting the results of association football games, and
 - (b) each entry to the competition must forecast the results of at least four games
- "gambling" has the meaning given by section 3
- "gambling software" has the meaning given by section 41
- "game of chance" has the meaning given by section 6
- "gaming" has the meaning given by that section
- "gaming machine" has the meaning given by section 235
- "horse-race course" means premises which are designed, used or adapted for use for horse-racing
- "horse-race pool betting" has the meaning given by section 12
- "large casino" has the meaning given by regulations under section 7(5)

"licensed family entertainment centre" has the meaning given by section 238

"licensed premises gaming machine permit" has the meaning given by section 283

"the licensing objectives" has the meaning given by section 1

"licensing authority" has the meaning given by section 2

"lottery" has the meaning given by section 14 (and section 256)

"lottery manager's operating licence" has the meaning given by section 98

"lottery ticket" has the meaning given by section 253

"machine" has the meaning given by section 235(3)(a)

"members' club" has the meaning given by section 266

"miners' welfare institute" has the meaning given by section 268

"the National Lottery" has the meaning given by section 1 of the National Lottery etc. Act 1993 (c. 39))

"non-commercial betting" has the meaning given by section 302

"non-commercial gaming" has the meaning given by section 297

"non-commercial society" has the meaning given by section 19

"occasional use notice" means a notice given under section 39

"operating licence" means a licence issued under Part 5

"on-premises alcohol licence" has the meaning given by section 277

"participant", in relation to a game of chance, includes a person who discharges an administrative or other function in relation to the game

"participation fee" has the meaning given by section 344

"passenger vessel" means a vessel which is carrying or expected to carry at least one passenger

"personal licence" means a licence issued under Part 6

"pool betting" has the meaning given by section 12

"premises" includes any place and, in particular -

- (a) a vessel, and
- (b) a vehicle

"premises licence" means a licence issued under Part 8

"private betting" has the meaning given by section 295 and Part 2 of Schedule 15

"private gaming" has the meaning given by section 295 and Part 1 of Schedule 15

"private gain" is to be construed in accordance with section 19(3)

"prize" in relation to gaming (except in the context of a gaming machine) has the meaning given by section 6

"prize" in relation to a gaming machine has the meaning given by section 239

"prize" in relation to a lottery has the meaning given by section 14

"prize gaming" has the meaning given by section 288

"prize gaming permit" has the meaning given by section 289

"proceeds", in relation to a lottery, has the meaning given by section 254

"profits", in relation to a lottery, has the meaning given by that section

"profits", in relation to non-commercial prize gaming, has the meaning given by section 299

"racecourse" means premises on any part of which a race takes place or is intended to take place

"real", in relation to a game, event or process means non-virtual

"relevant offence" has the meaning given by section 126 and Schedule 7

"remote communication" has the meaning given by section 4

"remote gambling" has the meaning given by that section

"remote gambling equipment" has the meaning given by section 36

"remote operating licence" has the meaning given by section 67

"rollover", in relation to a lottery, has the meaning given by section 256

"small casino" has the meaning given by regulations under section 7(5)

"society" includes a branch or section of a society

"stake" means an amount paid or risked in connection with gambling and which either -

- (a) is used in calculating the amount of the winnings or the value of the prize that the person making the stake receives if successful, or

(b) is used in calculating the total amount of winnings or value of prizes in respect of the gambling in which the person making the stake participates

"supply" includes -

(a) sale,

(b) lease, and

(c) placing on premises with permission or in accordance with a contract or other arrangement

"temporary use notice" has the meaning given by section 215

"track" means a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place

"travelling fair" has the meaning given by section 286

"vehicle" includes -

(a) a train,

(b) an aircraft,

(c) a seaplane, and

(d) an amphibious vehicle (other than a hovercraft within the meaning of the Hovercraft Act 1968 (c. 59))

"vessel" includes -

(a) anything, other than a seaplane or an amphibious vehicle, designed or adapted for navigation or other use in, on or over water

(b) a hovercraft (within the meaning of the Hovercraft Act 1968), and

(c) anything, or any part of any place, situated in or on water

"virtual" has the meaning given by subsection (3) below

"winnings", in relation to a bet, means anything won, whether in money or in money's worth

"young person" has the meaning given by section 45

SCHEDULE C

Summary of machine provisions by premises							
Machine category:							
Premises type:	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks occupied by pool betting		Maximum of 4 machines categories B2 to D					
Bingo premises		Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*				No limit on category C or D machines	
Adult gaming centre		Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*				No limit on category C or D machines	
Family entertainment centre (with premises licence)		No limit on category C or D machines					
Family entertainment centre (with permit)		No limit on category D machines					
Clubs or miners' welfare institute (with permit)		Maximum of 3 machines in categories B3A or B4 to D*					
Qualifying alcohol-licensed premises		1 or 2 machines of category C or D automatic upon notification					
Qualifying alcohol-licensed premises (with gaming machine permit)		Number of category C-D machines as specified on permit					
Travelling fair		No limit on category D machines					
		A	B1	B2	B3/B3A	B4	C
Maximum Stake	No limit	£5	£100 (in £10's)	£2 (B3) £2 (B3A)	£2	£1	Variable See table below

Maximum Prize	No limit	No more than £10,000 Or Where the prize value available through its use is wholly or partly determined by reference to use made of one or more other sub-category B1 machines, no more than £20,000	£500	£500	£400	£100	
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Note: Machine category stakes/prizes may be subject to periodic regulatory amendment

*Bingo/AGC premises are entitled to make available a number of Category B3/B4 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 B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

Bingo/AGC premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of eight category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only

D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

SCHEDULE D

Gambling Activities: Children and Young Persons

A **child** means an individual who is less than 16 years old (section 45(1)).

A **young person** is an individual aged 16 or 17 years old (section 45(2)).

With limited exceptions, the intention of the Gambling Act 2005 is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments.

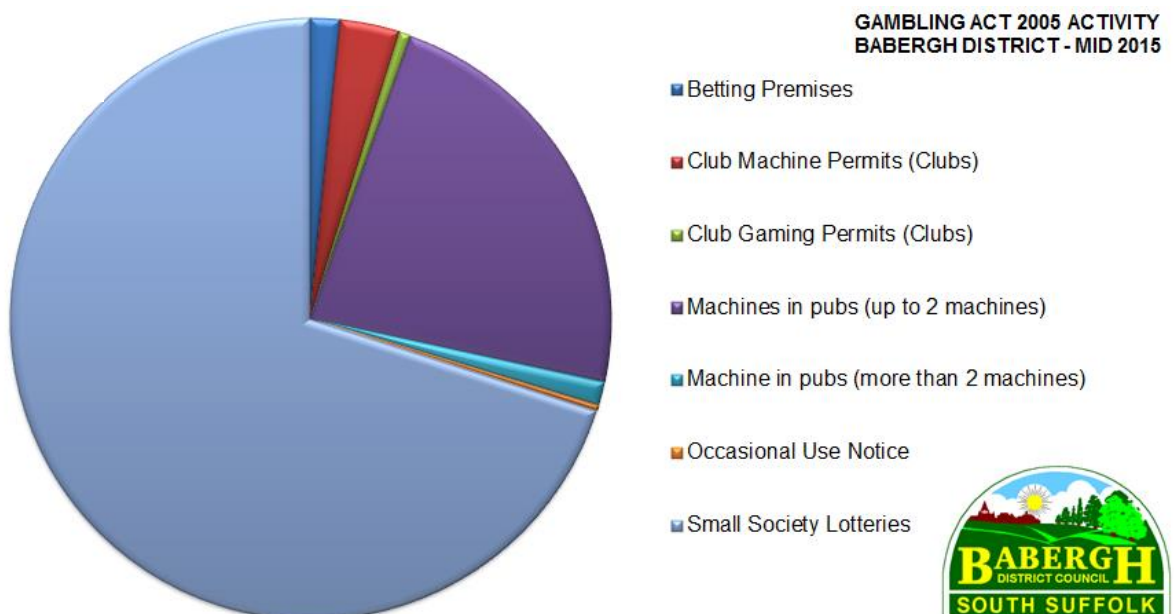
Part 4 of the Gambling Act 2005 states the requirements in relation to protection of children and young persons, principle offences and any exceptions.

SCHEDULE E

Local Area Profile and Risk Assessments

Licensing authorities are already familiar with a risk-based approach to compliance, and targeting resources and effort where risk is greatest. The local area profile is simply a way of describing a process of gathering and presenting information about a locality and any particular areas of concern within that, to explain and underpin the approach that the licensing authority will apply. It gives clarity to operators as to the licensing authority's view of risk and the relevant factors in its decision making.

The Licensing Authority understands the need for ongoing engagement with other prescribed statutory bodies, defined as Responsible Authorities under the Act. The Licensing Authority will seek to draw upon the expertise and knowledge of responsible authorities and others to ensure its approach is informed by all relevant sources of local knowledge and expertise, when developing local area profiles.



- E1. (a) As of mid-2015 Babergh District Council authorises 5 licensed gambling premises. All are betting premises (non-track) and all in the two main market towns of Sudbury and Hadleigh.
- (b) The majority of non-premises licensed gambling activity in the district relates to notifications and permits for gaming machines, gaming in members clubs and pubs and point-to-point racing authorised by occasional use notices (OUNs). The Licensing Authority also deals with a significant number of enquiries around non-commercial equal chance gaming and enquiries made for activities not requiring any gambling authorisation – subject to limitations. Small society lottery registrations are also a main area of activity (with around 220 registered societies in Babergh mid-2015) mostly for the benefit of (non-private gain) good causes within the district.
- (c) At the time of preparing this edition of the statement of principles there has been no evidence, or intelligence, presented to Babergh District Council to support any assertion that any part of the district had or is experiencing problems from gambling activities. This position will be kept under review and, in the event that it changes, further research will be carried out to discover the extent of the problems and to prepare an area profile accordingly which will identify, quantify and map the vulnerabilities and other relevant features of the local area. The statement of principles may be revised as a consequence.
- (d) Gambling premises have not featured on any night time economy police statistics/hot-spots and the Licensing Authority has received no representations at the time of applications or variations, beyond comments from residents relating to ‘commercial need’ or ‘demand’ for gambling premises (see 1.7 of this statement of principles).
- (e) The Licensing Authority will monitor any local concerns brought to its attention in the future, along with any linked crimes, and/or representations; with a view to identifying areas of concern and mapping vulnerabilities.
- E2. (a) The Gambling Commission issue codes of practice under section 24 of the Gambling Act 2005, about the manner in which facilities for gambling are provided to ensure that:

- gambling is conducted in a fair and open way
- children and other vulnerable people are protected from being harmed or exploited by gambling
- assistance is made available to people who are, or may be, affected by problems related to gambling.

(b) Codes of practice are either:

Social responsibility code provisions - which must be adhered to by all licence holders; or

Ordinary code provisions – these do not have the status of licence conditions but failure to take account of them can be used as evidence in criminal or civil proceedings.

(c) New code provisions covering risk assessments and local authority area profiles are due to come into force in April 2016 (outside of the timeframe of this statement of principles revision). More detail can be found by going to the Gambling Commission website at www.gamblingcommission.gov.uk

The following are extracts relating to this aspect:

- Operators will be required to prepare a risk assessment for their business which takes into account the nature and characteristics of the locality in which they are situated. For example the proximity of schools, churches, etc. and/or whether the business is located on a walking route for local schools.
- Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of principles.
- Licensees must review (and update as necessary) their local risk assessments:
 - i) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
 - (ii) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - iii) when applying for a variation of a premises licence; and
 - iv) in any case, undertake a local risk assessment when applying for a new premises licence.

- (d) For all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences, licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.
- (e) Such risk assessments can make reference to the Local Authority Area profile which may be compiled with respect to reported gambling-related problems in an area.

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RESPONSE FROM CORAL RACING LTD
16 OCTOBER 2015

Licensing Team (Consultations),
Babergh District Council,
Corks Lane,
Hadleigh,
IPSWICH,
Suffolk,
IP7 6SJ



16th October 2015

Dear Sir,

Consultation on Babergh District Council's Statement of Principles – Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited are broadly supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling'. We politely highlight that the majority of Council's also include a reference that when judging applications, it should not take into account of any moral objections to gambling.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications and variations (requirement is from 6th April 2016) following the consultation completion and are pleased to see this information included within your document.

We acknowledge that Babergh District Council may be issuing further guidance on this new area. We appreciate that the Gambling Commission have recently issued further guidance to council's on this topic however notwithstanding this, it is apparent from viewing multiple council gambling statements, that there are a range of ways to incorporate this requirement. Coral Racing wish to ensure that there is no inference within any guidance issued (your statement currently includes, schools, churches and walking routes to schools) , that such locations in close proximity to the licensed premises, are at greater risk of causing harm to the licensing objectives.

Whilst each application will be judged on its merits as mentioned at several points within your statement, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools & locations mentioned in both your current statement and the gambling commission advice, causes harm to the licensing objectives. For example, Coral knows of no evidence that children coming from schools are gaining access to betting offices. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges and no evidence whatsoever that they cause problems.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced with future premises licence applications, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. We are of the opinion that this can be accomplished without the need to following strict templates with multiple lists of affected premises.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,

John Liddle

Director of Development – Coral Retail



GOSCHALKS
SOLICITORS

Babergh District Council
Licensing Team - Consultation
Corks Lane
Hadleigh
Ipswich
Suffolk
IP7 6SJ

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / LHK / 097505.00004
#GS416605
Your ref:
Date: 12 October 2015

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

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

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

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

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

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

LGA – ABB Betting Partnership Framework

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

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

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council,

which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said: *"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."*

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:

"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

Local Area Profiles – Need for an evidence based approach

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the “aim to permit” principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

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

Concerns around increases in the regulatory burden on operators

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

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

Employing additional licence conditions

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

Specific Policy Comments

The final two sentences of paragraph 1.7 of Part B cause the ABB concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licensing regime under Licensing Act 2003. Such a policy is contrary to the overriding principles of "aim to permit" contained within s153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle earlier in the policy that each case will be determined on its own merits.

In Part B, paragraph 1.9(1) deals with the licensing objective of preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. There is a statement that the licensing authority is aware of the distinction between disorder and nuisance. The statement of principles would be assisted by repeating the Gambling Commission's statement that "in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance."

The ABB particularly welcomes the statements within paragraph 1.10 (Conditions) that the mandatory and default conditions set by the Secretary of State will normally be adequate for the general good conduct of gambling premises and that individual conditions will be attached only when there are specific, evidenced risks or problems specific to a particular locality.

In paragraph 1.14, it is stated that the licensing authority may seek to "promote" the licensing objectives. This should be amended to reflect the correct position (outlined in paragraph 1.1) that the licensing authority must "have regard" to the licensing objectives and that a licence must be "reasonably consistent" with the licensing objectives.

Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

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

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,

GOSSCHALKS



APPENDIX C

BABERGH DISTRICT COUNCIL

CONSULTATION LIST FOR LICENSING ACT 2003 & GAMBLING ACT 2005 POLICY REVISIONS

1. All existing premises/club licence holders
2. Glemsford Library
3. Great Cornard Library
4. Hadleigh Library
5. Lavenham Library
6. Long Melford Library
7. Sudbury Library
8. The Institute of Entertainment and Arts
9. BECTU
10. ALMR
11. The Portman Group
12. NOCTIS
13. Arts Development UK
14. Federation of Licensed Victuallers Association
15. Independent Street Arts Network
16. Equity
17. UK Cinema Association
18. British Retail Consortium
19. British Board of Film Classification
20. Association of Town Centre Managers
21. Association of Convenience Stores
22. British Transport Police
23. Suffolk Trading Standards
24. Health and Safety Executive
25. Police and Crime Commissioner
26. Association of Licensed Multiple Retailers
27. British Beer and Pub Association
28. Campaign for Real Ale
29. British Institute of Innkeeping
30. Greene King Retailing Limited
31. Punch Taverns
32. J D Wetherspoon Plc
33. Admiral Taverns Ltd
34. Ormiston Sudbury Academy
35. Thomas Gainsborough School
36. Holbrook Academy
37. East Bergholt High School
38. Old Buckenham Hall
39. Hadleigh High School
40. Woolverstone Parish Council
41. Wherstead Parish Council
42. Whatfield Parish Council
43. Wenham Parva Parish Meeting
44. Wenham Magna Parish Meeting
45. Wattisham Parish Council
46. Thorpe Morieux Parish Council
47. Tattingstone Parish Council

48. Sudbury Town Council
49. Stutton Parish Council
50. Stratford St Mary Parish Council
51. Stanstead Parish Council
52. Sproughton Parish Council
53. Shotley Parish Council
54. Shelley Parish Council
55. Semer Parish Council
56. Preston St Mary Parish Council
57. Pinewood Parish Council
58. Nedging -with-Naughton Parish Council
59. Milden Parish Meeting
60. Long Melford Parish Council
61. Mrs Vicky Waples (Lindsey & Monks Eleigh)
62. Mrs D Hattrell (Boxford, Leavenheath & Nayland-with-Wissington)
63. Mrs A Robinson (Edwardstone, Groton & Stoke By Naylnad)
64. Mr Dave Crimmin (Assington, Chilton, G Waldingfield, L Cornard, L Waldingfield, Newton & Polstead)
65. Mrs Samantha Barber (Burstall, Chattisham & Hintlesham and Belstead)
66. Mrs J Cryer (Layham & Raydon)
67. Lawshall Parish Council
68. Lavenham Parish Council
69. Kettlebaston Parish Council
70. Kersey Parish Council
71. Holton St Mary Parish Council
72. Holbrook Parish Council
73. Hitcham Parish Council
74. Higham Parish Meeting
75. Hartest Parish Council
76. Harkstead Parish Council
77. Hadleigh Town Council
78. Great Cornard Parish Council
79. Glemsford Parish Council
80. Freston Parish Council
81. Erwarton Parish Council
82. Elmsett Parish Council
83. East Bergholt Parish Council
84. Copdock and Washbrook Parish Council
85. Cockfield Parish Council
86. Chelsworth Parish Meeting
87. Chelmondiston Parish Council
88. Capel St Mary Parish Council
89. Bures St Mary Parish Council
90. Brettenham Parish Council
91. Brent Eleigh Parish Council
92. Brantham Parish Council
93. Boxted Parish Council
94. Bildeston Parish Council
95. Bentley Parish Council
96. Alpheton Parish Council
97. Aldham Parish Council
98. Acton Parish Council
99. H M Revenues and Customs
100. Suffolk Constabulary
101. Ali Spalding LSCB Manager

102. Gambling Commission
103. Planning Control Division
104. Environmental Health Department
105. Chief Officer of Police
106. Chief Fire Officer
107. National Stud
108. Mr B Deane
109. Inspired Gaming
110. Home Start (South Suffolk & District)
111. West Suffolk Crossroads
112. The National Casino Industry Forum
113. The Lotteries Council
114. Suffolk County Council
115. Suffolk Adult Safeguarding Board
116. Suffolk Safeguarding Children's Board
117. Society for Study of Gambling
118. Responsibility in Gambling Trust
119. Racecourse Association Ltd
120. National Youth Agency
121. National Association of Bookmakers Ltd
122. Narcotics Anonymous
123. Mencap Suffolk
124. Learning Disability Partnership Board
125. Independent Betting Adjudication Service
126. Horeserace Betting Levy Board
127. Greyhound Board of Britain
128. Gordon Moody Association
129. Gamestec Leaisure Ltd
130. GamCare
131. Gamblers Anonymous
132. Essex Leisure
133. C L Jennings
134. Citizens Advice Bureau
135. Chilvers Automatics Ltd
136. Casino Operators Association UK
137. British Horseracing Authority
138. British Association of Leisure Parks,Piers & Attractions Ltd
139. Bingo Association
140. BACTA
141. Association of British Bookmakers Ltd
142. Alcoholics Anonymous
143. Age UK Suffolk
144. Age UK
145. Advertising Association
146. ADFAM Families Drugs and Alcohol
147. Sudbury & District Chamber of Commerce Bank Buildings, Station Road, Sudbury CO10 2SP
148. New Anglia Growth Hub, Felaw Maltings, 42 Felaw Street, Ipswich, Suffolk IP2 8SQ
149. jeanette.thurtle@fsb.org.uk
150. Poppleston Allen LLP
151. Coral (licence holder)

GAMBLING ACT 2005 'Statement of Principles' (2015 revision)

Summary of revisions and reasons

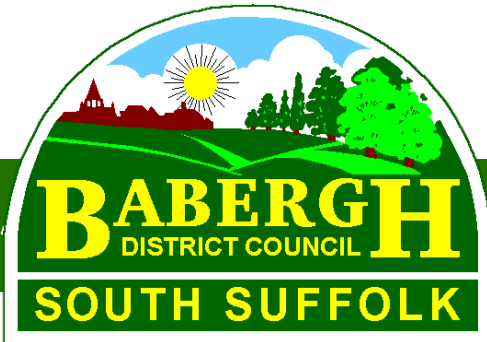
1. Preface (and Schedule E)

- Reference to the *DRAFT* 5th edition Gambling Commission guidance – which specifically will bring in 'Area Profile and Risk Assessments' (potentially a significant shift) and we have anticipated this with our additional content as proposed at Schedule E. That is all we need at this stage, as the principles development has to primarily take into account the guidance at the time it is drafted. The 5th edition GC guidance is outside of that timeframe. Our gambling sector 'premises' activity is low, only Westminster have developed such a profile, and it is highly unlikely we will ever need one.

2. Generally (rest of document)

- 2.6 same reference as in LA2003 policy making it clearer there may be periods where policy and guidance are inconsistent.
- 4.2 Clarity that we view Suffolk Safeguarding Children Board as competent to advise on child protection matters. It is clear the police do not see gambling as a priority part of their remit (even though they are a statutory responsible authority).
- Enforcement changes referencing Regulators' Code. The Corporate Manager – Environmental Protection has reviewed and approved this text in consultation with the Corporate Manager - Licensing. Also re-drafted so it is more consistent with LA2003 Statement of Licensing Policy text.
- 1.15 Reference to conditions/codes and operator compliance for greater emphasis on 'social responsibility' in the sector
- Various references to 'fixed odd betting terminals' now changed to 'self-service betting terminals' as they are now referred to nationally. Clarifies for operators.
- Schedule A contacts will be updated as changed since last policy review
- Schedule C Summary of machine provisions by premises has been fully updated since last review due to regulatory reform
- Schedule E is new in response to the changes coming in later from next year (5th edition GC guidance)
- **Part B: Premises Licensing in paragraphs 1.7, 1.9 and 1.14 have been revised post-consultation specifically in response to trade responses.**

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Babergh District Council

Gambling Act 2005 Statement of Principles

2015 REVISION – POST CONSULTATION DRAFT

RED = pre-consultation draft revisions
BLUE = post-consultation draft revisions

Adopted by Babergh District Council on XXXX

Effective: 31 January 2016 until 30 January 2019
(as may be revised)



Preface:

This '**Gambling Act 2005: Statement of Principles**' document has been drafted in partnership by the seven district and borough Licensing Authorities across Suffolk with an aim of creating a broadly consistent document for the benefit of all stakeholders and others with an interest in the Gambling Act 2005 functions.

Section 349 of the Gambling Act 2005 requires all Licensing Authorities to prepare and publish a statement of the principles that they propose to apply in exercising their functions under the Act during the three-year period to which the policy applies. This document is the third such statement for this Licensing Authority and must, by order of the Secretary of State, be published to take effect from **31 January 2016**.

This document has been developed with due regard to all available regulations, conditions, codes of practice, statutory guidance, practical experience of the legislation and any consultee responses. Should anything in future publications, legislative/regulatory changes or case law impact upon the content of this 'statement of principles' document, then it will be taken into account and the document may be updated at a later stage and with due consideration to the resource implications for the Licensing Authority.

All references made within this document to the Gambling Commission Guidance for Licensing Authorities, and any extracts quoted thereof, refer to the **fourth** edition Guidance document published in **February 2013**. **The Licensing Authority is aware of draft fifth edition Gambling Commission Guidance in the preparation of this document, but this had not been published in a final approved form within the preparation time for the Authority's statutory statement of principles revision. For further reference please see paragraph 2.6 of this statement of principles document.**

For further information please refer to:

www.gamblingcommission.gov.uk
www.gov.uk
www.babergh.gov.uk

Babergh District Council's website has an on-line public register, accessible 24 hours a day 7 days a week, for all Gambling Act 2005 matters for which it has responsibility. The Gambling Commission website gives details of both licensed and pending Gambling Operators.

**GAMBLING ACT 2005: STATEMENT OF PRINCIPLES
(FOURTH EDITION)**

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PART A: GENERAL MATTERS

1. The Licensing Objectives

- 1.1 In exercising most of its functions under the Gambling Act 2005, the Licensing Authority must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005 ('the 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.**

The Gambling Commission has stated that, with limited exceptions, the intention of the Gambling Act 2005 is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments. The objective refers to protecting children from being 'harmed or exploited' by gambling. This means preventing them from taking part in gambling activities, except limited authorised activities (see schedule D), and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children (excepting category D machines).

- 1.2 In accordance with section 153 of the Act, in making decisions about premises licences and temporary use notices the Licensing Authority should **aim to permit** the use of the premises for gambling purposes in so far as it thinks it:
- in accordance with any relevant code of practice issued by the Gambling Commission;
 - in accordance with any relevant guidance issued by the Gambling Commission;
 - reasonably consistent with the licensing objectives; and
 - in accordance with the Authority's statement of principles.

2. Introduction

- 2.1 Babergh District Council is situated in the County of Suffolk, which at the time this document was published, contains seven District / Borough Councils in total.

Whilst the Babergh District remains very rural, it is within close and convenient distance of London and the Continent. The District has a population of approximately 87,000. It covers an area of 230 square miles and contains several small towns and villages which still retain much of their original outstanding character and appearance, including the nationally recognised villages of Lavenham and Long Melford.

A list of the persons consulted by the Licensing Authority is attached to this document as Schedule A.

The consultation took place between [24 August 2015](#) and [19 October 2015](#)

The full list of any comments made and the consideration by the Licensing Authority of those comments is available upon request by contacting:

Babergh District Council
Licensing Team, Corks Lane, Hadleigh, IPSWICH, Suffolk IP7 6SJ
(☎ Tel: 01473 822801) (✉ e-mail: licensing@babergh.gov.uk)
website: www.babergh.gov.uk

- 2.4 The statement of principles was approved at a meeting of the full Council of Babergh District Council on **XXXX** and was published on the Council website by **03 January 2016**. Copies were placed in the public libraries within the District as well as being available at the Babergh District Council Offices. Should you have any comments concerning this document then please send them via e-mail or letter to the Licensing Team as above.
- 2.5 It should be noted that this statement of principles document shall not override the rights 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.
- 2.6 **Where revisions are made to the legislation or Guidance issued by the Gambling Commission, there may be a period of time when the local statement of principles is inconsistent with these revisions. In these circumstances, the Licensing Authority will have regard, and give appropriate weight, to the relevant changes, Guidance and its own statement of principles.**

3. Declaration

- 3.1 In producing this statement of principles the Licensing Authority declares that it has had due regard to the licensing objectives of the Gambling Act 2005 (see 1.1 of this document), the guidance issued by the Gambling Commission, and any responses from those consulted on the statement of principles.

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 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.

- 4.2 In accordance with the Gambling Commission Guidance for Licensing Authorities this Authority intends to designate the **Suffolk Safeguarding Children Board** for this purpose. ~~However, the Suffolk Safeguarding Children Board has an arrangement with the Suffolk Constabulary for the Constabulary to act as their nominated agent in relation to Gambling Act 2005, when considering applications in the context of protecting children from harm.~~
- 4.3 The contact details of all the Responsible Bodies under the Gambling Act 2005 are available via the Babergh District Council website at www.babergh.gov.uk or available upon request to the Licensing Team.

5. Interested parties

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. The Gambling Act defines interested parties as persons who:
- a) live sufficiently close to the premises to be likely to be affected by the authorised activities,
 - b) have business interests that might be affected by the authorised activities, or
 - c) represent persons who satisfy paragraph (a) or (b).
- 5.2 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. These principles are:
- Each case will be decided upon its merits.
 - The Licensing Authority will not apply a rigid rule to its decision making. It may have regard to a number of factors, for example:
 - (i) The size of the premises;
 - (ii) The nature of activities the applicant proposes to provide at the premises; and
 - (iii) Guidance from the Gambling Commission that 'business interests' should be given the widest possible interpretation (paragraph 6.25 of the guidance refers).
- 5.3 Interested parties can include persons who are democratically elected such as county, parish and town councillors and MPs. Other than these persons, the Licensing Authority will normally require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities.
- 5.4 If individuals approach Councillors to ask them to represent their views then care should be taken to ensure that the Councillors are not subsequently appointed as part of a Licensing Sub-Committee who may be involved with determination of the licence application. If any further guidance is required, generally or in individual cases, then please contact the Licensing Team at Babergh District Council.

6. Exchange of Information

- 6.1 This Licensing Authority will, when exchanging information it holds relating to gambling premises, permits, registrations and temporary permissions, apply the following principles:
- (a) act in accordance with the provisions of the Gambling Act 2005;
 - (b) comply with the Data Protection Act 1998;
 - (c) comply with any relevant requirements of the Freedom of Information Act 2000;
 - (d) have regard to Part 13 of the Guidance issued by the Gambling Commission on this matter and the Gambling Commission's publication '*Advice to Licensing Authorities on information exchange with the Gambling Commission*' (as may be periodically updated); and
 - (e) any relevant regulations issued by the Secretary of State under the powers provided by the Gambling Act 2005.
- 6.2 Should any protocols be established pursuant to section 350 of the Act concerning information exchange with the other bodies as listed in Schedule 6(1) of the Act then these will be made available by the Licensing Authority.

7. Enforcement

- 7.1 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission Guidance (in particular Part 36), the Regulators' ~~Compliance~~ Code and its own Corporate Enforcement Policy. The Authority shall endeavour to regulate in the public interest and be:
- **Proportionate:** regulators should only intervene when necessary and remedies should be appropriate to the risk posed, and costs identified and minimised;
 - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
 - **Consistent:** rules and standards must be joined up and implemented fairly;
 - **Transparent:** regulators should be open, and keep regulation simple and user friendly; and
 - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 7.3 In accordance with the Gambling Commission Guidance, the Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 Any inspection programme, which may be adopted by the Licensing Authority, shall be risk-based ~~and may be combined with other functions~~.

- 7.5 The enforcement and compliance role for the Licensing Authority under the Gambling Act 2005 is to ensure compliance with the Premises Licences and other permissions which it authorises. The Gambling Commission is the enforcement body for Operator and Personal Licences. Manufacture, supply or repair of gaming machines is dealt with by the Gambling Commission and not the Licensing Authority.
- 7.6 This Licensing Authority will also endeavour to work in partnership with and support local businesses, having due regard to the stated principles and any best practice guidelines/codes published by the **Better Regulation Delivery Office**, in respect of its responsibilities under the Gambling Act 2005 and other regulatory functions of the Local Authority. **This includes that Regulators should:**
- carry out their activities in a way that supports those they regulate to comply and grow;
 - provide simple and straightforward ways to engage with those they regulate and hear their views;
 - base their regulatory activities on risk;
 - share information about compliance and risk;
 - ensure clear information, guidance and advice is available to help those they regulate meet their responsibilities to comply; and
 - ensure that their approach to their regulatory activities is transparent.
- 7.7 With due regard to the principle of transparency, any enforcement/compliance protocols or written agreements developed by the Licensing Authority shall be made available upon request to the Licensing Team.
- 7.8 In considering applications, and taking enforcement action, under the Gambling Act 2005 the Licensing Authority shall duly consider any Human Rights Act 1998 implications (in particular Article 1, Protocol 1 and Articles 6, 8 and 10).

8. Licensing Authority functions

- 8.1 The Act gives Licensing Authorities a number of important regulatory functions in relation to gambling, the main functions of which are to:
- Licence premises for gambling activities;
 - Consider notices given for the temporary use of premises for gambling;
 - Grant permits for gaming and gaming machines in clubs and miners' welfare institutes;
 - Regulate gaming and gaming machines in alcohol-licensed premises;
 - Grant permits to Family Entertainment Centres (FEC's) for the use of certain lower stake gaming machines;
 - Grant permits for prize gaming;
 - Consider occasional use notices for betting at tracks;
 - Register small societies' lotteries;
 - Consider applications for provisional statements;
 - Provide information to the Gambling Commission regarding details of licences, permits, notices and registrations issued (see section 6 above on 'Exchange of Information');
 - Maintain registers of the permits, notices and licences that are issued under these functions; and

- Prepare and publish, every three years (or sooner if required), a statement of the principles it proposes to apply when exercising its functions under the Gambling Act 2005.

Additions or amendments to the list above notified by the Gambling Commission will be published on the Council website.

8.2 The Babergh District Council summary of delegations adopted under the Gambling Act 2005 is available separately via the Council website at www.babergh.gov.uk or upon request direct to the Licensing Team.

8.3 It should be noted that local Licensing Authorities are not responsible for licensing remote gambling. This is the responsibility of the Gambling Commission.

9. Appeals

9.1 Appeals relating to premises licensing and other decisions by Licensing Authorities are covered within the relevant legislation and regulations and are referred to in Part 12 of the Gambling Commission guidance.

PART B: PREMISES LICENSING

1. General Principles

1.1 Premises Licences are subject to the requirements set out in the Gambling Act 2005 and regulations. The Act provides that licences may be subject to conditions in a number of ways:

- (a) automatically, having been set out on the face of the Act ;
- (b) through regulations made by the Secretary of State;
- (c) by the Gambling Commission, to operating and personal licences;
- (d) by the Licensing Authority, to premises licences and some permits; and
- (e) by the Licensing Authority, by excluding certain default conditions on a premises licence.

1.2 When determining an application, this Licensing Authority **aims 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.

1.3 **Definition of 'Premises':**

'Premises' is defined by the Act as 'any place'. A particular premises can not be granted more than one premises licence under the Gambling Act at any one time. It is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being separate premises. Whether different parts of a building can properly be regarded as being separate premises will always be a question of fact in the circumstances. However, the Gambling Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can be properly regarded as different premises.

1.4 The Licensing Authority takes particular note of the Gambling Commission Guidance which states that Licensing Authorities should take particular care when considering applications for more than one premises licence for a single building, and applications for a premises licence where part of the premises is used for non-gambling purposes. In particular the Licensing Authority will consider whether:

- entrances and exits from parts of a building covered by one or more licences are to be separate and identifiable so that the separation of different premises is not compromised and that people can not 'drift' into a gambling area;
- premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating; and
- customers are able to participate in the principal gambling activity authorised by the premises licence.

1.5 The Licensing Authority takes particular note of the Gambling Commission Guidance which states that Licensing Authorities should pay particular attention to applications where access to the licensed premises is through other premises - whether licensed or unlicensed. The Licensing Authority will consider whether:

- entrances and exits from parts of a building covered by one or more licences are to be separate and identifiable so that the separation of different premises is not compromised and that people cannot 'drift' into a gambling area;
- premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating;
- customers are able to participate in the principal gambling activity authorised by the premises licence;
- children can gain access to the premises;
- the two establishments are compatible;
- the proposed licence holder would be able to comply with the requirements of the Act, for example mandatory operating licence conditions; and
- Gambling Commission Guidance in relation to division, separation or splitting of premises and primary gambling activity (Part 7 of statutory guidance).

In addition an overriding consideration for the Licensing Authority is 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.

- 1.6 Where an application is made in respect of a premises to be constructed or altered the Licensing Authority will consider each application on its own merits having due regard to the advice given by the Gambling Commission in its Guidance (particularly sections 7.59 to 7.66). The Licensing Authority will consider whether:
- (a) a future effective date on the licence is appropriate; or
 - (b) the licence should be issued subject to a condition that trading shall not commence until the premises have been completed in all respects and in accordance with the scale plans provided with the application.

The Licensing Authority may require inspection of the completed works or written confirmation from the applicant, their agent or surveyor to satisfy the Authority that the completed works comply with the original, or changed, plan attached to the premises licence.

- 1.7 **Location:** Demand or need for licensed premises cannot be considered with regard to the location of premises. In accordance with the Gambling Commission Guidance, the Licensing Authority will pay particular attention to 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 concerning areas where gambling premises should not be located, this principles statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the possibility that the applicant can show how any concerns may be overcome.~~ The Licensing Authority will carefully consider applications for premises licences and whether there is a need for condition(s) to mitigate risks, in respect of certain kinds of gambling located very close to a school or a centre for gambling addicts, in light of the third licensing objective. Each case will be decided on its merits and will depend to a large extent on the type of gambling that is proposed for the premises. The requirement for conditions might be determined by the operator's own risk assessment or the local area profile carried out by the licensing authority.

- 1.8 **Duplication with other regulatory regimes:** The Licensing Authority seeks to avoid any duplication with other statutory / regulatory systems wherever possible, including planning, building control, health and safety and fire safety. Should it come to the attention of the Licensing Authority that planning conditions or other regulatory restrictions/controls may impact on a premises operator's ability to comply with mandatory or default conditions then it may alert the applicant accordingly. The grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building control.

- 1.9 **Licensing objectives:** Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Licensing Authority has considered the Gambling Commission Guidance and provides some commentary below:

(1) 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 takes the leading role in preventing gambling from being a source of crime. Where a particular area is associated with criminal activity the Licensing Authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be appropriate, for example the provision of door supervisors. There is a distinction between disorder and nuisance and the Licensing Authority will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed when determining applications under the Gambling Act 2005. [The Licensing Authority shares the view expressed by the Gambling Commission in their guidance that in the context of gambling premises licences, licensing authorities should generally consider disorder as activity that is more serious and disruptive than mere nuisance.](#)

(2) Ensuring that gambling is conducted in a fair and open way.

The Gambling Commission states in its Guidance that it would, with the exception of tracks, generally not expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this is addressed via Operator and Personal licensing requirements. If the Licensing Authority suspects that gambling is not being conducted in a fair and open way then this will be brought to the attention of the Gambling Commission for its further consideration.

(3) Protecting children and other vulnerable persons from being harmed or exploited by gambling:

The Gambling Commission has stated, with limited exceptions, the intention of the Gambling Act is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments. The objective refers to protecting children from being 'harmed or exploited' by gambling. This means preventing them from taking part in gambling activities except limited authorised activities (see schedule D), and for there to be restrictions on advertising so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children (excepting category D machines).

The Licensing Authority will therefore consider, as suggested in the Gambling Commission Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include such matters as supervision of entrances/machines or segregation of areas and the Licensing Authority will also have due regard to any relevant Codes of Practice issued by the Gambling Commission concerning this licensing objective in relation to specific premises.

The Gambling Commission does not provide a definition for the term 'vulnerable persons' but states that for regulatory purposes assumes that this group includes people who:

- gamble more than they want to;
- gamble beyond their means; and
- may not be able to make informed or balanced decisions about gambling due to mental health needs alcohol or drugs.

The Licensing Authority will consider this licensing objective on a case by case basis.

1.10 **Conditions:**

Since the Licensing Authority must aim to permit the use of premises for gambling, it will not attach conditions which limit the use of the premises for gambling, except where that is necessary as a result of the requirement to act:

- in accordance with the Gambling Commission Guidance, the Commission's codes of practice or this Licensing Authority's Statement of Policy; or
- in a way that is reasonably consistent with the licensing objectives.

This Licensing Authority notes that conditions on premises licences should only relate to gambling, and it is not necessary, proportionate or appropriate to impose conditions on a premises licence where the Gambling Commission's Licence Conditions and Codes of Practice, or other legislation, places the same or similar duties, responsibilities or restrictions on an employer or the operator of gambling premises.

This Licensing Authority shares the view of the Gambling Commission that the mandatory and default conditions set by the Secretary of State will normally be adequate for the general good conduct of gambling premises. However, where there are specific, evidenced risks or problems associated with a particular locality, specific premises, or class of premises in its area then the Licensing Authority may be able to attach individual conditions to address this.

Any conditions attached by the Licensing Authority to a premises licence shall be:

- carefully considered in view of the matters mentioned above at 1.10;
- proportionate and directly related to the premises and the type of licence applied for;
- relevant to the need to make the proposed building suitable as a gambling facility;
- fairly and reasonably related to the scale and type of premises; and
- reasonable in all other respects.

Sections 169 to 172 of the Act set out certain matters that may not be the subject of Licensing Authority conditions, and these are set out below:

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

The Licensing Authority will have due regard to these matters when considering the need for conditions.

1.11 The Licensing Authority will also consider specific measures which may be required for buildings which are the subject of more than one premises licence. In considering these matters the Licensing Authority shall have due regard to:

- any mandatory or default conditions of licence,
- any relevant Codes of Practice (particularly social responsibility provisions linked to operator licences) issued by the Gambling Commission; and
- Gambling Commission Guidance.

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 specific non-adult gambling premises in order to promote the licensing objectives.

1.12 The Licensing Authority must be satisfied that where category C or above machines are available 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 may apply to premises including buildings where more than one premises licence is applicable.

1.13 'Tracks' may be subject to one, or more than one, premises licence provided each licence relates to a specified area of the track. In accordance with the Gambling Commission Guidance, the Licensing Authority will consider the impact upon the protection of children 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 In accordance with Gambling Commission Guidance, the Licensing Authority may consider whether door supervisors are appropriate in particular circumstances in order to:

- prevent premises from becoming a source of crime or disorder; or
- protect children and vulnerable persons from being harmed or exploited by gambling.

Should the Licensing Authority consider that door supervisors are necessary and appropriate in particular circumstances to ~~promote~~ address specific risks regarding the licensing objectives for ~~a specific an individual~~ premises, it will normally expect that any person employed as a door supervisor at that premises will either:

- meet the minimum requirements necessary for that individual to be licensed by the Security Industry Authority (SIA) in normal circumstances (accepting that there is a specific exemption from the licensing of door supervisors by the SIA for in-house staff of casino and bingo premises); or
- the holder of the operator licence will have recruitment criteria for their door supervisors, which may specify:
 - (a) a minimum training standard (whether within the organisation, or a nationally accredited training course); and
 - (b) an assessment of whether that individual is fit and proper, for example by means of a subject access search, Criminal Records Bureau (CRB) disclosure or other means.

1.15 Operators should ensure their familiarity, and compliance where appropriate, with the Gambling Commission's published Licence Conditions and Codes of Practice (LCCP), which were substantially updated in February 2015. These provide sector-specific advice about steps that a business should take to meet its social responsibilities and reflect the licensing objectives. In particular this relates to those business activities which fall under the responsibility of the Licensing Authority i.e. in the areas of non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences. The exceptions to this are non-remote general betting (limited) and betting intermediary licences. See also **Schedule E** of this statement of principles relating to Local Area Profile and Risk Assessments.

2. Reviews

2.1 An application for review of a premises licence may be made by:

- a interested party;
- a responsible authority; and
- the Licensing Authority, for :
 - (i) a particular class of premises licence; or
 - (ii) in relation to a particular premises.

It is for the Licensing Authority to decide whether the review is to be carried-out.

2.2 Any request for a review should normally relate to matters relevant to one or more of the following:

- any relevant code of practice issued by the Gambling Commission;
- any relevant guidance issued by the Gambling Commission;
- the licensing objectives, and
- the Licensing Authority's statement of principles.

When considering any review request, or whether to instigate its own review, the Licensing Authority will have due regard to the guidance issued by the Gambling Commission and consider;

:

- each application on its merits;
- whether matters raised in the application are frivolous or vexatious;

- whether the application would certainly not cause it to amend/suspend or revoke the licence; or
- whether the request is substantially the same as any previous representations, requests made for a review or previous application for the same premises.

Officers of the Authority may attempt informal mediation or dispute resolution techniques, where practicable, prior to a review being conducted.

- 2.3 A review application must only be determined by a Sub-Committee, and not by an officer. The purpose of a review is to determine whether the Licensing Authority should take any action in relation to the licence. The Licensing Authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations. If action is justified, the options are to:
- (a) add, remove or amend a licence condition imposed by the Licensing Authority;
 - (b) exclude a default condition imposed by the Secretary of State (relating to, for example, opening hours) or remove or amend such and exclusion;
 - (c) suspend the premises licence for a period not exceeding 3 months; or
 - (d) revoke the premises licence.

3. Provisional Statements

- 3.1 An applicant may apply for a full premises licence where the premises are uncompleted or unaltered. However an applicant for a provisional statement does not need the right of occupation or an operator licence (granted or applied for) which are required in order to apply for a premises licence.
- 3.2 An application may be made to the Licensing Authority, under section 204 of the Act, for a provisional statement in respect of premises that the applicant expects to;
- be constructed;
 - be altered;
 - acquire a right to occupy.

An application may also be made for a provisional statement for premises already having a premises licence (either for a different type of gambling or the same type).

- 3.3 When considering an application for a provisional statement the Licensing Authority shall have due regard to the guidance issued by the Gambling Commission (in particular Part 11). Subject to any necessary modifications, the process for considering an application for a provisional statement is the same as that for a premises licence, including the rights of interested parties and responsible authorities to make representations and rights of appeal.
- 3.4 If representations about a premises licence application, following the grant of a provisional statement, are received then they may not be taken into account unless they concern matters which could not have been addressed when determining the provisional statement, or they reflect a material change in the circumstances of the application. The Licensing Authority must determine the premises licence, referring only to matters:

- (a) which could not have been raised by way of representations at the provisional statement stage;
- (b) which in the Licensing Authority's opinion reflect a change in the operator's circumstances; or
- (c) where the premises has not been constructed in accordance with the plan and information submitted with the provisional statement application. If there are substantial changes to the plan the Licensing Authority will discuss any concerns with the applicant before making a decision.

3.5 In accordance with section 210 of the Act (which applies to premises licences and provisional statements), the Licensing Authority must not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

4. Temporary Use Notices

4.1 Temporary Use Notices (TUNS) allow the use of premises for gambling where there is no premises licence but where a licensed gambling operator wishes to use the premises for providing facilities for equal chance gaming. The Gambling Commission Guidance suggests that premises that might be suitable for TUNS include hotels, conference centres and sporting venues, and that equal chance gaming may include games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker (but may not be provided by means of machine).

4.2 There are a number of statutory limits that apply in respect of Temporary Use Notices, including that a TUN may only be granted to a person or company holding a relevant operator licence, in effect a non-remote Casino Operating licence, and limitations on the number of times a 'set of premises' can be used under these provisions.

4.3 A 'set of premises', as referred to by section 218 of the Act, is the subject of a Temporary Use Notice if any part of the premises is the subject of a notice. This reference to 'premises' is not the same as that in Part 8 of the Act and prevents one large premises from serving TUNS for different parts of the premises and exceeding the statutory limit of 21 days in any 12 month period.

4.4 The Licensing Authority will take into account Gambling Commission Guidance when considering whether a place falls within the definition of a 'set of premises'. This consideration may include looking at the ownership, occupation and control of the premises. The Gambling Commission Guidance advises that being a new type of permission, Licensing Authorities should be ready to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

4.5 Where a notice of objection is received in respect of a Temporary Use Notice, the Licensing Authority will hold a hearing and consider representations from:

- the person who gave the notice
- any person who objected to the notice; and
- any party who was entitled to receive a copy of the Temporary Use Notice.

Where all parties agree that a hearing is unnecessary, the hearing may be dispensed with.

- 4.6 Where objections are made, a modification to the Temporary Use Notice may be proposed, which could include a:
- reduction in the number of days when gambling occurs; and/or
 - restriction on the type of gambling which may take place.
- 4.7 Where, following a hearing or after a hearing has been dispensed with, the Licensing Authority considers that the Temporary Use Notice should not have effect, it must issue a counter-notice which may:
- prevent the temporary use notice from taking effect;
 - limit the activities that are permitted;
 - limit the time period of the gambling;
 - allow the activity to take place subject to a specified condition.

The principles which the Licensing Authority will apply in determining a TUN are those which it will apply when determining a premises licence, subject to its view as to whether it accords with:

- a Gambling Commission code of practice;
- the Guidance issued by the Gambling Commission;
- the Licensing Authority's statement of principles; and
- is reasonably consistent with the licensing objectives.

5. Occasional Use Notices

- 5.1 Occasional Use Notices (OUNS) permit licensed betting operators (with appropriate permission from the Gambling Commission) to use tracks for short periods for conducting betting, where the event upon which the betting is taking place is of a temporary, infrequent nature. The Occasional Use Notice dispenses with the need for a Betting Premises Licence for the track in these circumstances.
- 5.2 The OUN must be served by a person who is responsible for the administration of events on the track or by an occupier of the track.
- 5.3 The Licensing Authority must ensure that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will consider the definition of a 'track', which need not be a permanent fixture, and whether the applicant is eligible to serve the notice.

6. Casinos

- 6.1 This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but retains the power to do so. Any change will be published in this Statement of Principles and on the Council's website during any intervening period.
- 6.2 Where a Licensing Authority has the power to determine a premises licence application for a new style casino, it will do so following any regulations under Section 175 of the Gambling Act 2005 published by the Secretary of State.

6.3 The Act lays down a framework for a two-stage process for considering applications in circumstances where the number of applications exceeds the number of licences available, and this will be followed by the Licensing Authority.

6.4 **Licence considerations/conditions:** The Licensing Authority shall have due regard to Gambling Commission guidance in relation to the suitability and layout of casino premises, and also the guidance issued by the Commission on primary gambling activity at casino premises.

Conditions may be attached to casino operator licences by the Gambling Commission to restrict the types of casino games that may be made available, or specifying rules for casino or equal chance games played in a casino. The Licensing Authority will make itself aware of any operating, mandatory and default conditions, codes of practice and Gambling Commission guidance when considering applications, and attachment of any conditions, for casino premises licences.

6.5 **Betting machines:** Where betting is permitted in a casino the Licensing Authority will normally, in accordance with Gambling Commission 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 (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines (**self-service betting terminals**) an operator wants to make available.

7. Bingo premises

7.1 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 B or C or machines are made available for use on 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; and
- only adults are admitted to the area where the machines are located.

7.2 The Licensing Authority shall have due regard to relevant licence conditions and codes of practice in relation to the operation of bingo premises, and also the Gambling Commission's guidance about the particular issues that Licensing Authorities should take into account in relation to the suitability and layout of bingo premises. This includes guidance on primary gambling activity, split premises and operating licence conditions.

8. Betting premises

- 8.1 **Betting machines:** The Licensing Authority will normally, in accordance with Gambling Commission 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 (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines (**self-service betting terminals**) an operator wants to make available. Children and young persons will not be able to enter premises which hold a Betting Premises licence, unless the special rules applying to tracks are applicable.
- 8.2 The Licensing Authority shall have due regard to the Gambling Commission Guidance in relation to the suitability and layout of betting premises. This includes guidance on primary gambling activity, split premises and operating licence conditions.
- 8.3 Betting machines (**self-service betting terminals**) are not gaming machines under the Act, and do not accrue against the premises entitlement for gaming machines, unless the machine is designed or adapted for use to bet on **virtual** races (that is, images generated by computer to resemble races or other events) in which case it is considered a gaming machine. Where betting facilities are provided only by betting machines the number of betting machines must exceed the number of gaming machines made available for use.

9. Track premises

- 9.1 Tracks are defined under the Act as a 'horse race course, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place'. Examples of tracks may include:
- horse racecourse
 - greyhound track
 - point-to-point horse race meeting
 - football, cricket or rugby ground
 - athletics stadium
 - golf course
 - venues hosting darts, bowls or snooker tournaments
 - premises staging boxing matches
 - sections of river hosting a fishing competition
 - motor racing events

This list is not exhaustive, but gives an example of the types of venue which could accommodate the provision of betting facilities.

- 9.2 There are three types of authorisation under which betting facilities may be made available at a sporting event:
- an Occasional Use Notice (OUN);
 - a Temporary Use Notice (TUN); and
 - a Track Premises Licence.

Betting in relation to tracks may be provided either as on-course or off-course betting. The different types of betting are explained in detail in the Guidance issued by the Gambling Commission, and this is available via the Gambling Commission website at www.gamblingcommission.gov.uk

- 9.3 A Betting Premises Licence permits a premises to be used for the provision of facilities for betting, whether by:
- making or accepting bets;
 - acting as a betting intermediary; or
 - providing other facilities for the making or accepting of bets.
- 9.4 Tracks are the only class of premises that may be subject to more than one premises licence, provided that each licence relates to a specific area of the track. This allows track venues to develop leisure facilities such as a casino and apply for a (casino) premises licence for that part of the track.
- 9.5 There is no special class of Betting Premises Licence for a track, but the Act does contain rules which apply specifically to premises licences granted in respect of tracks.
- 9.6 Special rules apply to applicants for a premises licence in relation to a track. Most importantly the applicant need not hold an operator licence. That is because, unless the occupier of the track wishes to offer pool betting (or general betting) facilities himself (for which he will need a licence), the betting that is provided upon the track will not be provided by him but will be provided by other operators who come on-course. Since those people will require the necessary operator licence(s), the Act allows the track operator to obtain a premises licence without also having to hold an operator licence. This 'Track Premises Licence' then authorises anyone upon the premises with a valid operator licence to offer betting facilities.
- 9.7 Track premises licences are distinguished from all other premises licences because children and young persons are allowed to be present on the track while betting is taking place on those licensed premises.
- 9.8 Track premises that safeguard the achievement of the three licensing objectives may generally be considered fit for gambling, and some general principles whereby Licensing Authorities can establish whether a track is fit for the provision of gambling facilities are outlined as follows:

Licensing objective	Issues to consider	Reason to consider a track premises unfit for gambling purposes?
The protection of children and other vulnerable persons from being harmed or exploited by gambling	Tracks permit access to children.	No - Children are allowed access to tracks on race days.
	Self-service betting terminals in areas where there is no supervision which would allow children or young persons to use machines undetected.	No - It is a mandatory condition of the operating licence that operators ensure that self-service betting terminals are supervised. This is not an issue for the premises licence.

<p>The protection of children and other vulnerable persons from being harmed or exploited by gambling</p> <p>(...continued)</p>	<p>Children are allowed access to areas siting category B and C gaming machines.</p>	<p>It is a mandatory condition of the operating licence that operators ensure that children are not allowed access to areas where category B and C gaming machines are provided.</p> <p>However, section 182 of the Act also creates a premises licence condition that children and young persons must be excluded from areas where any gaming machines other than category D are located.</p>
	<p>Betting areas adjacent to areas where children or young persons are present such as play areas.</p>	<p>No - Children are allowed access to tracks on race days and so will be exposed to gambling areas. It is a mandatory condition of the operating licence that operators do not accept bets from children or young persons.</p>
	<p>Betting areas adjacent to areas where children or young persons are present such as play areas.</p>	<p>The Commission considers that the location of betting does not generally pose a risk to this licensing objective. Licensing authorities may impose their own local conditions where they perceive problems.</p>
<p>Ensure gambling is conducted in a fair and open way</p>	<p>The rules of betting are not displayed on the premises.</p>	<p>No (not an issue at application stage) - it is a mandatory condition of the premises licence that the rules of betting are displayed.</p>
	<p>Unlicensed betting operators are allowed to operate on tracks.</p>	<p>No (not an issue at application stage) - it is a mandatory condition of the premises licence that licence holders make arrangements to ensure that they only allow licensed operators on track.</p>
	<p>Betting takes place out of approved hours.</p>	<p>No (not an issue at application stage) - it is a mandatory condition of the premises licence that betting only takes place</p>

		within the specified hours.
Prevent gambling from being a source of crime and disorder	Betting is allowed in all parts of a track resulting in greater difficulties for track premises licence holders to identify instances of illegal betting.	No - the Commission's view is that this does not generally pose a risk to this objective. Licensing authorities may impose their own conditions should they perceive a problem.
	No formal exit/entry points allowing easy access for unapproved operators and customers.	No - the Commission's view is that this does not generally pose a risk to this objective. Licensing authorities may impose their own conditions should they perceive a problem.

The Licensing Authority will take any such guidance into consideration when determining an application for a track premises licence.

Access to premises and other parts of the track:

9.9 Access between premises licensed for gambling and non-gambling areas is an important local licensing consideration, for reasons that include the following:

- (a) to prevent operators from seeking to circumvent the Act by artificially subdividing a premises and securing separate premises licences for its composite parts;
- (b) to ensure that operators do not circumvent regulations governing the maximum number of gaming machines applicable to specific premises;
- (c) to ensure that people who have entered a premises for one type of gambling are not exposed to another, potentially harder, form of gambling;
- (d) to ensure that there is no direct access between gambling premises to which children have access and those which they are prohibited from entering;
- (e) to ensure that all gambling premises have publicly accessible entrances;
- (f) to ensure that gambling premises are not developed in the backrooms of other commercial premises.

Access by children - special dispensation for tracks:

9.10 The Act forbids all persons under 18 years old to enter premises when betting facilities are being provided, other than at tracks. This dispensation allows families to attend premises such as greyhound tracks or racecourses on event days, and children to be permitted into areas where betting facilities are provided, such as the betting ring, where betting takes place. This dispensation does not, however, apply to:

- areas within a track where category C or above machines are provided; or
- other premises to which under 18 year olds are specifically not permitted access.

Licensed betting operators at tracks are bound by their operating licence conditions which prevent them from accepting bets from persons who are under 18 years old. The track premises licence holder is also required through premises licence conditions to display a notice in a prominent place at every public entrance stating that no person under the age of 18 is permitted to bet on the premises.

There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling, the need to ensure entrances to each type of premises are distinct and that children are excluded from gambling or betting areas where they are not permitted to enter.

- 9.11 Children and young persons will by law 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. The Licensing Authority will normally expect premises licence applicants to demonstrate suitable measures to ensure the children do not have access to adult only gambling facilities.

Appropriate measures may include:

- Proof of Age schemes
- CCTV
- Door Supervisors
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The location of gaming machines
- Self-barring schemes
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware.

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

Betting on event and non-event days:

- 9.12 **Hours of betting on event days:** Premises licence holders will be expected to comply with the mandatory and default conditions applicable to them on both event and non-event days. The Licensing Authority will not generally expect to re-assess a licence application as a result of a change to the dates of sporting events, but would expect applicants and licence holders to make information about sporting fixtures available as part of the application.

Significant changes to the fixture/events listing have a bearing on the licence conditions in that track premises licence holders will be expected to comply with the mandatory and default conditions applicable to them on both event and non-event days.

- 9.13 **Hours of betting on non-event days:** On days when no public sporting event is taking place on a track, gambling facilities may only be provided on the track between the hours of 7am and 10pm. Where the premises user intends to continue to offer facilities for gambling outside the proposed gambling hours on non-event days these facilities should be provided by means of an Occasional Use Notice (OUN).
- 9.14 On non-event days, tracks become similar to licensed betting offices on the high street. Tracks may achieve this requirement by:
- (a) locating all betting areas inside an area of the premises that is separated from the remainder of the premises by a physical barrier, thereby preventing access other than through a designated entrance;
 - (b) only admitting adults to the part of the track where betting areas are located, by establishing procedures for verifying customer ages and refusing entry to adult-only areas for those unable to produce an acceptable form of identification (and taking action where there are unlawful attempts to enter adult-only areas);
 - (c) placing prominent notices in front of and inside each entrance stating that access to the area is prohibited to persons under 18.
- 9.15 The Licensing Authority may consider reducing the default gambling hours, providing any reduction is consistent with the principles set out in section 153 of the Act.

Self-Service Betting Terminals

- 9.16 Licensed operators may install **self-service betting terminals** on tracks. There is no restriction on the number of **self-service betting terminals** that may be in use but operators must, by virtue of their operating licence conditions, supervise such terminals to prevent them being used by those under 18 years of age.

There is no formal requirement on track premises licence holders to involve themselves in the procedures used by betting operators to supervise their **self-service betting terminals** unless specific local conditions specifying supervisory arrangements are added to the track premises licence by the Licensing Authority terminals.

Gaming machines

- 9.17 A track premises licence does not of itself entitle the holder to provide gaming machines, as this type of premises licence can be held without any corresponding operating licence.

Where a track owner holds both a track premises licence *and* a pool betting operating licence issued by the Gambling Commission (in effect, greyhound tracks only), they may site up to four gaming machines within categories B2 to D on the track.

Some tracks may also hold a premises licence under the Licensing Act 2003. As such they will be automatically entitled under section 282 of the Act to two gaming machines of category C or D.

In such scenarios the operating licence entitlement does not take precedence, and each licence has its own requirements that must be complied with.

- 9.18 Applications for permits to allow additional gaming machines are not permitted where the premises is already covered by a track premises licence. It is a condition of section 282 of the Act that alcohol-licensed premises licence holders (not necessarily the owners) must comply with any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine. The gaming machine permits code of practice can be found on the Gambling Commission website.
- 9.19 Where track premises licence holders possess a pool betting operating licence, the Commission places a mandatory licence condition on such operators that they must:
- have and put into effect documented policies and procedures to prevent underage gambling, and monitor the effectiveness of these.

Track administration:

- 9.20 **Administration of betting:** Administrative and quasi-regulatory arrangements in place to ensure that activities held on tracks run smoothly for paying customers, track operators and betting operators, are considered to be outside the remit of the Act unless they affect the licensing objectives.
- 9.21 **The role of track premises licence holders:** The responsibilities of track premises licence holders are established by the mandatory and default licence conditions attaching to their premises licence.

The licensed betting operators authorised by track owners to provide betting facilities at tracks must comply with their operating licence conditions and codes of practice issued by the Commission.

Track premises licence holders have a responsibility to report regulatory breaches or potential breaches relating to the premises itself or to betting operators.

- 9.22 **Acceptance of bets:** Track premises licences for greyhound tracks and racecourses are subject to mandatory licence conditions requiring access to be offered at the track-side to betting operators generally. This prevents track premises licence holders who are also pool betting operators from becoming a monopoly supplier of betting on tracks.

While this does not mean that there must be independent betting operators on tracks on event days, track premises licence holders cannot hold event days without at least making places available to licensed operators. This matter is the responsibility of the Gambling Commission and not the Licensing Authority.

Pool betting:

- 9.23 Under the Act, holders of track premises licences on licensed greyhound tracks are given exclusivity to offer pool betting facilities on greyhound racing. They may also authorise other people to conduct such pool betting on their behalf, although in all cases a relevant operating licence will be required to license this activity.

A totalisator on a licensed greyhound track will only be permitted while the public are admitted to the track for the purpose of attending greyhound races, and no other sporting events are taking place. A mandatory condition is attached to the premises licence to this effect.

Admission of betting operators:

- 9.24 It is a mandatory premises licence condition of track premises licences that the licence holder makes arrangements to ensure that the betting operators they admit to their track operate under valid operating licences.

Track premises licence holders are responsible for determining their own arrangements for the verification of betting operators. As part of this process, the track premises licence holder should make arrangements for ensuring that the betting operator holds an operating licence. Additionally, both parties should agree a procedure for assessing whether persons accepting bets on behalf of a betting operator either themselves hold operating licences in their own right, or are employed by the operator under a written contract of employment.

Removal of illegal betting operators:

- 9.25 Track premises licence holders are required by a mandatory licence condition to take reasonable steps to remove from the racecourse anybody found to be providing facilities for gambling without authorisation. Failure to uphold this requirement could result in action being taken against the premises licence holder.

Track premises licence holders are not expected to have pro-active policies and procedures for identifying illegal gambling other than the mandatory requirement to verify that betting operators offering betting facilities on their track hold suitable operating licences.

Display of rules:

- 9.26 It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks.

The track premises licence holder should make the necessary arrangements to ensure that betting rules are accessible to all customers, regardless of which area of the track they are in. If certain areas are restricted to certain customers (such as different stands within a football ground) then rules could be displayed at various parts of the track. Other measures could be taken to ensure that they are made available to the public, such as printing them in the race-card or programme. The requirement could also be met by making a copy of the rules available in leaflet form from the main track office, and customers could be given a copy if they request one.

Betting operators offering betting facilities on racecourses and at greyhound tracks are required through the conditions of their operating licence to clearly display any of their own rules that differ from those that the track premises licence holder elects to display, and their rules concerning voids, late bets, and maximum payouts. For racecourses and greyhound tracks, the maximum payout will vary according to the rules of individual on-course operators.

Approved betting areas:

9.27 **Betting areas:** In considering applications, the Licensing Authority will take into account the licensing objectives and assess whether these objectives are compromised by proposed betting arrangements. The location of betting areas (other than those for gaming machines and **self-service betting terminals**) is not considered a threat to the licensing objectives and therefore no additional conditions would normally be imposed by licensing authorities, unless the circumstances are such that the Licensing Authority considers that the licensing objectives would be undermined.

9.28 **Multiple licences:** The Act permits a Licensing Authority to issue more than one premises licence for a track provided that each licence relates to a distinct specified area of the track (although there cannot be more than one premises licence covering the same area of the track.) This enables track owners to extend existing facilities to provide other gambling facilities such as a casino on their existing tracks, whereby these additional gambling activities are covered by separate premises licences.

Where an application is made for an additional premises licence, the Licensing Authority will consider the following matters when determining an application:

- access issues in particular whether access to the desired premises will be allowed directly from the track. Direct access between a track and other betting premises (other than a track betting shop) is not permitted. The track owner would need to make arrangements so that access to a casino or bingo hall would be via a street, not via the track itself.

Where a particular area of a track is already subject to a premises licence, and a person wishes to apply for a licence to offer another type of activity in that area, an application must be made to the Licensing Authority to vary the original premises licence. The new track premises licence can only be granted at the same time as, or after, the original licence has been varied.

Where the Licensing Authority receives an application indicating separate betting areas that may not necessarily have clear physical boundaries, such as walls or fencing, it may grant the licence where it is satisfied that the area is clearly delineated, both in terms of making it clear to the public that they are entering a 'betting office', and to keep out persons aged under 18.

Where the Licensing Authority is not satisfied that a new activity in an existing area is clearly delineated, it may consider refusing the application.

Social responsibility considerations for tracks:

9.29 The Act places a condition on the track premises licence that the licensee shall ensure that children and young persons are excluded from any area where facilities for betting are provided (unless on race days at racetracks and at greyhound tracks).

10. Adult Gaming Centres

10.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will require applicants to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate measures may also be included within mandatory/default conditions and codes of practice and cover matters such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Access and Location of entry
- Notices / signage
- Self-barring schemes
- ATM location
- Prohibition of alcohol consumption
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware.

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

The Licensing Authority may determine the opening hours for Adult Gaming Centres, on a case-by-case basis, in the absence of any default conditions addressing this matter.

11. (Licensed) Family Entertainment Centres

11.1 The Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will require applicants to demonstrate that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only Category C gaming machine areas.

The Licensing Authority will require applicants to demonstrate that there will be sufficient measures to promote the licensing objectives. Appropriate measures may also be included within mandatory/default conditions and codes of practice and cover matters such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Access and Location of entry
- Notices / signage
- Challenging children or young persons attempting to play category C machines
- Self-barring schemes
- ATM location
- Prohibition of alcohol consumption
- Provision of information leaflets/helpline numbers for organisations such as GamCare or Gamble Aware

- Measures / training for staff on how to deal with suspected truant school children on the premises

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

- 11.2 The Licensing Authority will, in accordance with the Gambling Commission Guidance, make itself aware of any conditions that may apply to Operator licences covering the way in which the area containing the category C machines should be delineated. The Licensing Authority will ensure that it has due regard to any mandatory or default conditions on these Premises Licences and Codes of Practice and guidance issued by the Gambling Commission when dispensing its functions in relation to licensed Family Entertainment Centres

The Licensing Authority may determine the opening hours for licensed FEC's, on a case-by-case basis, in the absence of any default conditions addressing this matter.

PART C: PERMITS, TEMPORARY USE NOTICES, OCCASIONAL USE NOTICES & SOCIETY LOTTERIES

1. Unlicensed Family Entertainment Centre (unlicensed FEC's) gaming machine permits

- 1.1 Unlicensed Family Entertainment Centres (FEC's) are commonly located at seaside resorts, in airports and at motorway service stations, catering for families - including unaccompanied children and young persons. Where a premises does not hold a Premises Licence but there is an intention to provide gaming machines (category D only), an application may be made to the Licensing Authority for the grant of this permit. The applicant must be an individual aged 18 or over, and he/she must occupy or plan to occupy the relevant premises. The Licensing Authority may only grant a permit where it is satisfied that the applicant intends to use the premises as an unlicensed FEC and where it has consulted the Chief Officer of Police on the application. Any duties on the applicant to comply with other legislation such as fire regulations or Health and Safety are not issues for the Licensing Authority under the Gambling Act 2005.
- 1.2 If the operator of a Family Entertainment Centre intends to make category C machines available, in addition to category D machines, then an application must be made for an Operator Licence from the Gambling Commission and a Premises Licence from the Licensing Authority (see Part B Section 11 on (Licensed) Family Entertainment Centres).
- 1.3 Detail of any up to date application requirements, including any supporting documentation required, is available via the Council website at www.babergh.gov.uk or from the Licensing Team direct.
- 1.4 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

1.5 **Statement of Principles:**

The Licensing Authority will expect the applicant to satisfy it that that they and their employees can demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's. The applicant is expected to demonstrate that he has considered appropriate measures to promote the licensing objectives, and training for staff on issues such as:

- suspected truant school children on the premises;
- how staff would deal with unsupervised very young children being on the premises;
- children causing problems on or around the premises; and
- maximum stakes and prizes of the gambling that is permissible in unlicensed FEC's

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

- 1.6 The Chief Officer of Police is a statutory consultee for all such permit applications, and any representations made by him will be considered by the Licensing Authority.
- 1.7 The Licensing Authority may also require the applicant to provide details of any relevant convictions, (those that are set out in Schedule 7 of the Act), and the following documents would be acceptable for such purposes:
 - basic Criminal Records Bureau disclosure; or
 - a police subject access search.

2. Club Gaming Permits

- 2.1 Members Clubs and Miners' welfare institutes (but not commercial Clubs) may apply for a Club Gaming Permit which authorises the premises to:
 - make available for use up to 3 gaming machines of categories B3A to D,
 - equal chance gaming (without restriction on the stakes and prizes); and
 - games of chance as prescribed by regulations (namely pontoon and chemin de fer).

The gaming which a club gaming permit allows is subject to the following conditions:

In respect of equal chance gaming:

- (a) The club must not deduct money from sums staked or won;
- (b) The participation fee must not exceed the amount prescribed in regulations;
- (c) The game takes place on the premises and must not be linked with a game on another set of premises. Two games are linked if:
 - (i) the result of one game is, or may be, wholly or partly determined by reference to the result of the other game; and
 - (ii) the amount of winnings available in one game is wholly or partly determined by reference to the amount of participation in the other game, and a game which is split so that part is played on one site and another part is played elsewhere is treated as two linked games

Only club members and their genuine guests participate.

In respect of other games of chance:

- (a) The game must be pontoon or chemin de fer only;
- (b) No participation fee may be charged otherwise than in accordance with the regulations;
- (c) no amount may be deducted from sums staked or won otherwise than in accordance with the regulations.

2.2 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. The Secretary of State has made such regulations covering bridge and whist clubs. A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

A club gaming permit may not be granted in respect of a vehicle or a vessel.

2.3 The Licensing Authority may only refuse an application on the grounds that:

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

Where the Licensing Authority is satisfied that (a) or (b) is the case, it must refuse the application. In determining an application the Licensing Authority shall have regard to the relevant guidance issued by the Gambling Commission and, subject to that guidance, the licensing objectives.

2.4 Where a permit is granted, the permit holder must comply with statutory conditions:

- no child or young person may use a category B or C machine on the premises; and
- the permit holder must comply with any relevant provision of a code of practice regarding the location and operation of gaming machines.

Clubs do not have to have a permanent premises or alcohol licence.

2.5 There is a 'fast-track' procedure available for premises where the club holds a Club Premises Certificate under section 72 of the Licensing Act 2003. Where an application is made under the fast track procedure, there is no opportunity for objections to be made by the Commission or the Suffolk Constabulary, and the grounds upon which an Authority can refuse a permit are limited as below:

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

3. Club Machine Permits

- 3.1 Members clubs, Miners' welfare institutes and commercial clubs may apply for a Club Machine Permit, which enables the premises to make available for use up to 3 gaming machines of categories B4, C and D. Members clubs and Miner's welfare institutes only (i.e. not commercial clubs) may also make available for use category B3A machines offering lottery games in the club under a club machine permit.
- 3.2 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. The Secretary of State has made such regulations covering bridge and whist clubs. A members' club must be permanent in nature and established and conducted for the benefit of its members and not as a commercial enterprise. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

Commercial clubs must have at least 25 members, but may be established with a view to making a profit, which is not returned to the members, but the proprietor(s) of the club. Examples of commercial clubs may include snooker clubs, clubs established for personal profit and most clubs established as private companies.

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

It should be noted that either type of permit may not be issued in respect of a vessel or vehicle.

- 3.4 There is also a 'fast-track' procedure available for premises where the club holds a Club Premises Certificate under section 72 of the Licensing Act 2003. Under the fast-track procedure there is no opportunity for an objection to be made by the Commission or the Police, and the grounds upon which an Authority can refuse a permit are reduced. The grounds on which an application under the process may be refused are that:
- (a) the club is established primarily for gaming, other than gaming of a prescribed kind;
 - (b) in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - (c) a club machine permit issued to the applicant in the last ten years has been cancelled.

- 3.5 There are statutory conditions concerning Club Machine Permits that no child or young person may use a category B or C machine on the premises and that the permit holder complies with any relevant provision of a code of practice regarding the location and operation of gaming machines.

4. (Alcohol) Licensed Premises Gaming Machine Permits

- 4.1 The Act makes provision for premises licensed to sell alcohol for general consumption on the premises to be entitled to make available up to 2 gaming machines, of categories C and/or D. The Licensing Act 2003 premises licence holder needs only to notify the Licensing Authority of this intention and pay the prescribed fee. The Licensing Authority may remove the automatic authorisation in respect of any particular premises only if it is satisfied that:

- 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.

Before making any such order the Licensing Authority shall give the licensee at least 21 days prior notice and consider any representations made by the applicant (at a hearing if requested by the licence holder).

- 4.2 If a Licensing Act 2003 premises licence holder wishes to use more than 2 gaming machines, then (s)he will need to apply to the Licensing Authority for a permit and the Licensing Authority must consider that application based upon:

- the licensing objectives;
- any guidance issued by the Gambling Commission; and
- 'such matters' as it thinks relevant.

This Licensing Authority considers that 'such matters' will be assessed on a case by case basis. Generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling.

This permit replaces, and is not in addition, to the automatic entitlement notification.

- 4.3 The Licensing Authority expects the applicant to satisfy it that there will be sufficient measures in place to ensure that persons under the age of 18 do not have access to the adult only category C gaming machines. The applicant may consider appropriate measures to comply with Gambling Commission Codes of Practice and monitor access to machines. This may include:

- ensuring that the adult gaming machines are within sight of the bar, or within the sight of staff who can monitor that the machines are not being used by persons under the age of 18;

- notices and signage may also be an appropriate measure/safeguard;
 - the provision of information leaflets / helpline numbers for organisations that give support to vulnerable persons such as GamCare and Gamble Aware.
- 4.4 The holder of a permit must comply with any relevant code of practice issued under section 24 of the Act by the Gambling Commission concerning the location and operation of the gaming machines.
- 4.5 It should be noted that the Licensing Authority can and may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached to the grant of this permit.

There is a similar mechanism for applying to vary the number and category of machines specified on an existing permit.

5. Prize Gaming and Prize Gaming Permits

5.1 **Statement of principles:**

The prize gaming 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 monetary 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.

It should be also noted that this permit cannot be issued in respect of a vessel or vehicle.

An application may only be made by an individual over the age of 18, who occupies or plans to occupy the relevant premises. An application for a permit can not be made if a premises licence or club gaming permit is already in effect for the same premises.

- 5.2 The Licensing Authority will expect the applicant to satisfy the Authority that that they and their employees can demonstrate a full understanding of the maximum stakes and prizes for the gaming offered and that the type of gaming offered is within the law. The applicant will normally be required to set out the types of gaming that he/she is intending to offer, and may wish to consider appropriate measures to promote the licensing objectives, and training for staff on:
- the type of gaming which they intend to provide; and
 - the stakes and prizes which apply under the regulations relevant to the type of gaming they intend to offer.

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

- 5.3 In making its decision on an application for this permit the Licensing Authority may have regard to the licensing objectives and must have regard to any Gambling Commission Guidance. Given that the premises may be particularly appealing to children and young persons, the Licensing Authority will give appropriate weight to the consideration of child protection issues.
- 5.4 The Chief Officer of Police is a statutory consultee for all such permit applications. Any representations made by the Chief Officer of Police which are relevant to the licensing objectives will be considered by the Licensing Authority relevant considerations may include:
- whether the applicant has any convictions that would render them unsuitable to operate prize gaming, or
 - the suitability of the location of the premises in relation to any disorder issues.

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

- 5.5 It should be noted that whilst there may be conditions in the Gambling Act 2005 and Gambling Commission codes of practice (including on social responsibility) with which the permit holder must comply, the Licensing Authority cannot attach conditions to this permit. Where the Authority is minded to refuse a permit application it will notify the applicant and allow the opportunity for the applicant to make representations (which may be considered at a hearing).

6. Travelling Fairs

- 6.1 It is the duty of the Licensing Authority to decide whether, where category D machines and / or equal chance prize gaming without a permit are 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.
- 6.2 The Licensing Authority will carefully consider whether an operator falls within the statutory definition of a travelling fair (provided by section 286 of the Act) and be 'wholly or principally' providing amusements.
- 6.3 The 27-day statutory maximum for the land being used as a fair is per calendar year, and that this 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. The Licensing Authority shall endeavour to work with neighbouring authorities to ensure that land which crosses district/borough boundaries is monitored so that the statutory limits are not exceeded.

7. Society Lotteries

- 7.1 The Council as the Licensing Authority is responsible for registering small society lotteries. A lottery is defined under the Act and in the guidance as:

A simple lottery if:

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of a class;
- the prizes are allocated by a process which relies wholly on chance.

A complex lottery if:

- persons are required to pay to participate;
- one or more prizes are allocated to one or more members of a class;
- the prizes are allocated by a series of processes;
- the first of those processes relies wholly on chance.

A society, or any separate branch of such a society, may be registered by the council to promote a small lottery where it is established and conducted:

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

and the proceeds of the lottery must be devoted to the purposes above. The society must not be established for the sole purpose of facilitating lotteries.

A small lottery is defined in the Act and the current limitations are published on the Council website at www.babergh.gov.uk Definitions of exempt lotteries are also published at the above address.

- 7.2 The Council may only register a society which wishes to promote a small lottery where the society's principal office is located within its area. If the Council believes that the society's principal office does not fall within its boundaries it will inform the society at the earliest opportunity.

If the society's status is unclear, the Council may ask for the society applying to register with it to supply a copy of its terms of reference or constitution to enable it to establish that the society is non-commercial, together with a declaration to the effect that it is non-commercial.

- 7.3 Registration of small society lotteries is a function which the Council has delegated to officers. Details of societies registered by the council will be published in a register maintained by the Council.

The registration is for an indefinite period unless the registration is cancelled by:

- the society; or
- the council on failure of the society to pay the annual charge.

- 7.4 The Council may refuse to register a small society lottery where:

- an operating licence held by the applicant for registration has been revoked or an application for an operating licence made by the applicant for registration has been refused;
- the society can not be deemed non-commercial;
- a person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence;

- information provided in or with the application for registration is found to be false or misleading.

Where the Council proposes to refuse to register a small society lottery it will give the society an opportunity to make representations in writing or at a hearing. The Council will notify the society in writing of the outcome of the hearing and the reasons for the decision.

- 7.5 The Council may revoke a society lottery registration where it considers that it would have had to, or would be entitled to, refuse an application if it were to be made at that time.

SCHEDULE A

GAMBLING ACT 2005 STATEMENT OF PRINCIPLES: CONSULTEE LIST FOR BABERGH DISTRICT COUNCIL (AS MAY HAVE BEEN MODIFIED/UPDATED DURING CONSULTATION)

1. Association of British Bookmakers Ltd Norris House 4 Norris Street LONDON SW1Y 4RJ	2. GamCare 2 nd Floor 7-11 St.John's Hill LONDON SW11 1TR
3. British Horseracing Board 151 Shaftesbury Avenue LONDON WC2H 8AL	4. BACTA Alders House 133 Aldersgate Street LONDON EC1A 4JA
5. British Casino Association 38 Grosvenor Gardens LONDON SW1B 0EB	6. Leisure Link 3 The Maltings BURTON-ON-TRENT Staffordshire DE14 1SE
7. Bingo Association Lexham House 75 High Street North DUNSTABLE Bedfordshire LU6 1JF	8. Essex Leisure Unit 26 West Station Industrial Estate MALDON CM9 6TW
9. Society for the Study of Gambling 16 Egerton Road LYMM WA13 0PA	10. Chilvers Automatics Ltd Langholm, Lodge Lane Langham COLCHESTER C04 5LZ
11. Gamestec Leisure Ltd Low Lane Horsforth LEEDS LS18 4YY	12. Alcoholics Anonymous P O Box 1 Stonebow House YORK Y01 7NJ
13. National Association of Bookmakers Ltd 19 Culm Valley Way Uffculme DEVON EX15 3XZ	14. Help the Aged 207-221 Pentonville Road LONDON N1 9UZ
15. British Greyhound Racing Board 32 Old Burlington Street LONDON W1S 3AT	16. Mencap Suffolk Ground Floor Davies House Kempson Way BURY ST EDMUNDS IP33 7AR
17. National Youth Agency Westgate House 19-23 Humberstone Road LEICESTER LE5 3GJ	18. Suffolk County Council Social Care Services Endeavour House 8 Russell Road IPSWICH IP1 2BX

19.	Age Concern Suffolk County Office 8 Northgate Street IPSWICH IP1 3BZ	20.	Narcotics Anonymous UK Service Office 202 City Road LONDON EC1V 2PH
21.	Gordon House Association 186 Mackenzie Road BECKENHAM BR3 4SF	22.	Learning Disability Partnership Board Social Services County Buildings SAXMUNDHAM IP7 1AL
23.	Suffolk Safeguarding Children Board Endeavour House Floor 3 Block 3 8 Russell Road IPSWICH IP1 2BX	24.	Horsereading Betting Levy Board 52 Grosvenor Gardens LONDON SW1W 0AU Tel: 020 7333 0043 Fax: 020 7333 0041 www.hblb.org.uk
25.	National Stud Wavertree House NEWMARKET CB8 0XE Tel: 01638 663464 Fax: 01638 665173 www.nationalstud.co.uk	26.	Business in Sport & Leisure 17a Chartfield Avenue Putney LONDON SW15 6DX
27.	British Association of Leisure Parks, Piers & Attractions Limited (BALPA) Suite 12 37 Tanner Street LONDON SE1 3LF	28.	Mr B.Deane 9 Jennens Way Acton Lane SUDBURY CO10 0UZ
29.	C L Jennings 3-4 Gaol Lane SUDBURY CO10	30.	Corals Glebe House Vicarage Drive BARKING IG11 7NS
31.	Coral Estates Ltd 19-21 Station Road HAROLD WOOD Essex RM3 0BP	32.	William Hill Bridge House 47-55 Bridge Street WALSALL WS1 1JQ
33.	Delphi Club Newton Road SUDBURY CO10 2RR	34.	Ladbrokes Betting & Gaming Ltd Imperial House Imperial Drive, Rayners Lane HARROW Middlesex HA2 7JW
35.	Tesco Social Club Woodhall Business Park SUDBURY CO10	36.	Royal British Legion 48 Pall Mall LONDON SW1Y 5JY
37.	Tesco PLC Corporate Responsibility Team Delamare Road CHESHUNT EN8 9SL	38.	All parish and town hall clerks in the district.
39.	Persons representing a sample of premises licence holders/qualifying members clubs under the Licensing Act 2003 (including Greene King & Punch Taverns).	40.	All responsible authorities under the Gambling Act 2005.
41.	All schools in the district.		

SCHEDULE B

Section 353 of the Gambling Act 2005 gives some general interpretation and reference for some of the main terminology used within the Act and contained within this Statement of Principles document. Except where the context otherwise requires:

- "adult" means an individual who is not a child or young person
- "adult gaming centre" has the meaning given by section 237
- "alcohol licence" has the meaning given by section 277
- "authorised local authority officer" has the meaning given by section 304
- "authorised person" has the meaning given by that section
- "betting" has the meaning given by sections 9 to 11, 37 and 150
- "betting intermediary" has the meaning given by section 13
- "bingo" means any version of that game, irrespective of by what name it is described
- "casino" has the meaning given by section 7
- "casino game" has the meaning given by that section
- "Category A gaming machine" (or B, C or D) means a gaming machine falling within Category A (or B, C or D) as prescribed under section 236
- "chief constables of police forces" has the same meaning in relation to England and Wales as in the Police Act 1996 (c. 16)
- "child" has the meaning given by section 45
- "club gaming permit" has the meaning given by section 271
- "club machine permit" has the meaning given by section 273
- "commercial club" has the meaning given by section 267
- "the Commission" means the Gambling Commission
- "director" -
- (a) has the meaning given by section 741 of the Companies Act 1985 (c. 6), and
 - (b) includes a shadow director within the meaning of that section
- "dog track" means premises which are designed, used or adapted for use for dog-racing
- "draw", in relation to a lottery, has the meaning given by section 255
- "EEA State" means a State which is a contracting party to the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 (as it has effect from time to time)
- "enactment" includes an enactment comprised in, or in an instrument made under, an Act of the Scottish Parliament
- "enforcement officer" means a person designated or appointed as an enforcement officer under section 303
- "equal chance gaming" has the meaning given by section 8
- "exempt lottery" has the meaning given by section 258
- "external lottery manager" has the meaning given by section 257
- "fair" has the meaning given by section 286
- "family entertainment centre" has the meaning given by section 238
- "family entertainment centre gaming machine permit" has the meaning given by section 247
- "football pools" means an arrangement whereby -
- (a) people compete for prizes by forecasting the results of association football games, and
 - (b) each entry to the competition must forecast the results of at least four games
- "gambling" has the meaning given by section 3
- "gambling software" has the meaning given by section 41
- "game of chance" has the meaning given by section 6
- "gaming" has the meaning given by that section
- "gaming machine" has the meaning given by section 235
- "horse-race course" means premises which are designed, used or adapted for use for horse-racing
- "horse-race pool betting" has the meaning given by section 12
- "large casino" has the meaning given by regulations under section 7(5)

"licensed family entertainment centre" has the meaning given by section 238

"licensed premises gaming machine permit" has the meaning given by section 283

"the licensing objectives" has the meaning given by section 1

"licensing authority" has the meaning given by section 2

"lottery" has the meaning given by section 14 (and section 256)

"lottery manager's operating licence" has the meaning given by section 98

"lottery ticket" has the meaning given by section 253

"machine" has the meaning given by section 235(3)(a)

"members' club" has the meaning given by section 266

"miners' welfare institute" has the meaning given by section 268

"the National Lottery" has the meaning given by section 1 of the National Lottery etc. Act 1993 (c. 39))

"non-commercial betting" has the meaning given by section 302

"non-commercial gaming" has the meaning given by section 297

"non-commercial society" has the meaning given by section 19

"occasional use notice" means a notice given under section 39

"operating licence" means a licence issued under Part 5

"on-premises alcohol licence" has the meaning given by section 277

"participant", in relation to a game of chance, includes a person who discharges an administrative or other function in relation to the game

"participation fee" has the meaning given by section 344

"passenger vessel" means a vessel which is carrying or expected to carry at least one passenger

"personal licence" means a licence issued under Part 6

"pool betting" has the meaning given by section 12

"premises" includes any place and, in particular -

- (a) a vessel, and
- (b) a vehicle

"premises licence" means a licence issued under Part 8

"private betting" has the meaning given by section 295 and Part 2 of Schedule 15

"private gaming" has the meaning given by section 295 and Part 1 of Schedule 15

"private gain" is to be construed in accordance with section 19(3)

"prize" in relation to gaming (except in the context of a gaming machine) has the meaning given by section 6

"prize" in relation to a gaming machine has the meaning given by section 239

"prize" in relation to a lottery has the meaning given by section 14

"prize gaming" has the meaning given by section 288

"prize gaming permit" has the meaning given by section 289

"proceeds", in relation to a lottery, has the meaning given by section 254

"profits", in relation to a lottery, has the meaning given by that section

"profits", in relation to non-commercial prize gaming, has the meaning given by section 299

"racecourse" means premises on any part of which a race takes place or is intended to take place

"real", in relation to a game, event or process means non-virtual

"relevant offence" has the meaning given by section 126 and Schedule 7

"remote communication" has the meaning given by section 4

"remote gambling" has the meaning given by that section

"remote gambling equipment" has the meaning given by section 36

"remote operating licence" has the meaning given by section 67

"rollover", in relation to a lottery, has the meaning given by section 256

"small casino" has the meaning given by regulations under section 7(5)

"society" includes a branch or section of a society

"stake" means an amount paid or risked in connection with gambling and which either -

- (a) is used in calculating the amount of the winnings or the value of the prize that the person making the stake receives if successful, or

(b) is used in calculating the total amount of winnings or value of prizes in respect of the gambling in which the person making the stake participates

"supply" includes -

(a) sale,

(b) lease, and

(c) placing on premises with permission or in accordance with a contract or other arrangement

"temporary use notice" has the meaning given by section 215

"track" means a horse-race course, dog track or other premises on any part of which a race or other sporting event takes place or is intended to take place

"travelling fair" has the meaning given by section 286

"vehicle" includes -

(a) a train,

(b) an aircraft,

(c) a seaplane, and

(d) an amphibious vehicle (other than a hovercraft within the meaning of the Hovercraft Act 1968 (c. 59))

"vessel" includes -

(a) anything, other than a seaplane or an amphibious vehicle, designed or adapted for navigation or other use in, on or over water

(b) a hovercraft (within the meaning of the Hovercraft Act 1968), and

(c) anything, or any part of any place, situated in or on water

"virtual" has the meaning given by subsection (3) below

"winnings", in relation to a bet, means anything won, whether in money or in money's worth

"young person" has the meaning given by section 45

SCHEDULE C

Summary of machine provisions by premises							
Machine category:							
Premises type:	A	B1	B2	B3	B4	C	D
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)					
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)					
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead					
Betting premises and tracks occupied by pool betting		Maximum of 4 machines categories B2 to D					
Bingo premises		Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*				No limit on category C or D machines	
Adult gaming centre		Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4*				No limit on category C or D machines	
Family entertainment centre (with premises licence)						No limit on category C or D machines	
Family entertainment centre (with permit)						No limit on category D machines	
Clubs or miners' welfare institute (with permit)		Maximum of 3 machines in categories B3A or B4 to D*					
Qualifying alcohol-licensed premises						1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol-licensed premises (with gaming machine permit)						Number of category C-D machines as specified on permit	
Travelling fair						No limit on category D machines	
		A	B1	B2	B3/B3A	B4	C
Maximum Stake	No limit	£5	£100 (in £10's)	£2 (B3) £2 (B3A)	£2	£1	Variable See table below

Maximum Prize	No limit	No more than £10,000 Or Where the prize value available through its use is wholly or partly determined by reference to use made of one or more other sub-category B1 machines, no more than £20,000	£500	£500	£400	£100	
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Note: Machine category stakes/prizes may be subject to periodic regulatory amendment

*Bingo/AGC premises are entitled to make available a number of Category B3/B4 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 B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever is the greater.

Bingo/AGC premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of eight category B3/B4 gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only

D non-money prize (other than crane grab machine)	30p	£8
D non-money prize (crane grab machine)	£1	£50
D money prize	10p	£5
D combined money and non-money prize (other than coin pusher or penny falls machines)	10p	£8 (of which no more than £5 may be a money prize)
D combined money and non-money prize (coin pusher or penny falls machine)	20p	£20 (of which no more than £10 may be a money prize)

SCHEDULE D

Gambling Activities: Children and Young Persons

A **child** means an individual who is less than 16 years old (section 45(1)).

A **young person** is an individual aged 16 or 17 years old (section 45(2)).

With limited exceptions, the intention of the Gambling Act 2005 is that children and young persons should not be permitted to gamble and should be prevented from entering those gambling premises which are adult only environments.

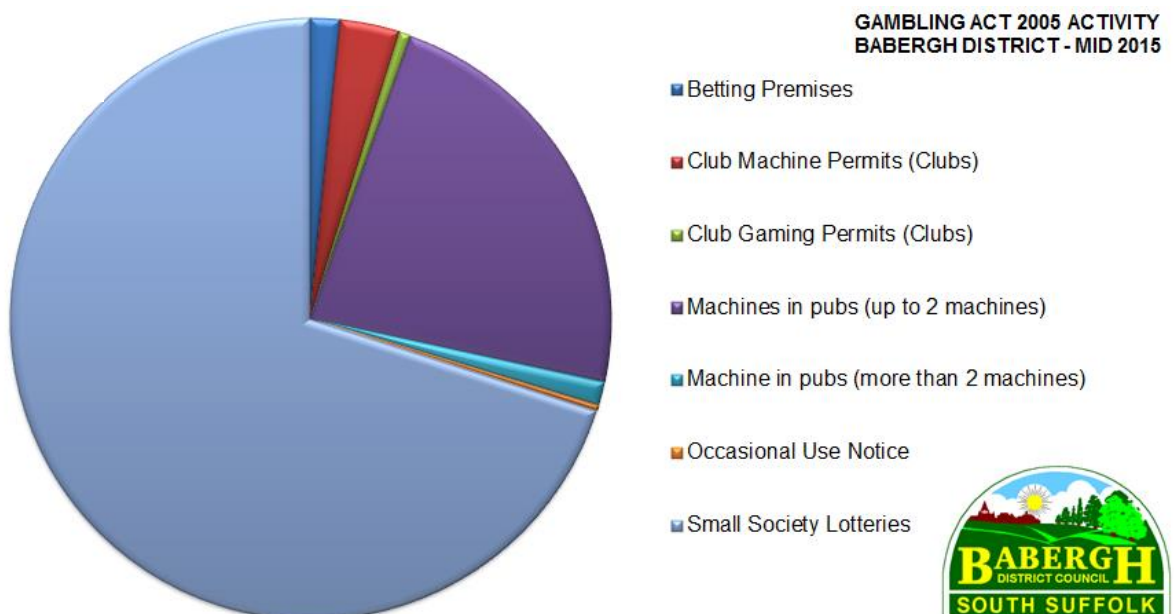
Part 4 of the Gambling Act 2005 states the requirements in relation to protection of children and young persons, principle offences and any exceptions.

SCHEDULE E

Local Area Profile and Risk Assessments

Licensing authorities are already familiar with a risk-based approach to compliance, and targeting resources and effort where risk is greatest. The local area profile is simply a way of describing a process of gathering and presenting information about a locality and any particular areas of concern within that, to explain and underpin the approach that the licensing authority will apply. It gives clarity to operators as to the licensing authority's view of risk and the relevant factors in its decision making.

The Licensing Authority understands the need for ongoing engagement with other prescribed statutory bodies, defined as Responsible Authorities under the Act. The Licensing Authority will seek to draw upon the expertise and knowledge of responsible authorities and others to ensure its approach is informed by all relevant sources of local knowledge and expertise, when developing local area profiles.



- E1. (a) As of mid-2015 Babergh District Council authorises 5 licensed gambling premises. All are betting premises (non-track) and all in the two main market towns of Sudbury and Hadleigh.
- (b) The majority of non-premises licensed gambling activity in the district relates to notifications and permits for gaming machines, gaming in members clubs and pubs and point-to-point racing authorised by occasional use notices (OUNs). The Licensing Authority also deals with a significant number of enquiries around non-commercial equal chance gaming and enquiries made for activities not requiring any gambling authorisation – subject to limitations. Small society lottery registrations are also a main area of activity (with around 220 registered societies in Babergh mid-2015) mostly for the benefit of (non-private gain) good causes within the district.
- (c) At the time of preparing this edition of the statement of principles there has been no evidence, or intelligence, presented to Babergh District Council to support any assertion that any part of the district had or is experiencing problems from gambling activities. This position will be kept under review and, in the event that it changes, further research will be carried out to discover the extent of the problems and to prepare an area profile accordingly which will identify, quantify and map the vulnerabilities and other relevant features of the local area. The statement of principles may be revised as a consequence.
- (d) Gambling premises have not featured on any night time economy police statistics/hot-spots and the Licensing Authority has received no representations at the time of applications or variations, beyond comments from residents relating to ‘commercial need’ or ‘demand’ for gambling premises (see 1.7 of this statement of principles).
- (e) The Licensing Authority will monitor any local concerns brought to its attention in the future, along with any linked crimes, and/or representations; with a view to identifying areas of concern and mapping vulnerabilities.
- E2. (a) The Gambling Commission issue codes of practice under section 24 of the Gambling Act 2005, about the manner in which facilities for gambling are provided to ensure that:

- gambling is conducted in a fair and open way
- children and other vulnerable people are protected from being harmed or exploited by gambling
- assistance is made available to people who are, or may be, affected by problems related to gambling.

(b) Codes of practice are either:

Social responsibility code provisions - which must be adhered to by all licence holders; or

Ordinary code provisions – these do not have the status of licence conditions but failure to take account of them can be used as evidence in criminal or civil proceedings.

(c) New code provisions covering risk assessments and local authority area profiles are due to come into force in April 2016 (outside of the timeframe of this statement of principles revision). More detail can be found by going to the Gambling Commission website at www.gamblingcommission.gov.uk

The following are extracts relating to this aspect:

- Operators will be required to prepare a risk assessment for their business which takes into account the nature and characteristics of the locality in which they are situated. For example the proximity of schools, churches, etc. and/or whether the business is located on a walking route for local schools.
- Licensees must assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In making risk assessments, licensees must take into account relevant matters identified in the licensing authority's statement of principles.
- Licensees must review (and update as necessary) their local risk assessments:
 - i) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
 - (ii) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - iii) when applying for a variation of a premises licence; and
 - iv) in any case, undertake a local risk assessment when applying for a new premises licence.

- (d) For all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences, licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise on request.
- (e) Such risk assessments can make reference to the Local Authority Area profile which may be compiled with respect to reported gambling-related problems in an area.

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RESPONSE FROM CORAL RACING LTD
16 OCTOBER 2015

Licensing Team (Consultations),
Babergh District Council,
Corks Lane,
Hadleigh,
IPSWICH,
Suffolk,
IP7 6SJ



16th October 2015

Dear Sir,

Consultation on Babergh District Council's Statement of Principles – Gambling Act 2005

Coral Racing Limited is most grateful to be given the opportunity to respond to this consultation exercise. Coral was one of the first national bookmakers to be licensed under the Betting and Gaming Act of 1960, and so has been operating the length and breadth of the UK for over 50 years. Its premises comprise locations in the inner city, on the high street, in suburbs and in rural areas, and in areas of both high and low deprivation. It now operates 1850 betting offices across Great Britain, which comprise about 20% of all licensed betting offices. It is, therefore, a highly experienced operator.

Coral Racing Limited are broadly supportive of the document. It again notes that the Board when considering applications are still required to 'aim to permit gambling'. We politely highlight that the majority of Council's also include a reference that when judging applications, it should not take into account of any moral objections to gambling.

Coral Racing Limited recognise the requirement to supply risk assessments with future applications and variations (requirement is from 6th April 2016) following the consultation completion and are pleased to see this information included within your document.

We acknowledge that Babergh District Council may be issuing further guidance on this new area. We appreciate that the Gambling Commission have recently issued further guidance to council's on this topic however notwithstanding this, it is apparent from viewing multiple council gambling statements, that there are a range of ways to incorporate this requirement. Coral Racing wish to ensure that there is no inference within any guidance issued (your statement currently includes, schools, churches and walking routes to schools), that such locations in close proximity to the licensed premises, are at greater risk of causing harm to the licensing objectives.

Whilst each application will be judged on its merits as mentioned at several points within your statement, Coral knows of no evidence that the location of a licensed betting office within the proximity of schools & locations mentioned in both your current statement and the gambling commission advice, causes harm to the licensing objectives. For example, Coral knows of no evidence that children coming from schools are gaining access to betting offices. Coral's general experience, in common with other bookmakers, is that children are not interested in betting, and in any case the Think 21 policy operated by Coral is adequate to ensure that under-age gambling does not occur in their premises. There are very many examples of betting offices sited immediately next to schools and colleges and no evidence whatsoever that they cause problems.

Coral's experience is that, through all it does, it achieves an exemplary degree of compliance, and attracts negligible evidence of regulatory harm. Through the additional local risk assessment to be introduced with future premises licence applications, Coral believe that these should be a) to assess specific risks to the licensing objectives in the local area, and b) to assess whether control measures going beyond standard control measures are needed. We are of the opinion that this can be accomplished without the need to following strict templates with multiple lists of affected premises.

If we can provide any further information, we would be pleased to do so.

Yours faithfully,

John Liddle

Director of Development – Coral Retail



GOSCHALKS
SOLICITORS

Babergh District Council
Licensing Team - Consultation
Corks Lane
Hadleigh
Ipswich
Suffolk
IP7 6SJ

Please ask for: Richard Taylor
Direct Tel: 01482 590216
Email: rjt@gosschalks.co.uk
Our ref: RJT / LHK / 097505.00004
#GS416605
Your ref:
Date: 12 October 2015

Dear Sir/Madam,

Re: Gambling Act 2005 Policy Statement Consultation

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

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

This response will explain the ABB approach to partnership working with local authorities, it will detail its views on the implementation of the new LCCP requirements, from April 2016, relating to operators' local area risk assessments and their impact on the licensing regime and will then make specific comment with regard to any statement(s) of concern/that are welcomed in your draft policy.

The ABB is concerned to ensure that any changes are not implemented in such a way as to fundamentally change the premises licence regime through undermining the "aim to permit" principle contained within s153 Gambling Act 2005.

The current regime already adequately offers key protections for communities and already provides a clear process (including putting the public on notice) for representations/objections to premises licence applications. The recent planning law changes effective since April 2015 have also already increased the ability of local authorities to consider applications for new premises, as all new betting shops must now apply for planning permission.

It is important that any consideration of the draft policy and its implementation at a local level is put into context. There has recently been press coverage suggesting that there has been a proliferation of betting offices and a rise in problem gambling rates. This is factually incorrect.

Over recent years betting shop numbers have been relatively stable at around 9,000 nationally, but more recently a trend of overall downwards decline can be seen. The latest Gambling Commission industry statistics show that numbers as at 31 Mar 2015 were 8,958 - a decline of 179 from the previous year, when there were 9,137 recorded as at 31 March 2014.

As far as problem gambling is concerned, successive prevalence surveys and health surveys reveal that problem gambling rates in the UK are stable (0.6%) and possibly falling.

Working in partnership with local authorities

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

There are a number of examples of the ABB working closely and successfully in partnership with local authorities.

LGA – ABB Betting Partnership Framework

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

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

The framework built on earlier examples of joint working between councils and the industry, for example the Ealing Southall Betwatch scheme and Medway Responsible Gambling Partnership.

In Ealing, the Southall Betwatch was set up to address concerns about crime and disorder linked to betting shops in the borough. As a result, crime within gambling premises reduced by 50 per cent alongside falls in public order and criminal damage offences.

In December last year, the Medway Responsible Gambling Partnership was launched by Medway Council and the ABB. The first of its kind in Britain, the voluntary agreement allows anyone who is concerned they are developing a problem with their gambling to exclude themselves from all betting shops in the area.

The initiative also saw the industry working together with representatives of Kent Police and with the Medway Community Safety Partnership to develop a Reporting of Crime Protocol that is helpful in informing both the industry, police and other interested parties about levels of crime and the best way to deal with any crime in a way that is proportionate and effective.

Lessons learnt from the initial self-exclusion trial in Medway have been incorporated into a second trial in Glasgow city centre, launched in July this year with the support of Glasgow City Council,

which it is hoped will form the basis of a national scheme to be rolled out in time for the LCCP deadline for such a scheme by April 2016.

Jane Chitty, Medway Council's Portfolio Holder for Planning, Economic Growth & Regulation, said:
"The Council has implemented measures that work at a local level but I am pleased to note that the joint work we are doing here in Medway is going to help the development of a national scheme."

Describing the project, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling, Cllr Paul Rooney said:
"This project breaks new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator."

Primary Authority Partnerships in place between the ABB and local authorities

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities.

These Partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the Partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

For instance, Primary Authority Partnerships between Milton Keynes Council and Reading Council and their respective partners, Ladbrokes and Paddy Power, led to the first Primary Authority inspection plans for gambling coming into effect in January 2015.

By creating largely uniform plans, and requiring enforcing officers to inform the relevant Primary Authority before conducting a proactive test-purchase, and provide feedback afterwards, the plans have been able to bring consistency to proactive test-purchasing whilst allowing the Primary Authorities to help the businesses prevent underage gambling on their premises.

Local area risk assessments

With effect from 6th April 2016, under new Gambling Commission LCCP provisions, operators are required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated.

Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy and local area profile in their risk assessment, and these must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or a new premises licence.

The ABB is concerned that overly onerous requirements on operators to review their local risk assessments with unnecessary frequency could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to uphold the three licensing objectives.

Although ABB members will be implementing risk assessment at a local premises level, we do not believe that it is for the licensing authority to prescribe the form of that risk assessment. We believe that to do so would be against better regulation principles. Instead operators should be allowed to gear their risk assessments to their own operational processes informed by Statements of Principles and the local area profile.

The ABB supports the requirement as set out in the LCCP, as this will help sustain a transparent and open dialogue between operators and councils. The ABB is also committed to working pro-actively with local authorities to help drive the development of best practice in this area.

Local Area Profiles – Need for an evidence based approach

It is important that any risks identified in the local area profile are supported by substantive evidence. Where risks are unsubstantiated there is a danger that the regulatory burden will be disproportionate. This may be the case where local authorities include perceived rather than evidenced risks in their local area profiles.

This would distort the “aim to permit” principle set out in the Gambling Act 2005 by moving the burden of proof onto operators. Under the Act, it is incumbent on licensing authorities to provide evidence as to any risks to the licensing objectives, and not on the operator to provide evidence as to how they may mitigate any potential risk.

A reversal of this would represent a significant increase in the resource required for operators to be compliant whilst failing to offer a clear route by which improvements in protections against gambling related harm can be made.

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

Concerns around increases in the regulatory burden on operators

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

Moving away from an evidence based approach would lead to substantial variation between licensing authorities and increase regulatory compliance costs for our members. This is of particular concern for smaller operators, who do not have the same resources to be able to put into monitoring differences across all licensing authorities and whose businesses are less able to absorb increases in costs, putting them at risk of closure.

Such variation would in our opinion also weaken the overall standard of regulation at a local level by preventing the easy development of standard or best practice across different local authorities.

Employing additional licence conditions

The ABB believes that additional conditions should only be imposed in exceptional circumstances where there are clear reasons for doing so - in light of the fact that there are already mandatory and default conditions attached to any premises licence. The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statements as to the need for evidence.

This would further increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities.

Specific Policy Comments

The final two sentences of paragraph 1.7 of Part B cause the ABB concern. Any policy that a specific area is an area where gambling premises should not be located may be unlawful. This paragraph appears to implement a cumulative impact type policy as exists within the licensing regime under Licensing Act 2003. Such a policy is contrary to the overriding principles of "aim to permit" contained within s153 Gambling Act 2005. Similarly, the reversal of the burden of proof in the final sentence that requires the applicant to demonstrate why an application should be granted is contrary to that principle. These two sentences should be removed and replaced with the reiteration of the principle earlier in the policy that each case will be determined on its own merits.

In Part B, paragraph 1.9(1) deals with the licensing objective of preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime. There is a statement that the licensing authority is aware of the distinction between disorder and nuisance. The statement of principles would be assisted by repeating the Gambling Commission's statement that "in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance."

The ABB particularly welcomes the statements within paragraph 1.10 (Conditions) that the mandatory and default conditions set by the Secretary of State will normally be adequate for the general good conduct of gambling premises and that individual conditions will be attached only when there are specific, evidenced risks or problems specific to a particular locality.

In paragraph 1.14, it is stated that the licensing authority may seek to "promote" the licensing objectives. This should be amended to reflect the correct position (outlined in paragraph 1.1) that the licensing authority must "have regard" to the licensing objectives and that a licence must be "reasonably consistent" with the licensing objectives.

Conclusion

The industry fully supports the development of proportionate and evidenced based regulation, and is committed to minimising the harmful effects of gambling. The ABB is continuing to work closely with the Gambling Commission and the government to further evaluate and build on the measures put in place under the ABB Code for Responsible Gambling, which is mandatory for all our members.

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

Indeed, as set out, we already do this successfully in partnership with local authorities now. This includes through the ABB Code for Responsible Gambling, which is mandatory for all our members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff. We would encourage local authorities to engage with us as we continue to develop both these codes of practice which are in direct support of the licensing objectives.

Yours faithfully,

GOSSCHALKS



APPENDIX C

BABERGH DISTRICT COUNCIL

CONSULTATION LIST FOR LICENSING ACT 2003 & GAMBLING ACT 2005 POLICY REVISIONS

1. All existing premises/club licence holders
2. Glemsford Library
3. Great Cornard Library
4. Hadleigh Library
5. Lavenham Library
6. Long Melford Library
7. Sudbury Library
8. The Institute of Entertainment and Arts
9. BECTU
10. ALMR
11. The Portman Group
12. NOCTIS
13. Arts Development UK
14. Federation of Licensed Victuallers Association
15. Independent Street Arts Network
16. Equity
17. UK Cinema Association
18. British Retail Consortium
19. British Board of Film Classification
20. Association of Town Centre Managers
21. Association of Convenience Stores
22. British Transport Police
23. Suffolk Trading Standards
24. Health and Safety Executive
25. Police and Crime Commissioner
26. Association of Licensed Multiple Retailers
27. British Beer and Pub Association
28. Campaign for Real Ale
29. British Institute of Innkeeping
30. Greene King Retailing Limited
31. Punch Taverns
32. J D Wetherspoon Plc
33. Admiral Taverns Ltd
34. Ormiston Sudbury Academy
35. Thomas Gainsborough School
36. Holbrook Academy
37. East Bergholt High School
38. Old Buckenham Hall
39. Hadleigh High School
40. Woolverstone Parish Council
41. Wherstead Parish Council
42. Whatfield Parish Council
43. Wenham Parva Parish Meeting
44. Wenham Magna Parish Meeting
45. Wattisham Parish Council
46. Thorpe Morieux Parish Council
47. Tattingstone Parish Council

48. Sudbury Town Council
49. Stutton Parish Council
50. Stratford St Mary Parish Council
51. Stanstead Parish Council
52. Sproughton Parish Council
53. Shotley Parish Council
54. Shelley Parish Council
55. Semer Parish Council
56. Preston St Mary Parish Council
57. Pinewood Parish Council
58. Nedging -with-Naughton Parish Council
59. Milden Parish Meeting
60. Long Melford Parish Council
61. Mrs Vicky Waples (Lindsey & Monks Eleigh)
62. Mrs D Hattrell (Boxford, Leavenheath & Nayland-with-Wissington)
63. Mrs A Robinson (Edwardstone, Groton & Stoke By Naylnad)
64. Mr Dave Crimmin (Assington, Chilton, G Waldingfield, L Cornard, L Waldingfield, Newton & Polstead)
65. Mrs Samantha Barber (Burstall, Chattisham & Hintlesham and Belstead)
66. Mrs J Cryer (Layham & Raydon)
67. Lawshall Parish Council
68. Lavenham Parish Council
69. Kettlebaston Parish Council
70. Kersey Parish Council
71. Holton St Mary Parish Council
72. Holbrook Parish Council
73. Hitcham Parish Council
74. Higham Parish Meeting
75. Hartest Parish Council
76. Harkstead Parish Council
77. Hadleigh Town Council
78. Great Cornard Parish Council
79. Glemsford Parish Council
80. Freston Parish Council
81. Erwarton Parish Council
82. Elmsett Parish Council
83. East Bergholt Parish Council
84. Copdock and Washbrook Parish Council
85. Cockfield Parish Council
86. Chelsworth Parish Meeting
87. Chelmondiston Parish Council
88. Capel St Mary Parish Council
89. Bures St Mary Parish Council
90. Brettenham Parish Council
91. Brent Eleigh Parish Council
92. Brantham Parish Council
93. Boxted Parish Council
94. Bildeston Parish Council
95. Bentley Parish Council
96. Alpheton Parish Council
97. Aldham Parish Council
98. Acton Parish Council
99. H M Revenues and Customs
100. Suffolk Constabulary
101. Ali Spalding LSCB Manager

102. Gambling Commission
103. Planning Control Division
104. Environmental Health Department
105. Chief Officer of Police
106. Chief Fire Officer
107. National Stud
108. Mr B Deane
109. Inspired Gaming
110. Home Start (South Suffolk & District)
111. West Suffolk Crossroads
112. The National Casino Industry Forum
113. The Lotteries Council
114. Suffolk County Council
115. Suffolk Adult Safeguarding Board
116. Suffolk Safeguarding Children's Board
117. Society for Study of Gambling
118. Responsibility in Gambling Trust
119. Racecourse Association Ltd
120. National Youth Agency
121. National Association of Bookmakers Ltd
122. Narcotics Anonymous
123. Mencap Suffolk
124. Learning Disability Partnership Board
125. Independent Betting Adjudication Service
126. Horeserace Betting Levy Board
127. Greyhound Board of Britain
128. Gordon Moody Association
129. Gamestec Leisure Ltd
130. GamCare
131. Gamblers Anonymous
132. Essex Leisure
133. C L Jennings
134. Citizens Advice Bureau
135. Chilvers Automatics Ltd
136. Casino Operators Association UK
137. British Horseracing Authority
138. British Association of Leisure Parks,Piers & Attractions Ltd
139. Bingo Association
140. BACTA
141. Association of British Bookmakers Ltd
142. Alcoholics Anonymous
143. Age UK Suffolk
144. Age UK
145. Advertising Association
146. ADFAM Families Drugs and Alcohol
147. Sudbury & District Chamber of Commerce Bank Buildings, Station Road, Sudbury CO10 2SP
148. New Anglia Growth Hub, Felaw Maltings, 42 Felaw Street, Ipswich, Suffolk IP2 8SQ
149. jeanette.thurtle@fsb.org.uk
150. Poppleston Allen LLP
151. Coral (licence holder)

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GAMBLING ACT 2005 'Statement of Principles' (2015 revision)

Summary of revisions and reasons

1. Preface (and Schedule E)

- Reference to the *DRAFT* 5th edition Gambling Commission guidance – which specifically will bring in 'Area Profile and Risk Assessments' (potentially a significant shift) and we have anticipated this with our additional content as proposed at Schedule E. That is all we need at this stage, as the principles development has to primarily take into account the guidance at the time it is drafted. The 5th edition GC guidance is outside of that timeframe. Our gambling sector 'premises' activity is low, only Westminster have developed such a profile, and it is highly unlikely we will ever need one.

2. Generally (rest of document)

- 2.6 same reference as in LA2003 policy making it clearer there may be periods where policy and guidance are inconsistent.
- 4.2 Clarity that we view Suffolk Safeguarding Children Board as competent to advise on child protection matters. It is clear the police do not see gambling as a priority part of their remit (even though they are a statutory responsible authority).
- Enforcement changes referencing Regulators' Code. The Corporate Manager – Environmental Protection has reviewed and approved this text in consultation with the Corporate Manager - Licensing. Also re-drafted so it is more consistent with LA2003 Statement of Licensing Policy text.
- 1.15 Reference to conditions/codes and operator compliance for greater emphasis on 'social responsibility' in the sector
- Various references to 'fixed odd betting terminals' now changed to 'self-service betting terminals' as they are now referred to nationally. Clarifies for operators.
- Schedule A contacts will be updated as changed since last policy review
- Schedule C Summary of machine provisions by premises has been fully updated since last review due to regulatory reform
- Schedule E is new in response to the changes coming in later from next year (5th edition GC guidance)
- **Part B: Premises Licensing in paragraphs 1.7, 1.9 and 1.14 have been revised post-consultation specifically in response to trade responses.**

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DRAFT TIMETABLE OF MEETINGS 2016-17

Apr-16							
M			4		11 EXECUTIVE (10am) MB (2pm-MSDC)	18 JOINT AUDIT (10am-BDC) Housing PSB (4pm-BDC)	25 MB (2pm-BDC)
T			5		12 Environment PSB (2pm-BDC)	19	26 BDC ANNUAL COUNCIL (9.30)
W			6	PLANNING (9.30)	13 DEVELOPMENT CONTROL B (9.30) JOINT SCRUTINY (5.30-BDC) SI	20 PLANNING (9.30)	27 DEVELOPMENT CONTROL A (9.30) SI
T			7	STRATEGY (9.30)	14	21	28 MSDC ANNUAL COUNCIL (5.30)
F	1	MSDC REGULATORY (10am)	8	BDC REGULATORY (9.30)	15	22	29
May-16							
M	2	BANK HOLIDAY	9	EXECUTIVE (10am)	16	23	30 BANK HOLIDAY
T	3		10		17	24 Members Seminar (2pm) Councillor Briefing (5.30)	31
W	4	PLANNING (9.30)	11	DEVELOPMENT CONTROL B (9.30) SI	18 PLANNING (9.30)	25 DEVELOPMENT CONTROL A (9.30) SI	
T	5		12	STRATEGY (5.30)	19	26	
F	6		13		20	27	
Jun-16							
M			6	EXECUTIVE (10am)	13	20 JOINT AUDIT (5pm-MSDC)	27
T			7		14	21	28 BDC COUNCIL (5.30)
W	1	PLANNING (9.30) (Suffolk Show)	8	DEVELOPMENT CONTROL B (9.30) SI	15 PLANNING (9.30) JOINT SCRUTINY (5.30-MSDC)	22 DEVELOPMENT CONTROL A (9.30) SI	29 PLANNING (9.30)
T	2	(Suffolk Show)	9	STRATEGY (9.30)	16	23 MSDC COUNCIL (5.30)	30
F	3	MSDC REGULATORY (10am)	10	BDC REGULATORY (9.30)	17	24	
Jul-16							
M			4		11 EXECUTIVE (10am)	18	25
T			5	(LGA Conference)	12	19 Members Seminar (2pm) Councillor Briefing (5.30)	26 BDC COUNCIL (5.30)
W			6	DEVELOPMENT CONTROL B (9.30) (LGA Conference) SI	13 PLANNING (9.30)	20 DEVELOPMENT CONTROL A (9.30) SI	27 PLANNING (9.30)
T			7	(LGA Conference)	14 STRATEGY (5.30)	21	28 MSDC COUNCIL (5.30)
F	1		8		15	22	29
Aug-16							
M	1		8		15	22	29 BANK HOLIDAY
T	2		9		16	23	30
W	3	DEVELOPMENT CONTROL B (9.30) SI	10		17 DEVELOPMENT CONTROL A (9.30) JOINT SCRUTINY (5.30-BDC)	24 PLANNING (9.30)	31 DEVELOPMENT CONTROL B (9.30) SI
T	4		11		18	25	
F	5	MSDC REGULATORY (10am)	12	BDC REGULATORY (9.30)	19	26	
Sep-16							
M			5	EXECUTIVE (10am)	12 JOINT AUDIT (10am-BDC)	19	26 MSDC AUDIT (10am) BDC AUDIT (6pm)
T			6		13 JH&S (2pm-MSDC)	20 BDC COUNCIL (5.30)	27 Members Seminar (2pm) Councillor Briefing (5.30)
W			7	PLANNING (9.30)	14 DEVELOPMENT CONTROL A (9.30) SI	21 PLANNING (9.30)	28 DEVELOPMENT CONTROL B (9.30) SI
T	1	STRATEGY (9.30)	8		15	22 MSDC COUNCIL (5.30)	29
F	2	JSCC (9am-BDC)	9		16	23	30
Oct-16							
M	3		10	EXECUTIVE (10am)	17	24	31
T	4		11		18	25 BDC COUNCIL (5.30)	
W	5	PLANNING (9.30)	12	DEVELOPMENT CONTROL A (9.30) SI	19 PLANNING (9.30) JOINT SCRUTINY (5.30-MSDC)	26 DEVELOPMENT CONTROL B (9.30) SI	
T	6	STRATEGY (5.30)	13		20	27 MSDC COUNCIL (5.30)	
F	7	MSDC REGULATORY (10am)	14	BDC REGULATORY (9.30)	21	28	
Nov-16							
M			7	EXECUTIVE (10am)	14 JOINT AUDIT (5pm-MSDC)	21	28
T	1		8		15	22	29 Members Seminar (2pm) Councillor Briefing (5.30)
W	2	PLANNING (9.30)	9	DEVELOPMENT CONTROL A (9.30) SI	16 PLANNING (9.30)	23 DEVELOPMENT CONTROL B (9.30) SI	30 PLANNING (9.30)
T	3		10	STRATEGY (9.30)	17	24	
F	4		11		18	25	

Dec-16										
M			5	EXECUTIVE (10am)	12		19		26	BANK HOLIDAY
T			6		13		20	BDC COUNCIL (5.30)	27	BANK HOLIDAY
W			7	DEVELOPMENT CONTROL A (9.30) JOINT SCRUTINY (5.30-BDC) SI	14	PLANNING (9.30)	21	DEVELOPMENT CONTROL B (9.30) SI	28	
T	1	STRATEGY (5.30)	8		15		22	MSDC COUNCIL (5.30)	29	
F	2	MSDC REGULATORY (10am)	9	BDC REGULATORY (9.30)	16		23		30	
Jan-17										
M	2	BANK HOLIDAY	9	EXECUTIVE (10am)	16		23	JOINT AUDIT (10am-BDC)	30	BDC SCRUTINY (9.30)
T	3		10		17		24		31	
W	4	PLANNING (9.30)	11	DEVELOPMENT CONTROL A (9.30) SI	18	PLANNING (9.30)	25	DEVELOPMENT CONTROL B (9.30) SI		
T	5		12	STRATEGY (9.30)	19		26	MSDC SCRUTINY (5.30)		
F	6		13		20		27			
Feb-17										
M			6	EXECUTIVE (10am)	13		20		27	
T			7		14		21	BDC COUNCIL (5.30)	28	
W	1	PLANNING (9.30)	8	DEVELOPMENT CONTROL A (9.30) SI	15	PLANNING (9.30) JOINT SCRUTINY (5.30-MSDC)	22	DEVELOPMENT CONTROL B (9.30) SI		
T	2		9	STRATEGY (5.30)	16		23	MSDC COUNCIL (5.30)		
F	3	MSDC REGULATORY (10am)	10	BDC REGULATORY (9.30)	17		24			
Mar-17										
M			6	EXECUTIVE (10am)	13	JOINT AUDIT (5pm-MSDC)	20		27	
T			7		14	JH&S (2pm-BDC)	21		28	
W	1	PLANNING (9.30)	8	DEVELOPMENT CONTROL A (9.30) SI	15	PLANNING (9.30)	22	DEVELOPMENT CONTROL B (9.30) SI	29	PLANNING (9.30)
T	2	STRATEGY (9.30)	9		16		23		30	
F	3	JSCC (10-MSDC)	10		17		24		31	
Apr-17										
M	3		10	EXECUTIVE (10am)	17	BANK HOLIDAY	24			
T	4		11		18		25	BDC ANNUAL COUNCIL (9.30)		
W	5	DEVELOPMENT CONTROL A (9.30) SI	12	PLANNING (9.30)	19	DEVELOPMENT CONTROL B (9.30) JOINT SCRUTINY (5.30-BDC) SI	26	PLANNING (9.30)		
T	6	STRATEGY (5.30)	13		20		27	MSDC ANNUAL COUNCIL (5.30)		
F	7	MSDC REGULATORY (10am)	14	BANK HOLIDAY	21	BDC REGULATORY (9.30)	28			

KEY:

BABERGH DISTRICT COUNCIL meetings in blue
MID SUFFOLK DISTRICT COUNCIL meetings in red
JOINT meetings in Green

NOTES:

* Subject to notification from both the major precepting authorities
When Licensing Act 2003, Licensing Sub and Regulatory Sub Committees are required these will, wherever possible be held on a scheduled Regulatory Committee day
SI - BDC Planning Committee site inspections
MSDC Planning Referrals Committee to meet as required
JSCC - Joint Staff Consultation Committee
JH&S - Joint Health & Safety Committee