

ASHFIELD DISTRICT COUNCIL



Council Offices,
Urban Road,
Kirkby in Ashfield
Nottingham
NG17 8DA

Agenda

Licensing Committee

Date: **Thursday, 6th September, 2018**

Time: **10.00 am**

Venue: **Committee Room, Council Offices, Urban Road,
Kirkby-in-Ashfield**

For any further information please contact:

Lynn Cain

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01623 457317

LICENSING COMMITTEE

Membership

Chairman: Councillor Sam Wilson

Councillors:

Lee Anderson
Steve Carroll
John Knight
Cathy Mason
Mike Smith

Tony Brewer
David Griffiths
Rachel Madden
Mick Murphy
John Wilmott

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SUMMONS

You are hereby requested to attend a meeting of the Licensing Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business set out below.



R. Mitchell
Chief Executive

AGENDA

Page

1. To receive apologies for absence, if any.
2. **Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests.**
3. To receive and approve as a correct record the minutes of the meeting of the Committee held on 22nd February, 2018. 5 - 10
4. Review of the Statement of Licensing Policy. 11 - 50
5. Review of the Statement of Gambling Policy. 51 - 88

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LICENSING COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,

on Thursday, 22nd February, 2018 at 6.30 pm

Present: Councillor Cathy Mason in the Chair;

Councillors Tony Brewer, David Griffiths,
Helen Hollis, Mick Murphy,
Christine Quinn-Wilcox and Mike Smith.

Apologies for Absence: Councillors Jim Aspinall, Paul Roberts and
Robert Sears-Piccavey.

Officers Present: Julian Alison, Lynn Cain, Joanne Lindley and
Kieran Stockley.

L.1 Declarations of Disclosable Pecuniary or Personal Interests and Non Disclosable Pecuniary/Other Interests

There were no declarations of interest made.

L.2 Minutes

RESOLVED

that the minutes of the meeting of the Committee held on 15th September,
2016, be received and approved as a correct record.

L.3 Licensing Authority Activity Report: 2017 Calendar Year

Committee were informed as to progress made by the Licencing Team in
relation to the carrying out of its licensing functions during the 2017 calendar
year.

Information was provided to Members in relation to the following:-

- an outline of Licensing Functions and the corresponding legislation;
- data regarding new licences/registration applications received and processed by the Authority;
- The Licensing Authority's current financial position;
- reasons for the upturn in applications and income;
- licenced premises mapping, risk assessments and compliance and enforcement data;
- number of enforcement actions taken in 2017 across the Licensing Function including snapshots of serious cases of concern;
- Licensing Sub Committee cases and outcomes;

- Officer Decision Records (ODR's) completed;
- Appeals made to the Licensing Authority;
- Notable Achievements;
- Future work programme for the Licensing Team.

Members took the opportunity to debate the duties undertaken by the Licensing Team during the 2017 calendar year and discussed various issues including:-

- utilising robust enforcement measures was sending out the right message that the Council expects high standards of vehicle safety;
- the methods adopted to encourage applications, improve income and provide a period of stability and reassurance for customers;
- concerns regarding the lack of wheelchair provision in taxis and private hire vehicles;
- licensing restrictions for mini cabs and their preferred areas for business (i.e. larger towns and cities);
- public awareness of the differences between mini cabs, private hire and hackney carriage vehicles and their differing restrictions on trade.

RESOLVED

that the progress report, as presented, be received and noted.

Reasons:

The report covers data on service volumes; details of licensing hearing decisions; decisions made under delegated powers; information on volumes of applications and enforcement activities.

The report also details the programmes of modernisation that have been put in to effect since December 2016, and the future workings of the Authority, in order for Members to provide feedback to the Licensing Team Leader.

L.4 Hackney Carriage and Private Hire Licensing Policy

Committee were asked to consider the modernisation of conditions attached to the granting of licences issued to drivers, proprietors and operators of Hackney Carriage and Private Hire Vehicles in order to promote a professional and customer focused licensed trade. The report also sought to reduce the financial costs incurred by those seeking to provide licensed vehicles and to address the long term objective of reducing vehicle pollution across the District.

Committee were asked to consider some amendments to the Hackney Carriage and Private Hire (Dual) Driver Licence: Conditions, as detailed at Appendix One, which affected paragraphs 66 to 84 shown on pages 31 and 32 of the agenda.

RESOLVED that

a) the proposed conditions to be attached to the granting of Driver, Vehicle and Operator Licences, as outlined in the report, be approved subject to paragraphs 66 to 84 of the Hackney Carriage and Private Hire (Dual) Driver Licence: Conditions (shown at Appendix One) being replaced with the following:-

- 66.** The Driver shall not whilst driving or in charge of a Private Hire Vehicle park on any taxi rank whether within or outside of the Ashfield District Council area.
- 67.** The Driver shall not whilst driving or in charge of a Hackney Carriage Vehicle park on any taxi rank outside of the Ashfield District Council area.
- 68.** The Driver of a vehicle equipped with a taximeter shall ensure that the table of fares (whether that be the Hackney Carriage Statement of Fares & Charges as issued by Ashfield District Council, or the Table of Fares as issued by the Private Hire Operator) is displayed in a clearly visible position in the vehicle, provide an explanation of the table of fares if so requested by the passenger, and made available upon request to any Authorised Officer.
- 69.** The Driver shall when driving a vehicle equipped with a taxi-meter ensure that during any hiring the face of the taxi-meter is at all times plainly visible to the passengers.
- 70.** The Driver shall when driving a vehicle equipped with a taxi-meter set the meter into operation when the hirer starts her or his journey unless the hirer asks the hiring to engage the vehicle by time, or at the time pre-arranged for the journey to start as requested by the hirer.
- 71.** The Driver shall if the vehicle is involved in an accident, inform the vehicle proprietor immediately, in order that the vehicle proprietor may contact the Licensing Officer within 72 hours of the incident occurring.
- 72.** The Driver shall if the vehicle is involved in an accident, and is requested to do so, give his or her name and address and any other reasonable details, and the vehicle proprietors name and address, details of the vehicle insurance, and the licence number and registration number of the vehicle to any injured party or Authorised Officer.
- 73.** The Driver shall when driving a Hackney Carriage to a taxi rank and finding that the taxi rank is occupied by the full number of Carriages authorised to do so, proceed to another stand, and not park on or near a taxi rank that is full.

- 74.** The Driver shall when driving a Hackney Carriage on arriving at a rank that is not fully occupied station the vehicle immediately behind the last Hackney Carriage so as to face in the same direction. When the Hackney Carriage immediately in front of the vehicle being driven by the Driver moves forward, the Driver shall also move forward to allow more Hackney Carriages to join the rank.
- 75.** The Driver shall when driving a Hackney Carriage not cause an obstruction when parked on a taxi rank and when the vehicle is the first vehicle on the rank be in constant attendance and be ready to be hired at once by any person.
- 76.** The Driver shall when driving a Hackney Carriage not park on a rank in the Ashfield District for any purpose other than for standing for hire.
- 77.** The Driver of a Hackney Carriage when hailed by a customer within the Ashfield District Council area or when approached whilst waiting on an Ashfield District Council taxi rank, must, unless he or she has reasonable excuse, accept any hiring within the Ashfield District boundary if the destination is also within the Ashfield District boundary. The fare for such a journey, will be calculated by the taxi meter, and the scale of charges applicable to journeys within the Ashfield District Council area shall apply.
- 78.** The Driver of a Hackney Carriage when hailed by a customer within the Ashfield District Council area or when approached whilst waiting on an Ashfield District Council taxi rank, does not have to accept journeys that end outside of the Ashfield District boundary; the fare or rate of fare must be by agreement between the hirer and Driver before the journey commences. Where no such agreement exists, and the journey is undertaken, the scale of charges applicable to journeys within the Ashfield District Council area shall apply.
- 79.** The Driver shall carry a copy of these conditions within the vehicle and make them available for inspection by the hirer or any passenger, or Authorised Officer upon request, and be familiar with the conditions of the Hackney Carriage & Private Hire (Dual) Driver licence, and of the Enforcement Procedures as detailed in the Councils Policy on the Relevance of Warnings, Offences, Cautions and Convictions.
- 80.** The Driver shall enrol with the Disclosure and Barring Services (DBS) Update Service and maintain any necessary agreements and arrangements with that Service so as to ensure that the Licensing Authority (should it have a reasonable requirement to do so) may access the licence holders DBS record in order to promote the objectives of public safety and safeguarding, and to prevent delay in the determination of the renewal of the licence;
- b) the revisions to the age limit criteria applicable to Hackney Carriage and Private Hire Vehicles, as outlined in the report, be approved;
- c) the Licensing Team Leader be authorised to carry out a consultation on the proposals detailed within the report;

- d) delegated authority be granted to the Chairman of the Licensing Committee, in conjunction with the Interim Service Director for Place and Communities, to consider any responses to the consultation, make any relevant changes to the Driver, Vehicle and Operator Conditions and finalise the documentation accordingly.

Reasons:

The report seeks the implementation of conditions to be attached to drivers, vehicles and operators licensed by this Authority and reflect today's Hackney Carriage and Private Hire Trade.

The report also seeks amendments to the age limits currently adopted in relation to Hackney Carriage and Private Hire vehicles in order to reduce the financial costs faced by local businesses when purchasing vehicles to be used to provide transport services, whilst seeking to also promote a strategy to reduce vehicle pollution.

The meeting closed at 7.28 pm

Chairman.

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Report To:	Licensing Committee	Date:	6th September 2018
Heading:	REVIEW OF THE STATEMENT OF LICENSING POLICY		
Portfolio Holder:	DEPUTY LEADER – OUTWARD FOCUS		
Ward/s:	ALL		
Key Decision:	No		
Subject to Call-In:	No		

Purpose of Report

To agree a Draft Revised Statement of Licensing Policy for public consultation.

Recommendation(s)

The Licensing Committee is recommended to:

- a) Consider the amendments to the Statement of Licensing Policy highlighted within the Draft Revised Statement of Licensing Policy as detailed within this report;**
- b) Agree the Draft Revised Statement of Licensing Policy for consultation;**
- c) Authorise the Licensing Manager to carry out the consultation programme as laid out within the report.**

Reasons for Recommendation(s)

The Council is obliged to determine and publish a "Statement of Licensing Policy" and to keep it under review and to republish it at least every five years. The Statement of Licensing Policy sets out how the Licensing Authority intends to exercise its functions under the 2003 Act.

The current Policy is nearing the end of its five year life span, and as such, requires updating and republishing.

Alternative Options Considered (With Reasons Why Not Adopted)

Do nothing: not recommended for a number of reasons.

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Detailed Information

Introduction

The Committee is reminded that all licensing authorities have adopted a Licensing Policy Statement. This statement must promote the four licensing objectives of the Licensing Act 2003 (the 2003 Act), which are:

- **The Prevention of Crime and Disorder**
- **Public Safety**
- **The Prevention of Public Nuisance**
- **The Prevention of Children from Harm**

The Council is obliged to determine and publish a "Statement of Licensing Policy" and to keep it under review and to republish it at least every five years. The Statement of Licensing Policy sets out how the Licensing Authority intends to exercise its functions under the 2003 Act.

In carrying out its functions the council must also have regard to the "Guidance issued under section 182 of the Licensing Act 2003" by the Home Office. These measures ensure clarity and consistency across all authorities in England and Wales. Revised guidance came into force in April 2018.

In drafting the original policy considerable work was done by a team of officers from Nottinghamshire districts on drafting a common 'core' Statement of Licensing Policy that each district adapted for its own use.

The Council has continued to work with other Licensing Authorities in Nottinghamshire and others nationally, so that a consistent approach is taken to assist applicants for licences and those who may wish to make representations under the provisions of the 2003 Act.

Amendments & Additions to the Statement of Licensing Policy

To assist all parties to this Committee meeting, the proposed amendments and additions are briefly bulleted below (and the relevant Page Number within the draft Policy that these can be found):

- Public Health identification of areas of higher levels of alcohol related harm (Page 6).
- Advice to applicants to utilise Government and local guidance and policies, and to seek advice from Responsible Authorities (including the Licensing Authority) prior to submitting applications in order to tailor applications to prevent negative impact to localities (Page 9).
- Advice to those making representations of disclosure of personal information (Page 10).
- Advice to applicants that the Director of Public Health is a Responsible Authority (Page 11).
- Advice to applicants when making applications to demonstrate high quality, well managed premises (Page 13).

- Advice to applicants and licence holders of recommended management practices for the protection of children from harm licensing objective (Page 15).
- Advice to applicants regarding risk assessing the use of outside areas (Page 17).
- Advice to applicants and licence holders regarding Public Space Protection Orders (which replaced Designated Public Protection Orders) (Page 20).
- Advice to applicants encouraging premises that will attract a wider customer base that includes families and older adults, and for wet led premises the need for robust management arrangements to be in operation (Page 20).
- Advice regarding the Licensing Authority's recently acquired powers in relation to being able to revoke a Personal Licence (Page 23).
- Statement regarding the Licensing Authority's commitment to the Safeguarding of Children and Vulnerable Persons, and advice to applicants to consider this statement when formalising applications (Page 25).
- Advice to applicants seeking to provide alcohol delivery services, and advice regarding prudent Age Verification Policies (Page 26).

Consultation on the Draft Revised Statement of Licensing Policy

The draft revised Statement of Licensing Policy requires approval from the Committee prior to commencing formal consultation. Proposed amendments are included in the appendices to this report.

The proposed consultation timetable is as follows:

- 6th September 2018: Licensing Committee to agree that the draft revised Statement of Licensing Policy be put out to consultation.
- Consultation between 17th September 2018 and 28th October 2018 to "Responsible Authorities" (Police, Fire Service, Trading Standards, Planning, Environmental Protection, Children's Safeguarding Board, Health & Safety, etc), representatives of current licence holders and registered clubs, and others including Community Safety teams, Building Control and the local Primary Health Care. The general public will have access to the consultation via the Council's website, reception area and local libraries.
- 8th November 2018: the results of the consultation will be put to the Licensing Committee for consideration, and to make any relevant changes to the Policy to finalise accordingly, and to make a recommendation to Council to adopt the final Policy.
- 29th November 2018: Council to adopt the Policy.

Implications

Corporate Plan:

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Legal:

There are no legal implications contained within this report.

Finance:

There are no financial implications contained within this report.

This report is effective from 6th September 2018 and has the following financial implications.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carry out its licensing functions and decision making processes.

Human Resources:

There are no direct HR implications contained within this report

Equalities *(to be completed by the author):*

There no diversity or equality implications contained within this report.

Other Implications:

None

Reason(s) for Urgency (if applicable):

Not applicable

Background Papers

Report Author and Contact Officer

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STATEMENT OF LICENSING POLICY

Effective from: 1st January 2019

Adopted: 5th December 2013

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1. INTRODUCTION

- 1.1 Ashfield District Council is a Licensing Authority for the purpose of the Licensing Act 2003. Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act during the five year period to which the policy applies. The Statement of Licensing Policy can be reviewed and revised by the authority at any time.
- 1.2 Ashfield District Council covers a mix of urban and rural areas in central Nottinghamshire, to the north east of Nottingham City. It includes the main towns of Sutton-in-Ashfield, Kirkby-in-Ashfield and Hucknall. There are several other smaller towns and villages. The 2016 census gives the population of Ashfield as 124,500. The main concentrated areas of licensable activities are in the town centres of Hucknall and Sutton-in-Ashfield.
- 1.3 The Authority recognises that licensed premises in the district are a major contributor to the district, attracting tourists and visitors and making for vibrant towns and communities. The Council also recognises the problems that can be caused if licensed activities are not properly managed and premises well run.
- 1.4 Ashfield District Council believes that good management of the entertainment, alcohol and late night refreshment industries (and of the street environment within which it operates) is essential to the continued success of the District and to attracting the wide range of people who want to come here to work, to visit and to live. The Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music in the area.
- 1.5 This Policy Statement seeks to establish sensible controls and appropriate guidance to encourage and further the efforts that are being made by the Council and its partners together with the licensed trade to help the Authority deal with issues that arise from licensable activities.

This will be achieved by:

- Establishing and building upon best practice within the industry;
 - Recognising and facilitating the role of partners and stakeholders;
 - Encouraging self-regulation by licensees and managers;
 - Providing a clear basis for the determination of licence applications; and
 - Supporting related policies and strategies of the District Council.
 - An inspection and enforcement regime targeted at premises that present a high risk.
- 1.6 The Authority is committed to working with its licensing partners and stakeholders in delivering the licensing function. This Policy Statement therefore seeks to provide information on the general approach that the Authority will take in carrying out its licensing functions.
- 1.7 In preparing and publishing this Policy Statement due regard has been given to the guidance issued by the Secretary of State under section 182 of the Act, and to good practice advice issued by approved government advisory bodies. In particular the Authority has consulted those persons and bodies as required by the guidance and given proper weight to their views.

Partnership working between licensing authorities in Nottinghamshire has enhanced the production of this Policy Statement and will help ensure consistency in terms of both policy and enforcement where licensing boundaries meet.

1.8 This Policy Statement should not be regarded or interpreted as indicating that any requirement of law may be overridden; each application will be considered and treated on its own merits. No restrictive controls will be introduced or imposed unless they are felt to be necessary and appropriate.

1.9 There are certain matters which the Authority is prevented from taking into account or from dealing with in a specified way. For example the Authority is not entitled to take the issue of the “need” for further licensed premises into account when determining licence applications.

On the other hand the cumulative impact of licensed premises on the promotion of the Licensing Objectives is a matter that can be properly considered by the Authority. Cumulative impact and related matters are dealt with in section 6 of this Policy Statement.

1.10 Nothing in this Statement of Policy prevents any one person or body applying for a variety of current permissions under the Act. Nor does it override the right of any Responsible Authority, any person or business to make representations or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

2. LICENSING OBJECTIVES AND LICENSABLE ACTIVITIES

2.1 In exercising their functions under the Licensing Act 2003, licensing authorities must have regard to the licensing objectives as set out in section 4 of the Act. The licensing objectives are:

- (a) the prevention of crime and disorder;**
- (b) public safety;**
- (c) the prevention of public nuisance; and**
- (d) the protection of children from harm.**

2.2 Guidance on the Licensing Objectives is available on the Government's website at: <https://www.gov.uk/alcohol-licensing>

2.3 Licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual club, or business holding the licence, certificate or permission concerned. Licensing is about the management of licensed premises and activities within the terms of the Act and conditions attached to various authorisations will be focused on matters which are within the control of the individual licence holder and others.

2.4 The Act only covers certain "licensable activities" namely:

- (a) the sale by retail of alcohol**
- (b) the supply of alcohol by or on behalf of a club to a member**
- (c) the provision of "regulated entertainment" and**
- (d) the provision of late night refreshment**

2.5 The definition of what constitutes "regulated entertainment" is complex and has been the subject of Government deregulation. Whilst "regulated entertainment" covers live or recorded music, dancing, plays, films, and certain types of sporting activity the Act itself provides various exemptions and restrictions on the types of activities which are subject to the Licensing regime.

The Live Music Act 2012 and the Deregulation Act 2015 has removed the ability of the Licensing Authority to regulate many "regulated entertainments" at certain times and in certain circumstances based on the nature of the premises where the activity takes place, the times during which the activity is held, and the audience numbers in attendance. It cannot be assumed therefore that a licence is required for all forms of entertainment or, even if a licence is required, that the Licensing Authority will necessarily have the power to impose restrictions or conditions on such entertainment.

2.6 Where an activity is licensable the promotion of the Licensing Objectives is the paramount consideration for the Authority. In the absence of valid representations from responsible authorities, other persons or businesses, all applications must be granted subject only to any prescribed mandatory conditions and such other conditions which are consistent with the operating schedule provided by the applicant. Where valid representations are received and maintained the application will normally be determined at a hearing before the Licensing Committee or one of its Panels.

The Committee or Panel will then assess whether the application would result in the licensing objectives being undermined to such an extent that the application should be refused or, whether it would be possible to grant the licence subject to such conditions as are felt appropriate by the Authority. Conditions will be tailored to the size, style, characteristics and activities taking place at the premises concerned. Conditions will be focused on matters that are within the control of individual licensees and others granted relevant permissions.

- 2.7 Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises or places, is ultimately a matter of fact to be decided by the courts in cases of dispute.
- 2.8 In addressing such matters consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The imposition of standardised conditions is prohibited as being disproportionate and burdensome.
- 2.9 It should be noted, however, that the Authority is permitted to establish pools of conditions from which appropriate and proportionate conditions may be drawn. Further details regarding such conditions can be obtained from the Licensing Team.

3. HOW THIS STATEMENT OF POLICY WORKS

3.1 The purpose of the Statement of Policy is to:

- provide a clear basis for determining licence applications;
- provide a clear framework for licensing strategies, including the effect known as 'cumulative impact';
- support wider strategies and policies of the Council.

3.2 The text of this Statement of Policy **in bold type** indicates the **Policies** with *the reason* for each policy shown immediately after *in bold italics*.

3.3 This Policy sets out the Authority's expectations in relation to certain matters. Whilst applicants are not obliged to meet these expectations in their Operating Schedules they may find that responsible authorities other persons and businesses are more likely to raise representations if they do not. This can lead to a delay with the application having to be considered by a Committee/Panel which may then either refuse the application or impose conditions if the application is not found to sufficiently promote the licensing objectives and meet this Policy. On appeal the Court is also obliged to have regard to the terms and requirements of this Policy and can only depart from it if it has good reason.

3.4 In this Statement of Policy any reference made to the imposition of conditions refers to conditions imposed in accordance with the requirements of the Act outlined in paragraphs 2.6 – 2.9 in the previous Section.

4. STRATEGIC LINKS AND OTHER REGULATORY REGIMES

- 4.1 There is a range of strategic influences and statutory controls which affect the licensing system in terms of policy formulation, administration and enforcement activities. Examples of these strategies can be found in the Section 182 guidance produced by the Home Office:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/705588/Revised_guidance_issued_under_section_182_of_the_Licensing_Act_2003_April_2018_.pdf

The Authority will seek to have an active involvement in the development and review of these by ensuring an appropriate exchange of dialogue between the Licensing Authority and other relevant regimes.

Such involvement may result in the imposition of conditions and formulation of policies supporting the relevant strategies where appropriate.

- 4.2 The granting of a licence, certificate or provisional statement will not override any requirement of the planning system or vice-versa. The licensing system will provide for the detailed control of operational matters, which are unlikely to be addressed through planning processes.

However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the licensing objectives.

Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action.

- 4.3 The four statutory licensing objectives aim to reduce crime and disorder and increase public safety. Licensing policies are not currently required to address Public Health concerns, however, there is strong evidence that alcohol outlet density is associated with increased alcohol-related hospital admissions and alcohol-related mortality. Alcohol contributes to more than 60 diseases and health conditions and represents 10% of the burden of disease and death in the UK, placing it in the top three lifestyle risk factors after smoking and obesity. (Alcohol Concern, 2015). Alcohol treatment services are commissioned by Nottinghamshire County Council Public Health.

- 4.4 Whilst the exact relationship between alcohol and ill-health is often complex and affected by other factors such as the socioeconomic make-up of the neighbourhood, studies have found that local authorities' greater use of licensing powers leads to reductions in alcohol-related hospital admissions in England (Institute of Alcohol Studies, 2017). In light of this, this authority has reviewed Public Health indicators both at District level from the Local Alcohol Profiles for England and at sub-district level.

- 4.5 Across Ashfield Public Health analysts have mapped a number of alcohol-related measures that are considered to have a negative impact on health and wellbeing to show how the relative levels of these measures vary across Nottinghamshire County Districts and Boroughs.

- 4.6 Measures used were selected for their relevance to licensing and public health and their availability at sub-district level and include alcohol-related hospital admissions, anti-social behaviour, crimes against the person including domestic violence, rate of persons in treatment for substance misuse, an estimate of the percentage of the population drinking at least once a day and deprivation.
- 4.7 This has identified some areas with relatively higher levels of harm and for Ashfield this includes parts of Sutton in Ashfield, Kirkby in Ashfield and Hucknall. A map providing details of these areas can be found online at: www.nottinghamshireinsight.org.uk/d/205125
- 4.8 Applications within these areas or surroundings should be aware of, and give consideration to, their contribution to the burden of alcohol-related harms to the health and wellbeing within the community

DRAFT

5. DELIVERING LICENSING SERVICES

- 5.1 The Authority will make available guidance and such resources as required by law to enable engagement with the licensing process. Such guidance and resources may be accessed through the Ashfield District Council web site, Liquor Licensing Policy or by contacting the Authority direct.
- 5.2 The Licensing Authority will maintain an impartial role in service delivery and cannot act in favour of one party over another. The Licensing Authority may, in certain circumstances, act as a Responsible Authority. However this will only be done in exceptional circumstances and the Licensing Authority will not normally take over the role of other Responsible Authorities or parties.
- 5.3 Details of Responsible Authorities can be found on the Council's website: <https://www.ashfield.gov.uk/business/licensing/beer-and-entertainment-licensing/responsible-authorities-licensing-act/>

6. APPLICATIONS, NOTIFICATIONS AND THEIR CONSIDERATION

- 6.1 The procedure and documentation required for the various applications and notices is prescribed by the Act and Regulations. Further advice on these processes is available on the Council's web site. This section of the policy gives basic guidance on how those applications and notifications will be considered. Failure to comply with the statutory requirements may result in the application or notice being invalid.

To ensure the application is completed fully, applicants must consider the contents of this policy statement, the government guidance issued under section 182 Licensing Act 2003 and relevant guidance published by the licensing authority.

Applicants are encouraged to seek advice from the licensing authority and responsible authorities before submitting an application. Failure to comply with the statutory requirements may result in an application or notice being invalid / rejected.

- 6.2 The process of applying for new premises licences and full variations of current premises licences are dealt with in same way and involve serving the application on all responsible authorities and advertising the application in the prescribed way. If objections are received the matter will be heard by the Licensing Committee of the Council. The fee for such applications depends on the size of the premises.
- 6.3 The process of a minor variation to current premises licences are dealt with differently. Minor variations can be applied for to vary times of activities but not to increase the hours when alcohol can be sold. The process can also be used when making minor structural alterations to the premises and to add or remove conditions from the licence.

These minor variations should not have a material effect on the way in which the premises are operated and there is one set fee. The granting of a minor variation is determined at officer level after consultation with those responsible authorities affected. If the application is refused the applicant can resort to the full variation process.

- 6.4 All applicants are encouraged to use the gov.uk site to submit on line applications.

6.5 Representations

- 6.6 Where the licensing authority receives an application for a new licence or a variation to an existing licence, the responsible authorities, local residents and businesses have 28 days to make representations about the application. Representations can be positive as well as negative.

Guidance on making a representation is available from the Home Office and is also available on the Council's Licensing Policy web page for individuals or groups to make their representations in writing (or by email).

- 6.7 For a representation to be relevant it should be positively tied or linked by a causal connection to particular premises. Representations received outside the statutory period for making such representations will be invalid and will not be taken into consideration when the application is determined.

The Licensing Authority also has the power to reject a representation made by someone other than a Responsible Authority if it finds it to be vexatious or frivolous.

An example could be where a representation was made solely on the basis that the application would provide competition to an existing trader or where no link was made to any of the licensing objectives.

- 6.8 **Members of the public who wish to submit a representation need to be aware that their personal details will be made available to the applicant, unless the person making the representation clearly states that they wish for their personal details to be redacted. Anonymous representations however, will not be accepted by the Licensing Authority.**

- 6.9 Where a representation proceeds to a hearing the Hearings Regulations allow for further information to be put forward in support of that representation. However, that material must only relate to the initial representation and must not add new grounds of objection.

It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded.

An example could be where a representation was made solely on the basis that the application would provide competition to an existing trader, where there is no relevance or link made to any of the licensing objectives.

- 6.10 Where representations are received the characteristics of an area and the impact that the premises may have upon that area will be a fundamental consideration in determining whether a licence should be granted and if so what conditions should be attached to it.

Conditions will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to the vicinity will be a question of fact to be determined in the light of the individual circumstances of the case.

Consideration will primarily be given to the direct impact of the licensed activity on those who live, work or are engaged in business or other activities in the area concerned.

6.11 Responsible Authorities

- 6.12 Although the licensing authority is a responsible authority in its own right, it expects other parties such as local residents, Councillors or community groups

should make representations in their own right when they are reasonably able to do so rather than rely on the licensing authority to make representations for them.

6.13 The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not yet a licensing objective but Public Health is a responsible authority under the Licensing Act, and the licensing authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which may inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies.

6.14 Sub-Committee Hearings

6.15 The Act creates a presumption that applications will be granted unless a valid representation is raised. An application will then be determined by the Licensing Sub-Committee unless the issue that led to the representation can be negotiated to an agreed conclusion between the parties.

6.16 The Authority considers the effective and responsible management of the premises, the instruction, training and supervision of staff and the adoption of best practice in the leisure industry, which may include participation in such schemes as Best Bar None, Purple Flag or Business Improvement Districts (BIDs), to be amongst the most important control measures for the achievement of all of the Licensing Objectives.

7. Licensing Policies

Policy 1

The Authority expects to see evidence of the effective and responsible management of the licensed premises, such as examples of instruction, training and supervision of staff and the adoption of best practice used in the leisure industry, being specifically addressed within the Operating Schedule.

REASON: To ensure the promotion of the licensing objectives.

- 7.1 Licensing law is not the primary mechanism for the general control of the anti-social behaviour of patrons once they have left the vicinity of the licensed premises rather it is part of a holistic approach to the management of the District.
- 7.2 Where appropriate the Authority will seek to identify mechanisms that are available for addressing the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises.

Regard will be had to the Section 182 Guidance in this respect and the following may be employed to address such behaviour and the potential for cumulative impact:

- planning controls;
- positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
- the provision of CCTV surveillance in town centres, taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
- powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- the confiscation of alcohol from adults and children in designated areas;
- police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices;
- prosecution for the offence of selling alcohol to a person who is drunk (or allowing such a sale);
- police powers to close down instantly for up to 24 hours (extendable to 48 hours) any licensed premises in respect of which a TEN has effect on grounds of disorder, the likelihood of disorder, or noise emanating from the premises causing a nuisance;
- the power of the police, other responsible authorities or other persons to seek a review of a licence or certificate; and
- Early Morning Alcohol Restriction Orders (EMROs).
- Any other local initiatives that similarly address these problems.

Policy 2

When preparing or considering applications, applicants, responsible authorities, other persons, businesses and the Licensing Authority shall, where appropriate, take into account the following matters in assessing both the potential for the Licensing Objectives to be undermined and the appropriateness of any conditions which may be offered or imposed on any resulting licence, certificate or permission:

- (i) The nature of the area within which the premises are situated.
- (ii) The precise nature, type and frequency of the proposed activities.
- (iii) Any measures proposed by the applicant in the Operating Schedule.
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.
- (v) Means of access to and exit from the premises.
- (vi) Transport provision in the area and the likely means of public or private transport that will be used by customers either arriving or leaving the premises.
- (vii) Parking provision in the area.
- (viii) Noise from the premises or people visiting the premises.
- (ix) The potential cumulative impact (see below).
- (x) Other means and resources available to mitigate any impact.
- (xi) Such other matters as may be relevant to the application.

REASON: To ensure that all relevant matters are taken into consideration during the application process.

- 7.3 The authority wishes to encourage high quality, well managed premises. The operating schedule should describe how these high management standards will be achieved. In particular applicants will be expected to demonstrate:
- Knowledge of best practice.
 - That they understand the legal requirements of operating a licensed business.
 - Knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003.
- 7.4 The operating schedule must include all of the information necessary to enable the licensing, responsible authorities and members of the public to assess whether the steps outlined for the promotion of the licensing objectives are sufficient. This will mean that applicants will need to complete their own risk assessments on their businesses. Where the operating schedule does not provide enough detail, there is an increased likelihood that representations will be made.
- 7.5 The authority will expect that the completed operating schedule is specific to the premises subject to the application and the licensable activities to be carried out rather than containing general or standard terms.

- 7.6 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower.

The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible.

The impact of noise arising from patrons that are temporarily outside the premises (e.g. smoking), must be recognised and mitigated against.

- 7.7 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave.

They should consider each licensable activity separately and carefully, and reflect this in their operating schedule. Shops, stores and supermarkets will normally be permitted to sell alcohol and or late night refreshment anytime when they are open for shopping unless there are good reasons related to the promotion of the licensing objectives for restricting these hours.

- 7.8 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas operators should consider ceasing the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.

- 7.9 Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.

- 7.10 The Authority is mindful of the responsibilities that licence holders have for preventing anti-social behaviour on and within the vicinity of their premises. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the District. Where appropriate conditions will be imposed which reflect local Crime Prevention strategies.

- 7.11 Applicants are expected to have carried out the relevant assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications.

These assessments should be used to identify particular issues which may need to be addressed in the operating schedule in order to ensure that the objectives will not be undermined. Suggested methods of addressing **Policy 2** may be outlined in more detail in any guidance issued by the Responsible Authorities but could include the matters listed below where appropriate.

- 7.12 Examples of recommended management practice to minimise Crime and Disorder:

- Use of CCTV both within and outside the premises.

- Metal detection and search facilities.
- Procedures for risk assessing promotions and events such as “happy hours” and plans for minimising such risk.
- Measures to prevent the use or supply of illegal drugs.
- Employment of licensed door supervisors and other appropriately trained staff.
- Participation in an appropriate Pub Watch Scheme or other such scheme aimed at achieving a safe, secure and social drinking environment e.g. bar tariffs (for all bar price lists to carry a guide of how many units of alcohol each individual drink contains) and recommendations that all licensees, managers or supervisors attend regular Pub Watch meetings or send a representative if they cannot attend.
- The licensee providing a taxi call point, waiting and concierge service for taxi marshalling at the licensed premises.
- Use of measures aimed at ensuring patrons are more relaxed and quieter when leaving the licensed premises e.g. playing quieter music and promoting non-alcoholic drinks towards the end of the event, ensuring good lighting outside the premises, staggering the closing time with regard to nearby licensed premises, etc.

7.13 Examples of recommended management practice to ensure public safety:

- The preparation and application of appropriate risk assessments.
- The setting and monitoring of occupancy levels for the premises.
- Reasonable facilities, access and egress for people with disabilities.
- Having glassware policies.

7.14 Examples of recommended management practice for the protection of children:

- Exclusion from the premises in certain circumstances.
- Implementation of a robust proof of age scheme.
- The display of prominent warning notices about the supply of alcohol to minors.
- Knowledge of the offences which adults can commit by buying alcohol for minors.
- The requirements for production of satisfactory proof of age.
- A commitment to the promotion of age verification schemes (i.e. Challenge 21 / Challenge 25).
- Whether any high strength beers, lagers, ciders, etc will be made available for sale.

7.15 Examples of recommended management practice for preventing nuisance:

- Keeping doors and windows of licensed premises closed to minimise noise break out.
- Sound limiting devices, or insulation to contain sound and vibration so as to address noise break out not only from music but also, for example, from air handling equipment, generators or patrons.

- With popular premises that attract queues ensuring that the direction of any queue is away from residential accommodation.
- Proper and adequate door supervision.
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors and repeating such requests verbally.
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down.
- Arrangements with licensed taxis or private hire vehicles to take patrons from the premises.
- In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it.
- Banning people who regularly leave in a noisy fashion and liaising with other premises on such bans.
- Where the premises have a membership scheme, including provisions in the conditions of membership concerning conduct and noise when leaving the premises.
- Adequate provisions for dealing with litter/refuse arising from the operation of premises.
- Appropriate times for and methods of dealing with bottle delivery, disposal and collection.
- The licensee providing a help line or contact number for concerned residents.

7.16 In some cases it may be helpful for applicants and/or their advisors to discuss their draft Operating Schedule with representatives of Responsible Authorities, before it is formally submitted. This will help ensure it properly addresses all relevant issues that might give rise to concern.

7.17 In order to provide a consistent and clear approach, when considering the addition of conditions to a licence the Licensing Authority will where possible use a condition from a 'pool of potential conditions' that has been agreed by all the Licensing Authorities in Nottinghamshire. Other Responsible Authorities will be encouraged to do like wise. Details of the Councils pool of conditions can be obtained from the Councils web site.

7.18 Any condition attached to a licence or certificate should be:

- clear
- enforceable
- evidenced
- proportionate
- relevant
- be expressed in plain language capable of being understood by those expected to comply with them.

7.19 As a general rule, the Licensing Authority will seek to avoid attaching conditions that duplicate existing legal requirements and obligations imposed by other regimes unless such obligations and requirements fail to adequately address the specific circumstances of the case.

7.20 Outside areas

- 7.21 The prohibition on smoking in enclosed public spaces has increased the demand for outside areas. Applicants are reminded that whilst they can be a valuable addition to the business, they can cause increased nuisance and disorder for residents. Operating schedules should detail how noise nuisance and disorder will be dealt with.
- 7.22 Although consumption of alcohol is not a licensable activity, if the plan of the premises does not show outside area such as beer gardens or similar, then any premises licence authorising the sale of alcohol on the premises only would not authorise the use of such areas.

7.23 Large Scale Events

- 7.24 Existing licensed premises which intend to run one-off large scale events (and particularly dance events) are encouraged to consult with the responsible authorities and the Safety Advisory Group well in advance of the event taking place, to ensure that the event does not undermine the licensing objectives.

7.25 Cumulative Impact

- 7.26 In some areas concentrations of licensed premises exist where the combined effect of all of the premises, causes problems for a wider area and undermines, or potentially undermines, the Licensing Objectives.
- 7.27 This potential impact on the promotion of the Licensing Objectives by a significant number of licensed premises concentrated in one area is called "cumulative impact". This should not be confused with the issue of "need" which relates to the commercial demand for licensed premises and cannot be taken into account when determining licensing applications.
- 7.28 Having consulted with the relevant bodies, and taking into account the evidence presented, the Council is satisfied that there are no areas within the District presently suffering from cumulative impact. However there is potential for a change in this situation.

The Authority therefore considers it both necessary and appropriate to include an approach to this issue, which can be applied in the event of evidenced need being established

- 7.29 In order to address cumulative impact in particular areas the Authority may apply the policies below ("*The Cumulative Impact Policies*") which create a rebuttable presumption that certain types of applications for new premises licences or club certificates or material variations will normally be refused.

The presumption will be rebutted where applicants can demonstrate through the operating schedule and, where appropriate, supporting evidence that the operation of the premises will not add to the cumulative impact already being experienced or that the risk factors associated with the application are such that cumulative impact will not be an imminent threat were the application to be granted.

The policies however do not relieve responsible bodies, other persons or businesses of the need to make representations before such applications are considered.

If no representations are received then the application must be granted in terms consistent with the submitted operating schedule.

Policy 3

Where representations about crime and disorder and/or nuisance are received in respect of applications for premises in areas of cumulative impact, a rebuttable presumption will apply that such applications shall be refused.

However, this policy only applies to applications of the types listed below and which include the sale or supply of alcohol and/or late night refreshment namely:

- **New premises licences;**
- **New club premises certificates;**
- **Material variations to existing premises licences/club premises certificates (for example, these may include matters such as increases in capacity or hours);**
- **Late Night Refreshments.**

and in the case of applications for Provisional Statements an indication will be given that any subsequent application for a premises licence/club premises certificate is likely to be refused.

REASON: To ensure that those applications which may add to the levels of crime, disorder and nuisance already being experienced in the area are refused.

7.30 This policy creates a rebuttable presumption that certain types of applications will be refused.

The presumption may be rebutted where applicants can demonstrate through the Operating Schedule and, where appropriate, supporting evidence such as risk assessments, that the operation of the premises will not potentially add to the cumulative impact already being experienced.

7.31 Whilst the policy will not be applied inflexibly the circumstances in which the presumption of refusal may be rebutted will need to be exceptional and directly related to the reasons why the policy was adopted. An application is not likely to be classed as exceptional merely on the grounds that the premises have been or will be operated within the terms of its licence or that they are or will be well managed.

This is to be expected of any application. An example of the type of application which might be granted could be where premises are being relocated or act as a direct replacement for others and where the impact is likely to be similar to the original location.

- 7.32 Policy 3 however does not relieve Responsible Authorities, other persons or businesses of the need to make representations before such applications are refused. If no representations are received then the application must be granted in terms consistent with the submitted operating schedule. The Authority will regularly review this Policy to assess its impact.
- 7.33 Where a provisional statement has been issued by the Authority and the relevant works are completed satisfactorily then any subsequent application for a premises licence must be granted and any objection which could have been raised at the Provisional Statement stage must be disregarded. It is important therefore that if there is potential for new or altered premises to contribute to or cause cumulative impact in any given area that the issue is addressed as soon as possible in the licensing process.

Whilst applications for Provisional Statements cannot be refused it is considered that such statements could properly be used to indicate that even if the works were satisfactorily completed that the subsequent premises licence application could be refused on the grounds of cumulative impact.

- 7.34 Responsible Authorities, other persons or businesses may still make representations on specific applications concerning cumulative impact even though those applications are not for premises in designated saturation zones. In such circumstances the application may be refused, (though there will be no presumption that this will be the case), and the Authority may then choose to review this Statement of Policy and consult as to whether the particular area should be designated as a saturation zone to which policy IMP3 should apply.

Policy 4

In cases where Responsible Authorities, other persons or businesses seek to establish that an application should be refused on the grounds that it would result in or further contribute to a cumulative impact in an area not designated as a saturation zone, which would undermine one or more of the Licensing Objectives the Local Authority expects that they shall:

- (i) Identify the boundaries of the area from which it is alleged problems are arising;**
- (ii) Identify the Licensing Objective(s) which it is alleged will be undermined;**
- (iii) Identify the type of licensable activity alleged to be causing the problem (e.g. sale of alcohol, late night refreshment etc)**
- (iv) Provide full details and evidence to show the manner and extent to which it is alleged that the Licensing Objective(s) are being, or are at risk of being, undermined in the area;**
- (v) Provide evidence to show that the undermining of the objective(s) is caused by the patrons of licensed premises in the area.**

REASON: To ensure that objections are neither frivolous nor vexatious and that there is an evidential basis for the Committee to reach a decision.

7.35 Public Space Protection Orders

7.36 The Authority supports the use of public space protection orders as a tool to prevent alcohol related crime and disorder in the streets. The authority expects premises that operate in areas where DPPOs have been implemented to have measures in place to ensure that their customers do not contribute to drink related anti-social behavior.

7.37 Encouraging Diversity

7.38 The Licensing Authority recognises that creating a vibrant night time economy is important. Key to this is ensuring that the area appeals to a wide group of people including families and older adults who may not wish to frequent premises where the main, if not only attraction is the consumption of alcohol.

7.39 Applications for premises whose predominant offer is vertical drinking are not encouraged, but if applications are made for such premises, it is expected that the operating schedule will demonstrate robust arrangements for promoting the licensing objectives.

7.40 Provisional Statements

7.41 Where it is proposed to build or alter premises which may require a premises licence then the Licensing Act permits an application for a Provisional Statement. This application is dealt with in the same way as an ordinary application but does not result in the issue of a premises licence. That is applied for when the premises are complete.

7.42 Where a provisional statement has been issued by the Authority and the relevant works are completed satisfactorily then any subsequent application for a premises licence must be granted and any objection which could have been raised at the Provisional Statement stage must be disregarded.

7.43 Adult Entertainment

7.44 The potential for the provision of adult entertainment to impact on the licensing objectives is recognised in the prescribed application form and all applicants are required by the prescribed application form to indicate in their operating schedules whether they intend to provide any such entertainment which may give rise to concerns in respect of children.

7.45 The Policing and Crime Act 2009 potentially provides an additional licensing requirement for operators who provide “sexual entertainment venues” to licence them as sex establishments under the Local Government (Miscellaneous Provisions) Act 1982.

These are essentially premises which provide live entertainment or performances to a live audience which either involve nudity (such as lap or pole

dancing establishments) or which are for the purpose of sexually stimulating a member of the audience. These licensing provisions have been adopted by Ashfield District Council.

7.46 Sexual Entertainment Venues

Where a business wishes to operate as a sexual entertainment venue it may still need to be licensed under the Licensing Act for the sale of alcohol and the provision of regulated entertainment.

The provision of sexual entertainment (known as “relevant entertainment”) will however be regulated solely under the terms of any sex establishment licence which may be granted under the 1982 Act. Any licence granted under the Licensing Act 2003 will then continue to regulate the other licensable activities.

7.47 Certain forms of adult entertainment are excluded from requiring sex establishment licences under the Local Government (Miscellaneous Provisions) Act 1982, and these will still be regulated under the terms of the Licensing Act 2003.

7.48 The provision of adult entertainment on premises may mean that access by children will not be permitted during periods when such entertainment is taking place. Where such entertainment is to be provided under the terms of the premises licence or club premises certificate the Authority expects applicants to include arrangements for restricting children from viewing any adult entertainment in their Operating Schedule.

The Authority expects licensees to ensure that any age restrictions for shows or entertainment of an adult or sexual nature are properly complied with. In addition it may be appropriate to impose age restrictions for persons working in the premises, and applicants are advised to also consider the wider crime and disorder issues which can be associated with such forms of entertainment such as issues relating to drugs and prostitution.

7.49 Responsible authorities are likely to continue to consider all applications involving adult entertainment very carefully with regard to the promotion of the licensing objectives within the vicinity in which the premises are located.

7.50 Licence Suspensions

7.51 The Licensing Act 2003 requires Licensing Authorities to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due unless an administrative error or dispute has been notified to the Licensing Authority. In such cases there will be a grace period of 21 days to allow the matter to be resolved. If the matter is not resolved within the grace period the licence must be suspended.

7.52 Where such a suspension takes place the Licensing Authority must give a minimum of two days notice and may inform the police and other Responsible Authorities of the suspension. All licensable activities must cease when the suspension takes effect. The suspension will only cease on payment of the outstanding fee irrespective of any transfer or hearing which may take place.

7.53 Reviews

- 7.54 At any stage following the grant of a premises licence or club premises certificate a Responsible Authority, any person or business, may ask for a review. Evidence will however be required to show that a specific concern exists relating to one or more of the licensing objectives.
- 7.55 Where a review Hearing is held the Licensing Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence. The Guidance reminds the Authority that the powers of review are to be used in the interests of the wider community and not that of the individual licence/certificate holder.

Whilst the financial circumstances of the licence / certificate holder will be a consideration for the Licensing Authority the promotion of the licensing objectives will be the Authority's primary concern. In some circumstances e.g. the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action even in the first instance.

7.56 Early Morning Restriction Orders (EMRO)

- 7.57 The legislation gives licensing authorities discretion to restrict sales of alcohol by introducing an EMRO to restrict the sale or supply of alcohol to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of the licensing authority area and if relevant on specific days and at specific times. The licensing authority must be satisfied that such an order would be appropriate to promote the licensing objectives.
- 7.58 The only exemptions relating to EMROs are New Years' Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.
- 7.59 The decision to implement an EMRO should be evidence based and may include consideration of the potential burden imposed as well as the potential benefits.

7.60 Personal Licences

- 7.61 In most cases the Authority is under a duty to grant a Personal Licence so long as the applicant meets the criteria prescribed in section 120 of the Act.

Where an applicant for a Personal Licence has certain types of conviction (for relevant or foreign offences as defined by the act) or, has been required to pay an immigration penalty the Authority is required to notify the police, and, in the case of immigration offences and penalties, the Secretary of State.

In these cases a licence will still be granted unless an objection is received within the prescribed period.

Policy 5

When considering an objection notice or immigration objection notice the authority will take the following matters into consideration

- (i) The circumstances in which the offences were committed **or the penalty imposed;**
- (ii) The period that has elapsed since the offence(s) were committed **or the penalty imposed;**
- (iii) Whether the offences/**penalty** reveal a pattern of offending or were a one-off occurrence; and
- (iii) Any mitigating circumstances.

In consideration of an objection notice the Authority will reject the application/**revoke the licence** if it considers it appropriate to do so in order to promotion of the crime prevention objective.

In consideration of an immigration objection notice the Authority will reject the application/**revoke the licence** if it considers it appropriate to do so for the prevention of illegal working in licensed premises.

REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective.

Similarly granting a licence to a person convicted of an immigration offence or who has paid an immigration penalty will in many cases undermine the prevention of illegal working in licensed premises which itself is a crime.

- 7.62 Where a Personal Licence holder is convicted of a relevant offence the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the relevant period a Hearing will be held to determine whether the licence should be revoked.
- 7.63 **Where the Authority is aware that a Personal Licence holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty it may suspend the licence for a period not exceeding six months or revoke the licence.**

Before doing so the Authority will serve a notice on the personal licence holder inviting them to make representations within 28 days regarding:

- **The offence /penalty**
- **Any decision a court made regarding the licence at the time of the conviction**
- **Any other relevant information (including the holder's personal circumstances)**

7.64 After the 28 day period has elapsed the authority will make a decision as to what action it will take based on the information provided to it. In circumstances where the Authority does not propose to revoke the licence, notice must be given to the Chief Officer of Police inviting representations as to whether the licence should be suspended or revoked. **The Act does not require a hearing to be held at any stage during the process**, although the Authority may invite the licence holder to make a personal representation. Licence holders (and the police) will be notified of the Authority's decision in writing along with their right of appeal.

7.65 Temporary Event Notices

7.66 There are two types of types of Temporary Event Notice:

- A Standard TEN, and
- A Late TEN

A standard TEN must be served no later than ten working days before the event to which it relates and this does not include the day it is given or the day of the event, and a late TEN is served not before nine and not less than five working days before the event to which it relates.

7.67 Whilst the Council recognises that a Temporary Event Notice may be served at least ten clear working days prior to the commencement of a Permitted Temporary Activity (the event), the current Guidance issued under the Act encourages a locally established preferred period of notice.

There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the Crime and Disorder and Prevention of Public Nuisance objective's. The Council considers that a reasonable period of notice for the service of a Temporary Event Notice is 28 days.

7.68 Persons serving Temporary Event Notices must also serve a copy notice on the police and the responsible authority for Environmental Health functions i.e. the Councils Environmental Health section. The need to serve such copies is negated if the Notice is served electronically on the Licensing Authority.

7.69 Further information regarding Temporary Event Notice's is contained on the Councils web pages.

8. SAFEGUARDING CHILDREN AND VULNERABLE PERSONS

- 8.1 Ashfield District Council is committed to the safeguarding of children and vulnerable persons. The Licensing Act 2003 places legal responsibilities on holders of Premises Licences and Club Premises Certificates, and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.
- 8.2 The Licensing Authority in partnership with the Police, the Nottinghamshire Safeguarding Board, and local Community Safety Partnerships works closely with licensed premises in order to build an awareness across the industry as to how those who work in such establishments may better recognise the “indicators” of children and vulnerable persons who may be subject to or at risk of abuse, exploitation, and trafficking; and to whom to report any concerns that those licence holders and their staff may have should they identify someone who is / may be at risk.
- 8.3 As part of this process the Licensing Authority carries out regular enforcement / compliance checks across all of the premises licensed in our area, in order to build good working relationships with licence holders and designated premises supervisors, and providing them with advice as to how they and their staff can help safeguard children and vulnerable persons across the Nottinghamshire region.
- 8.4 When considering applications for new licences and variations to existing licences, the Licensing Authority will seek to be assured that applicants have considered the safeguarding of children and vulnerable persons within the Operating Schedule of the application.’
- 8.5 Where there are concerns over the potential for harm to children from licensable activities the Authority recognises the following body as competent to advise on matters relating to the protection of children from harm:
- The Nottinghamshire Safeguarding Children Board.
- Applications should therefore be copied to this body in its capacity as a responsible authority.
- 8.6 Examples which may give rise to concerns in respect of children include those:
- Where there have been convictions for serving alcohol to minors
 - Where there is a reputation for underage drinking
 - Where there is a known association for drug taking or dealing
 - Where there is a strong element of gambling on the premises
 - Where entertainment of an adult or sexual nature is provided
- 8.7 Where premises are used for film exhibitions, the Authority will impose the mandatory condition restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Authority itself.

- 8.8 The Authority expects applicants to include any arrangements for restricting under-age children from viewing age-restricted films in their Operating Schedule. The Authority expects that licensees will ensure that any age restrictions for cinema exhibitions are properly complied with.

Policy 6

Where representations have raised concerns in respect of individual premises and it is felt that access of children should be restricted, the Authority will consider imposing conditions which may include the following:

- (i) Limitations on the hours when children may be present.**
- (ii) Age limitations for persons under 18.**
- (iii) Limitations or exclusion when certain activities are taking place.**
- (iv) Full exclusion of persons under 18 when certain licensable activities are taking place.**
- (v) Limitations of access to certain parts of the premises for persons under 18.**
- (vi) A requirement for adults to be present.**

REASON: To protect children from harm.

- 8.9 Applicants seeking a licence that would enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:

- The person they are selling alcohol to is over 18.
- That alcohol is only delivered to a person over 18.
- That a clear document trail of the order process from order to delivery is maintained (with times and signatures) and available for inspection by an authorised officer.
- The time that alcohol is sold on the website/over the phone and the time the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

8.10 Age Verification Policies

- 8.11 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. The Council favours the Challenge 25 scheme and such a scheme volunteered as part of an operating schedule will be given the appropriate weight when the Council determines the licence application.

9. EQUALITY AND DIVERSITY

- 9.1 Ashfield District Council is committed to promoting equal opportunities, valuing diversity and tackling social exclusion.

The Council will aim to provide opportunities that meet the diverse needs of different people and groups of people by ensuring that services and employment opportunities are accessible to all.

Everyone will be treated fairly and with respect. Diverse needs will be understood and valued. The Council will aim to eradicate all forms of discrimination.'

Further information on the Council's policy can be viewed on the website at: www.ashfield.gov.uk

- 9.2 Advice and guidance will be made available in English which is the most common language of customers and stakeholders.

On request the Council will signpost customers to providers of guidance and information relating to translation services.

10. GENERAL ENFORCEMENT STATEMENT

- 10.1 All decisions, determinations, inspections and enforcement action taken by the Authority will have regard to the relevant provisions of the Licensing Act 2003, national guidance, relevant codes of practice and the enforcement policy of the Council which is produced to the principles of the Enforcement Concordat and the Regulators Compliance Code.
- 10.2 The Authority has established and maintains enforcement protocols with the local police and other relevant enforcement agencies.

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11. MONITORING AND REVIEW OF THIS STATEMENT OF POLICY

- 11.1 This Statement of Policy will be reviewed within legislative timescales and as and when appropriate.
- 11.2 In preparing the succeeding Statement of Policy regard will be had to data and information collated over the operating period of the current policy together with trends and the outcome of related initiatives from both local sources and nationally issued data and guidance.

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Report To:	Licensing Committee	Date:	6th September 2018
Heading:	REVIEW OF THE STATEMENT OF GAMBLING POLICY		
Portfolio Holder:	DEPUTY LEADER –OUTWARD FOCUS		
Ward/s:	ALL		
Key Decision:	No		
Subject to Call-In:	No		

Purpose of Report

To agree a Draft Revised Statement of Gambling Policy for public consultation.

Recommendation(s)

The Licensing Committee is recommended to:

- a) Consider the amendments to the Statement of Gambling Policy highlighted within the Draft Revised Statement of Gambling Policy as detailed within this report;**
- b) Agree that the “No Casino” Resolution remain in force;**
- c) Agree the Draft Revised Statement of Gambling Policy for consultation; and**
- d) Authorise the Licensing Manager to carry out the consultation programme as laid out within the report.**

Reasons for Recommendation(s)

The Council is obliged to determine and publish a "Statement of Gambling Policy" and to keep it under review and to republish it at least every three years. The Statement of Gambling Policy sets out how the Licensing Authority intends to exercise its functions under the 2005 Act.

The current Policy is nearing the end of its three year life span, and as such, requires updating and republishing.

Alternative Options Considered (With Reasons Why Not Adopted)

Do nothing: not recommended for a number of reasons.

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Detailed Information

Introduction

The Committee is reminded that all Licensing Authorities have adopted a Gambling Policy Statement (originally adopted on 31st December 2007). This Statement must promote the three licensing objectives of the Gambling Act 2005 (the 2005 Act), which are:

- **Preventing gambling from being a source of crime and disorder**
- **Ensuring that gambling is conducted in a fair and open way**
- **Protecting children and vulnerable persons from being harmed or exploited by gambling**

The Council is obliged to determine and publish a "Statement of Gambling Policy" and to keep it under review and to republish it at least every three years. In preparing the Statement, Licensing Authorities must follow the procedure set out in the 2005 Act, including who should be consulted. The Policy sets out how the Licensing Authority intends to exercise its functions under the 2005 Act.

In drafting the original policy, considerable work was done by a team of officers from Nottinghamshire districts on drafting a common 'core' Statement of Gambling Policy that each district adapted for its own use.

The Council has continued to work with other Licensing Authorities in Nottinghamshire and others nationally, so that a consistent approach is taken to assist applicants for licences and those who may wish to make representations under the provisions of the 2005 Act.

Gambling Commission: Guidance issued to Licensing Authorities

In carrying out its functions the Council must also have regard to the "Guidance to Licensing Authorities" issued by the Gambling Commission (being the unified regulator for gambling in Great Britain).

The Guidance prescribes what must be included in an Authority's Policy content in the interest of national consistency. The Council therefore has limited scope to make significant changes to the Statement of Gambling Licensing Policy. However where there are good reasons, the Policy can depart from the Guidance in order to reflect local circumstances.

The Guidance also provides clarity on the importance of the Statement of Gambling Licensing Policy as a regulatory tool and includes guidance on the development of "Local Area Profiles".

Functions of the Licensing Authority

The 2005 Act gives Licensing Authorities a number of important regulatory functions in relation to gambling. Their main functions 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 (FECs) 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.

Licensing Authorities also have an obligation to provide information to the Gambling Commission, including details of licences, permits and registrations issued by way of the submission to the Gambling Commission of an "annual return".

Licensing Authorities also carry out inspections of licensed premises in order to ensure they are run in accordance with the three licensing objectives and the conditions applied to the licences. During the period since the last Statement of Gambling Licensing Policy no issues of non-compliance were found, and no complaints about these premises were received.

This highlights that the previous and current Policy provided a transparent platform from which Operators of licensed premises could manage their businesses, and clear guidance as to how these Operators would meet with the licensing objectives.

No Casino Resolution

Ashfield District Council has previously passed a 'No Casino' Resolution (in accordance with S.166 of the 2005 Act). This has the effect that the Licensing Authority will not consider any application for a casino premises licence. Any application received will be returned with a notification that a 'No Casino' Resolution is in place.

As Ashfield was not one of the chosen 17 locations for a casino to be sited (17 being the maximum number of locations permitted), unless the 2005 Act changes Ashfield is not able to entertain applications for casinos.

On each occasion that the Statement of Gambling Licensing Policy is renewed, and approved by Council, the 'No Casino' Resolution remains in force. Members of this Committee are asked as a matter of good process (even though Ashfield is not able to entertain such applications for casinos) to consider whether such a Resolution should be retained, and if so, to recommend such to Council.

To assist this Committee, when the Policy was last reviewed in 2013, the Committee resolved to maintain the "No Casino" Resolution in order to future-proof any potential changes to the 2005 Act.

Amendments & Additions to the Statement of Gambling Policy

To assist all parties to this Committee meeting, only one addition has been made to the Policy as detailed below (and the relevant Page Number within the draft Policy that this addition can be found):

- Public Health information as to impact of gambling. (Page 6).

Consultation on the Draft Revised Statement of Licensing Policy

The Statement of Gambling Licensing Policy is required to be approved by the Committee prior to its publication.

The proposed consultation timetable is as follows:

- 6th September 2018: Licensing Committee to agree that the draft revised Statement of Licensing Policy be put out to consultation.
- Consultation between 17th September 2018 and 28th October 2018 with the “Responsible Authorities” (Police, Fire and Rescue, Trading Standards, Planning, Environmental Protection, Child Protection, Health & Safety), representatives of current licence holders and registered clubs, and others including Community Safety, Building Control and the local Accident and Emergency Department, and the general public via the Council’s website. The general public will have access to the consultation via the Council’s website, reception area and local libraries.
- 8th November 2018: the results of the consultation will be put to the Licensing Committee for consideration, and to make any relevant changes to the Policy to finalise accordingly, and to make a recommendation to Council to adopt the final Policy.
- 29th November 2018: The Licensing Committee’s recommendation is put to Council to adopt the revised final Policy.

Implications

Corporate Plan:

The Council has a duty to carry out its licensing functions in accordance with the relevant legislation and regulations in force for each of the functions detailed within this report.

By carrying out its licensing functions, the Licensing Authority will contribute towards the reduction of crime and disorder within the District, and seek to improve community safety and environmental quality, whilst in turn seeking to promote a vibrant and sustainable local economy.

Legal:

Section 349 of the Gambling Act 2005 requires the Licensing Authority to prepare and publish a Statement of Gambling Licensing Policy every 3 years. The next Statement must be published by 31st January 2019.

Section 25 of the Gambling Act 2005 requires the Authority to have regard to the Gambling Commission’s Guidance when preparing its Policy.

Any other legal implications relating to the Statement of Gambling Licensing Policy are detailed within the 2005 Act.

Finance:

There are no financial implications contained within this report.

This report is effective from 6th September 2018 and has the following financial implications.

Budget Area	Implication
General Fund – Revenue Budget	None
General Fund – Capital Programme	None
Housing Revenue Account – Revenue Budget	None
Housing Revenue Account – Capital Programme	None

Risk:

Risk	Mitigation
The Council has a statutory duty to carry out its licensing functions.	Approved processes, procedures and policies are in force to ensure that the Licensing Authority minimises any risks it may be exposed to when carry out its licensing functions and decision making processes.

Human Resources:

There are no direct HR implications contained within this report

Equalities:

There no diversity or equality implications contained within this report.

Other Implications:

None

Reason(s) for Urgency (if applicable):

Not applicable

Background Papers

Appendix One: Draft Statement of Gambling Policy

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Gambling Act 2005

Statement of Gambling Policy 2019 - 2022

STATEMENT OF GAMBLING POLICY

Gambling Act 2005

Preface

Under the Gambling Act 2005, a new regime for regulating gambling and betting was introduced throughout the United Kingdom from 1 September 2007. Apart from the National Lottery and spread betting, gambling and betting will be regulated by the Gambling Commission, whose duties include licensing the operators and individuals involved in providing gambling and betting facilities.

Ashfield District Council, along with other local licensing authorities, has a duty under the Act to license premises where gambling is to take place, and to licence other activities (such as registering small society lotteries). This document sets out how we intend to approach this task.

The Council has consulted various bodies and organisations upon this statement (see **Appendix One**). The consultation period ran from 1st October 2018 until 31st December 2018.

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1. INTRODUCTION AND SCOPE

Introduction

- 1.1 Section 349(1) of the Gambling Act 2005 [“the Act”] imposes a statutory requirement upon Ashfield District Council as the statutory Licensing Authority [“the Authority”] to prepare a Statement of Principles [“the Statement”] and to review it from time to time and every three years.
- 1.2 The Act sets out three licensing objectives which this Statement will promote. The three objectives are as follows:
- **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; and**
 - **Protecting children and other vulnerable persons from being harmed or exploited by gambling.**
- In exercising their functions under the Gambling Act 2005, Licensing Authorities must have regard to the three licensing objectives.***
- 1.3 The aim of the Authority in this Statement is to address the impact of licensed premises in terms of crime and disorder arising from gambling and to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons. The Authority is committed to partnership with all stakeholders with a view to the promotion of this aim. The Authority recognises the impact that unregulated gambling may have on its community and sustainability as a viable local economy and in delivering the gambling regime will, with regard to the principles set out in this Statement, seek to support its local economy and protect vulnerable people. In doing so it will consider each application on its own merits within the context of this Statement, the legislation and guidance and codes of practice issued by the Gambling Commission.
- 1.4 The Authority will, in the statutory discharge of its functions have particular regard to the principles to be applied in exercising its powers:
- under Section 157 of the Act to designate in writing a body competent to advise the Authority about the protection of children from harm;
 - under Section 158 of the Act to determine whether a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence.
- 1.5 Subject to statutory provision, a review of this Statement will take place periodically and any revisions to the Statement will be made taking into account information collated over a period of time; the outcomes of related initiatives at central and local government level and following appropriate consultation.
- 1.6 Nothing in this Statement should be regarded or interpreted as any indication that any statutory requirement of gambling or other law is to be overridden.

Declaration

1.7 The Authority in preparation of this Statement have had due regard to:

- the Gambling Act 2005;
- the Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006;
- guidance issued by the Gambling Commission and by the Secretary of State under Section 25 of the Act; and
- responses from those consulted on the Statement.

Consultation

1.8 The Gambling Act requires the licensing Authority to consult the following on the Licensing Authority Statement of Policy or any subsequent revision:

- in England and Wales, the chief officer of police for the Authority's area;
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's 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 this Act.

In developing this Statement the Authority has consulted widely to ascertain an appropriate licensing framework for its area. A full list of consultees is shown in **Appendix One**.

Local Area Profile

1.9 Ashfield District covers an area of 10,956 hectares and is located on the western side of Nottinghamshire. It has an estimated population of 121,600 (2013 midyear estimates). The majority of the population are concentrated within the three main towns of Sutton in Ashfield, Hucknall and Kirkby in Ashfield together with three large villages in a substantial rural area mainly to the west of the M1 motorway.

The main towns share a strong historic, economic and cultural links based around the growth and subsequent decline of the Coal mining, textile and engineering industries. Traditionally Ashfield is a predominantly a manufacturing area with a cultural heritage, Newstead Abby (ancestral home of Lord Byron) lies just over its eastern border and the Parish Church of St Mary Magdalene in Hucknall is the final resting place of Lord Byron and the Byron family.

Ashfield has a wealth of country parks, golf courses and development land, and as a result presents an attractive and clean environment in which to live and work.

1.10 Ashfield district has excellent communication corridors through the A38 and junctions 27 and 28 of the M1, also has close proximity to East Midlands Airport and the Robin hood railway line runs through the district that connects Nottingham to Worksop with stations at Sutton Park Way, Kirkby in Ashfield, and Hucknall. Hucknall is also the start of the Nottingham City Tram service which goes directly to the City Centre.

A local area profile has been prepared based on local knowledge and taking into account a wide range of factors, data and information held by the licensing authority and its partners. It is anticipated that the local area profile will give operators a better awareness of the local area and the risks, which includes both potential and actual risks.

Authorised Activities

1.11 The Act gives Licensing Authorities a number of important regulatory functions in relation to gambling. The main functions are to:

- licence premises for gambling activities;
- issue provisional statements for premises;
- consider notices given for the temporary use of premise 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 for the use of certain lower stake gaming machines;
- grant permits for prize gaming;
- consider occasional use notices for betting at tracks
- register small society lotteries

NB: Operator licences, Personal Licences and Remote Gambling are all dealt with by the Gambling Commission.

The National Lottery is now regulated by the Gambling Commission. Spread betting is regulated by the Financial Services Authority

In carrying out its licensing functions within the framework established by this Statement, the Authority will have particular regard to:

- maintaining a close working relationship with the responsible authorities;
- taking necessary and appropriate steps for the protection of children and other vulnerable persons; and
- the need to treat each application on its own merits taking into account the individual circumstances at each premises.

Relationship with Other Legislation

1.12 In complying with the provisions of the Gambling Act 2005, whilst the Authority recognises the requirements of the following, this Statement is not intended to duplicate the existing legislation and regulatory orders which incur statutory obligations.

1.13 In particular, in making a determination in respect of any application, the Authority will make its decision on the individual merits of each application and will not take into account irrelevant matters, such as the likelihood of the application receiving planning permission, or building regulation approval.

“Demand” for Gaming Premises

- 1.14 The Authority will not consider the demand for gaming premises when making decisions about applications for a premises licence under the Act.

Rights of Applicants and Third Parties

- 1.15 This Statement does not override the right of any person to make an application under the Act and have that application considered on its individual merits.
- 1.16 Similarly this Statement does not undermine the right of any third party to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

Data Sharing, Data Security and the Principles of Better Regulation

- 1.17 The Authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

Equality

- 1.18 The Council aims to act positively to reduce inequality, to work against discrimination and to promote and create access to services by everyone, irrespective of their age, disability, race, gender, sexuality, cultural or social background, religion or belief.

2. LOCAL RISK ASSESSMENTS

- 2.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) which were revised and published in February 2015, formalise the need for operators to consider local risks. Local risk assessment apply to 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. This provision comes into force on 6 April 2016.
- 2.2 Licensees are required to 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 undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.
- 2.3 Licensees must review (and update as necessary) their local risk assessments:
- a) **to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;**
 - b) **when there are significant changes at a licensee's premises that may affect their mitigation of local risks;**
 - c) **when applying for a variation of a premises licence; and**
 - d) **in any case, undertake a local risk assessment when applying for a new premises licence.**
- 2.4 Licensees are required to undertake a local risk assessment when applying for a new premises licence. Risk assessment must also be updated:
- **when applying for a variation of a premises licence**
 - **to take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement**
 - **when there are significant changes at a licensee's premises that may affect their mitigation of local risks.**
- 2.6 The new social responsibility provision is supplemented by an ordinary code provision recommending as good practice that 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 at the request of the licensing authority. Both provisions take effect from 6 April 2016.
- 2.7 Where concerns do exist, perhaps prompted by new or existing risks, a licensing authority may request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of licence conditions is required.
- 2.8 The licensing authority has an expectation that all local risk assessments will take into account the local social profile of the area.

Public Health

- 2.9 The 3 statutory licensing objectives for gambling include protecting children and other vulnerable persons from harm and exploitation. Licensing policies are not currently required to address Public Health concerns and Public Health is not a responsible authority, as in the case of alcohol, however the Gambling Commission has recognised the benefits of a Public Health whole population approach (February 2018). The Commission has identified specific groups of people who are particularly at risk:
- Ethnic groups
 - Youth
 - Low IQ
 - Substance abuse / misuse
 - Poor mental health.
- 2.10 It is estimated that there are over 370,000 problem gamblers in England. There are no local level estimates available. Gambling harm includes poor physical and mental ill-health and is associated with substance misuse problems especially alcohol and with smoking. It also contributes to debt problems, relationship breakdown and criminality.
- 2.11 There is less evidence available to support Gambling Statement of Licensing Policies at a local level. Nationally there is a significant amount of gambling that takes place on the internet which reduces barriers to where people can gamble.
- 2.12 Problem gambling is linked with areas of socio-economic deprivation, so identifying areas with potentially higher levels of gambling harm can therefore be informed by the alcohol licensing maps.

3. MAKING REPRESENTATIONS

Who Can Make a Representation?

- 3.1 The Gambling Act allows “responsible authorities” (identified in section 157 of the Act) and “interested parties” to make representations to applications relating to premises licences and provisional statements. In the case of reviews, that right is also given to the licensee. With regard to other forms of notification and permit, the right to object is restricted to specified bodies. The following section therefore only relates to representations in respect of premises licences and provisional statements.
- 3.2 Premises licences are only necessary for the types of gambling listed below and interested parties may therefore only make representations in respect of:
- Casino premises
 - Bingo premises
 - Betting premises (including tracks)
 - Adult gaming centres
 - Licensed family entertainment centres

Interested Parties

- 3.3 Interested parties are defined as persons who in the Authority’s opinion:
- live sufficiently close to the premises to be likely to be affected by the authorised activities;
 - have business interests that might be affected by the authorised activities, or
 - represent either of the above.

Policy One

- 3.4 **In determining if someone lives sufficiently close to the premises to be likely to be affected by the authorised activities or have business interests that are likely to be affected, the Authority will normally take any or all of the following into account which appear relevant to it to ensure that those who are likely to be directly affected by the proposed activities can exercise their right to be heard:**
- the proximity of their home or business to the application premises;
 - the nature of their residency (e.g. private resident, resident in home for the vulnerable etc);
 - the nature of the business making the representation;
 - the nature of the authorised activities to be conducted on the application premises;
 - the size and capacity of the application premises;
 - the likely catchment area for the application premises;
 - the routes likely to be taken to and from the application premises;
 - the character of the area;
 - the density of the built up area; and
 - the topography of the area
 - local area profile
 - mitigating measures contained within the applicants risk assessments

REASON: To ensure that those who are likely to be directly affected by the proposed activities can exercise their right to be heard.

- 3.5 The Authority will interpret the phrase “business interest” widely and not merely confine the phrase to meaning those engaged in trade and commerce. It may therefore, include charities, churches, medical practices, schools and other establishments and institutions.
- 3.6 Similarly a wide interpretation will be given to those categories of persons and organisations that represent residents and businesses. These may include residents and tenants associations, trade unions and other associations, as well as individuals whose role is to represent the interests of one or more residents or businesses such as a councillor, MP or legal representative.
- 3.7 If an existing gambling business makes a representation that it is going to be affected by another gambling business starting up in the area, then without further evidence relating to the licensing objectives supporting the representation, the Authority would not consider this to be a relevant representation because it relates to “demand” or competition.
- 3.8 It is for the Authority to determine on a case by case basis whether or not a person making a representation is an “interested party”. The Authority may ask for evidence to identify who is being represented and show that they have given authority for representations to be made on their behalf. In cases which are not clear-cut the benefit of the doubt will usually be exercised in favour of the person making the representation.

Form and Content of Representation

- 3.9 The Act places a duty on the Authority to aim to permit the use of premises for gambling in so far as the Authority thinks the application is in accordance with:
- this Policy Statement,
 - the Commission’s Guidance,
 - local area profile and applicants local risk assessments
 - the Codes of Practice, and
 - where the application is reasonably in accordance with the licensing objectives.
- 3.10 As these are the criteria against which an application is to be assessed representations which address these issues are more likely to be accepted and given weight.
- 3.11 All representations must be made in writing and must be received by the Authority within the time limits set by the relevant regulations. For a representation to be relevant it should:
- be positively tied or linked by a causal connection to particular premises; and
 - relate to the licensing objectives, or
 - raise issues under this policy, the Commission’s Guidance or Codes of Practice.
- 3.12 Representations received outside the statutory period for making such representations or which otherwise does not comply with the Regulations will be invalid and will not be taken into consideration when the application is determined. In addition, the Authority expects representations to be made in accordance with **Policy Two**.

Policy Two

- 3.13 A representation should indicate the following:**
- (i) the name, address and a contact number for the person making the representation;**
 - (ii) the capacity in which the representation is made (e.g. interested party, responsible authority, licensee) and if made as a representative should indicate who is being represented;**
 - (iii) the name and address of the premises in respect of which the representation is being made;**
 - (iv) the licensing objective(s) relevant to the representation;**
 - (v) why it is felt that the application:**
 - is not reasonably consistent with the licensing objectives; or**
 - is not in accordance with this Policy, the Commission’s Guidance or the relevant Codes of Practice; or**
 - the local risk assessments are not considered suitable and sufficient; or**
 - otherwise should not be granted; or**
 - should only be granted subject to certain specified conditions;**
 - (vi) details of the evidence supporting the opinion in (v).**

REASON: To ensure the representation is made by a responsible authority or interested party and that it is relevant and directly related to the application premises.

- 3.14** A preferred form of representation is available. A copy of the form can be downloaded at **www.ashfield.gov.uk** or requested directly from the licensing team. Whilst representations which are not in the preferred form or which do not fully comply with Policy Two will not automatically be rejected, they may be less likely to comply with the law relating to representations resulting in them ultimately being rejected or given little or no weight.
- 3.15** Ordinarily, where representations are received, the Authority will hold a Hearing, however, a Hearing does not have to be held where the Authority thinks that a representation is frivolous, vexatious, or will certainly not influence the Authority’s determination of the matter. It is for the Authority to determine whether a representation falls within these categories, however, representations which comply with Policy Two are unlikely to do so.
- 3.16** It is in the interest of those making representations that they include as much detail and evidence as possible at the time the representation is made. The Authority will determine whether a representation should be excluded as frivolous or vexatious based on the normal interpretation of the words. A representation may therefore be excluded if it obviously lacks seriousness or merit, or is designed to be antagonistic. An example may be a representation received from a rival operator which is based solely on the fact that the new premises would compete with their own.

Irrelevant Considerations

- 3.17** Whilst not intended to provide an exhaustive list the following matters cannot be taken into account and representations relating to them are likely to be discounted:
- need and demand for the relevant premises;**
 - issues relating to nuisance;**

- traffic congestion and parking.
- Likelihood of the premise receiving planning permission or building regulation approval

3.18 Any person seeking to operate gambling premises must first have applied for, or obtained, an operating licence from the Gambling Commission. The Commission will therefore have made a judgement as to the applicant's suitability to operate the proposed form of gambling and therefore this issue is not relevant to the subsequent assessment of the premises licence application.

The only exception is in relation to track premises licences. In this case an operator's licence is not required and the suitability of the applicant may, in appropriate cases, be taken into consideration.

Reviews

3.19 A premises licence may be reviewed by the licensing authority of its own volition or following the receipt of an application for a review from a responsible authority or interested party. Reviews cannot be delegated to an officer of the licensing authority – the lowest level of delegation permitted is to a licensing sub-committee (licensing panel).

3.20 The Act provides that licensing authorities may initiate a review in relation to a particular class of premises licence or in relation to particular premises. Officers of the Council or of a responsible authority may be involved in the initial investigations of complaints leading to a review, or may try informal mediation or dispute resolution techniques prior to a full scale review being conducted.

3.21 If at any time the Authority considers it necessary in their scheme of delegation, they will establish a system that determines who initiates reviews, and that may include a 'filter' system to prevent unwarranted reviews from being conducted.

3.22 In relation to a class of premises, the Authority may review the use made of premises and, in particular, the arrangements that premises licence holders have made to comply with licence conditions.

In relation to these general reviews, the Authority would most likely be acting as a result of specific concerns or complaints about particular types of premises, which would cause it to want, for example, to look at the default conditions that apply to that category of licence.

In relation to particular premises, the Authority may review any matter connected to the use made of the premises if it has reason to suspect that licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives it cause to believe that a review may be appropriate.

3.23 Representations and review applications will be considered by the Authority in accordance with the relevant legislation, guidance issued by the Commission, this Statement of Principles, Codes of Practice, local area profile and the premises licence holders local risk assessments.

4.0 LICENSING OBJECTIVES

Preventing Gambling From Being a Source of Crime and Disorder

- 4.1 The Gambling Commission will play a leading role in preventing gambling from becoming a source of crime and will maintain rigorous licensing procedures that aim to prevent inappropriate people from providing facilities for gambling.
- 4.2 The Authority places considerable importance on the prevention of crime and disorder, and will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area. A high standard of control is therefore expected to be exercised over licensed premises. The Authority will not generally be concerned with the suitability of an applicant and where concerns about a person's suitability arises the Authority will bring those concerns to the attention of the Commission.
- 4.3 The Authority will, when determining applications, consider whether the grant of a premises licence will result in an increase in crime and disorder. In considering licence applications, the Authority will particularly take into account the applicants local risk assessments which should include reference to the following:
- the design and layout of the premises;
 - the training given to staff in crime prevention measures appropriate to those premises;
 - physical security features installed in the premises. This may include matters such as
 - the position of cash registers or the standard of CCTV that is installed;
 - where premises are subject to age restrictions, the procedures in place to conduct age
 - verification checks;
 - the likelihood of any violence, public order or policing problem if the licence is granted.
- 4.4 Where an application is received in relation to premises in an area noted for particular problems with organised crime, part of this determination will include consultation with the police and other relevant authorities. The Authority may then consider whether specific controls, such as a requirement for the provision of door supervisors, need to be applied in order to prevent those premises being a source of crime. In respect of betting offices the Authority will make door supervision requirement only if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and that door supervision is both necessary and proportionate.
- 4.5 As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Authority does not therefore intend to use the Act to deal with general nuisance issues, for example, parking problems, which can easily be dealt with using alternative powers. The Authority has no jurisdiction under the Act to deal with general nuisance issues.
- 4.6 In accordance with the Guidance, the Authority will only seek to address issues of disorder under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance.

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

- 4.7 The Authority will consult with the police and other relevant authorities when making decisions in this regard and will give due weight to any comments made by the police or other relevant authorities.

Policy Three

- 4.8 **The Authority will have particular regard to the likely impact of licensing on related crime and disorder in the district, particularly when considering the location, impact, operation and management of all proposed licence applications.**

REASON: Under the Crime and Disorder Act 1998 local authorities must have regard to the likely effect of the exercise of their functions on, and do all they can to prevent, crime and disorder in their area.

Ensuring Gambling is Conducted in a Fair and Open Way

- 4.9 The Gambling Commission does not expect local authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will either be a matter for the management of the gambling business (and therefore relevant to the Operating Licence), or will be in relation to the suitability and actions of an individual (and therefore relevant to the Personal Licence).
- 4.10 Both issues will be addressed by the Commission through the operating and personal licensing regime. This is achieved by ensuring that:
- operating and personal licences are issued only to those who are suitable to offer gambling facilities or work in the industry;
 - easily understandable information is made available by operators to players about, for example: the rules of the game, the probability of losing or winning, and the terms and conditions on which business is conducted;
 - the rules are fair;
 - advertising is not misleading;
 - the results of events and competitions on which commercial gambling takes place are made public; and
 - machines, equipment and software used to produce the outcome of games meet
 - standards set by the Commission and operate as advertised.
- 4.11 Because betting track operators do not need an operating licence from the Commission, the Authority may, in certain circumstances attach conditions to a licence to ensure that the betting is conducted in a fair and open way.

The Authority may in these circumstances also consider the suitability of the Applicant to hold a track premises licence. Factors which will be taken into account include the applicant's business experience, their financial standing and whether they may be regarded as fit and proper to hold a licence.

Protection of Children & Vulnerable Persons

Access to Licensed Premises

- 4.12 The access of children and young person's to those gambling premises which are adult only environments will not be permitted.
- 4.13 The Authority will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.
- 4.14 The Authority will consult with the Nottinghamshire Safeguarding Children Board and the Nottinghamshire Safeguarding Adults Board on any application that indicates there may be concerns over access for children or vulnerable persons.
- 4.15 The Authority will judge the merits of each separate application before deciding whether to impose conditions to protect children on particular categories of premises. The Authority will expect applicants to show that there are policies and procedures in place to protect children from harm. Harm, in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include such measures as:
- supervision of entrances;
 - segregation of gambling areas from areas frequented by children;
 - measures/training covering how staff would deal with unsupervised young children
 - being on the premises;
 - supervision of gaming machines in non-adult gambling specific premises;
 - appropriate measures/training for staff as regards suspected truant school children on the premises.
- 4.16 The Act provides for a Code of Practice on access to casino premises by children and young persons and the Authority will work closely with the Police to ensure the appropriate enforcement of the law in these types of premises.
- 4.17 In accordance with the provisions of the Act, the Authority will not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children. The Act does not define "vulnerable persons" but the Gambling Commission's guidance indicates that they include:
- People who gamble more than they want to;
 - People who gamble beyond their means;
 - People who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.

The Authority will follow this guidance when considering whether, in relation to particular premises, any special considerations apply in relation to the protection of vulnerable persons.

- 4.18 The Authority encourages Applicants to offer controls that limit access by customers to gambling or further access to alcohol where the customer shows signs of inebriation.

4.19 Where the legislation allows, the Authority will look particularly closely at applications that are made for premises close to sensitive areas or developments, for example:

- Residential areas
- Schools and other educational establishments
- Residential hostels for vulnerable adults
- Premises licensed for alcohol or gambling

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5. PREMISES LICENCES

General Principles

- 5.1 In the Act, 'premises' is defined as including any place. Section 152 prevents more than one premises licence applying to any place. However a single building could be subject to more than one premises licence, provided that they are for different parts of the building and different parts of the building can reasonably be regarded as being different premises.

This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences for units within them. The Authority will pay particular attention if there are issues about the sub-division of a single building or plot and will ensure that mandatory conditions relating to access between such premises are observed.

In relation to an application to split existing licensed premises thereby creating multiple premises, the Authority will expect the primary use of each premises to be the main business in accordance with the type of licence held. Any activities other than the primary use will be considered ancillary to the main business.

- 5.2 The procedure for obtaining Premises Licences is set by regulations. Should a licence be granted it will be made subject to mandatory and/or default conditions set by the Secretary of State. The Authority may choose to exclude default conditions if it thinks it appropriate and may also impose other specific conditions which are appropriate to the application.
- 5.3 The Gambling Commission plays a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling.

With the exception of applicants for track premises anyone applying to the Authority for a premises licence will have to hold an operating licence from the Commission before a licence can be issued. Generally therefore the Authority will not be concerned with the suitability of an applicant. Where concerns arise about a person's suitability, the Authority will bring those concerns to the attention of the Commission.

- 5.4 The licensing authority will however be concerned with issues such as the impact of the licensed premises in terms of crime and disorder and matters such as the location of the premises and their internal layout in terms of protecting children and vulnerable persons. Such issues are discussed in more detail in the paragraphs below relating to the specific types of gambling premises. See local risk assessments at section 2.

Betting Premises and Tracks

- 5.5 Betting premises relates to those premises operating off-course betting. That is other than at a track.
- 5.6 Tracks are sites where races or other sporting events take place. Betting operators may operate self-contained betting premises within track premises although they would normally only open on event days. There may be several licensed premises at any track.

5.7 Permitted activities include:

- off-course betting;
- on-course betting for tracks;
- betting by way of betting machines, and;
- gaming machines as stipulated by regulations.

5.8 Factors for consideration when determining the application will be:

- location, particularly in relation to vulnerable persons;
- suitability of the premises;
- size of premises in relation to the number of betting machines;
- the ability of staff to monitor the use or abuse of such machines and;
- the provision for licence holders to ensure appropriate age limits are adhered to.

5.9 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.

5.10 Conditions may be applied by the Authority in support of the licensing objectives if it is felt necessary. Mandatory or default conditions may be attached by regulations issued by the Secretary of State.

General Matters Relevant to Tracks

5.11 Ashfield does not have any Tracks within its area, however for guidance, Tracks may be subject to one or more premises licences provided each licence relates to a specified area of the track.

The Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) in the determination of premises licence applications for tracks 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.

5.12 Track operators are not required to hold an operator's licence granted by the Gambling Commission unless they are operating gambling activities themselves. Therefore, premises licences for tracks issued by the Authority are likely to contain requirements for premises licence holders relevant to their responsibilities in relation to the proper conduct of betting.

The Authority recognises that Track operators will have an important role to play in the regulation of gambling activities expect that they will take proactive action appropriate to that role. For example, in ensuring that betting areas are properly administered and supervised.

5.15 The Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities. It is noted that children and young person's will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

5.16 Applicants are encouraged to offer their own measures to meet the licensing objectives, however, appropriate measures/licence conditions imposed by the Authority may cover issues such as:

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entrances
- notices / signage
- specific opening hours
- self-barring schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.

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

Gaming Machines used on Tracks

5.17 Guidance from the Gambling Commission addresses where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them.

The Authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded.

Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting Premises in Relation to Tracks

5.18 A Track may hold a betting premises licence allowing betting to take place within defined areas.

There may also be a number of subsidiary licences authorising other gambling activities to take place including off-course betting.

Unlike betting offices (bookmakers), a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines.

Pool betting may also take place on certain types of tracks and the appropriate operating licence to enable this will be required before a premises licence authorising this activity may be determined by the Authority.

5.19 In line with the Commission's Guidance, the Authority will expect operators of self-contained units on tracks to seek an ordinary betting premises licence to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

Betting Machines on Tracks

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

It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for Track Betting Premises Licences.

- 5.22 When considering whether to exercise its power to restrict the number of betting machines at a track, the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

Condition on Rules Being Displayed on Tracks

- 5.23 The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public.

For example, the rules could be printed in the race-card or made available in leaflet form from the track office."

The Authority encourages applicants to demonstrate in their application and in the conduct of their activity that they will comply with this.

Applications and Plans for Tracks

- 5.24 Regulations set out specific requirements for applications for premises licences and, in accordance with the Gambling Commission's suggestion that, to ensure the Authority gains a proper understanding of what it is being asked to licence, the premises licence application pack for a track includes the information that is required which includes detailed plans for the racetrack itself and the area(s) that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses, fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.

Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

The Council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track.

Applicants should provide sufficient information that the council can be satisfied that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. It would be helpful to the Authority and the Responsible Authorities if the plans were marked using a colour-coded scheme or, at a minimum, by use of a key to denote the use of those areas shown.

Adult Gaming Centres (AGC’s)

- 5.25 These premises must be operated by the holder of a gaming machine general operating licence from the Gambling Commission as well as a premises licence from the Authority.
- 5.26 Permitted activities include the provision of gaming machines as stipulated by regulations.
- 5.27 Factors for consideration when determining the application for an AGC will include:
- the location; and
 - the ability of operators to minimise illegal access by under 18’s to the premises.
- 5.28 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.
- 5.29 Conditions may be applied by the Authority in support of the licensing objectives, if it is felt necessary. Mandatory or default conditions may be attached by regulations issued by the Secretary of State. No one under the age of 18 is permitted to enter an AGC.

Club Gaming Permits and Club Machine Permits

- 5.30 Club gaming permits authorise qualifying clubs to provide gaming machines as well as equal chance gaming and games of chance as prescribed in regulations.
- 5.31 Club machine permits allow the provision of higher category gaming machines.
- 5.32 Commercial clubs may in some circumstances operate with club machine permits but not club gaming permits.
- 5.33 The Authority may only refuse an application on the following grounds:
- (a) the applicant does not fulfill 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 person’s;
 - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
 - (d) a permit held by the applicant has been cancelled in the previous ten years; or
 - (e) an objection has been lodged by the Commission or the police;

and in the case of (a) or (b) must refuse the permit.

- 5.34 The authority may grant or refuse a permit, but it may not attach conditions to a permit.

Alcohol Licensed Premises

- 5.35 The Act provides an automatic entitlement to provide two gaming machines of category C or D. The premises licence holder must notify the Authority of his or her intention and pay the prescribed fee. Although the Authority has no discretion to refuse the notification, the authorisation may be removed if gaming has taken place on the premises that breaches a condition of section 282 of the Act.
- 5.36 The Authority may also issue “licensed premises gaming machine permits” to premises in this category on application for any additional number of category C and/or D machines. This would generally replace any automatic entitlement under section 282 of the Act.
- 5.37 The Authority must have regard to the licensing objectives and the Gambling Commission Guidance when granting these permits. Factors for consideration will include:
- location, particularly in relation to vulnerable persons;
 - suitability of the premises, size of premises in relation to the number of betting machines;
 - the ability of staff to monitor the use or abuse of such machines; and
 - the provision for licence holders to ensure appropriate age limits are adhered to.
- 5.38 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.
- 5.39 It is a condition of the automatic entitlement to make available two gaming machines (of category C or D) that any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine is complied with. The authority will take account of these provisions. The relevant codes of practice are available on the Gambling Commission’s website:
www.gamblingcommission.gov.uk

Family Entertainment Centres

- 5.40 There are two classes of Family Entertainment Centres (FEC’s) dependent upon the type of gaming machines provided on the premises:
- FEC’s with category C and D machines require a Premises Licence.
 - Unlicensed FEC’s provide only category D machines and are regulated through FEC gaming machine permits.

An application for a permit may only be granted if the Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Police have been consulted on the application. Applicants will need to demonstrate:

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

5.41 In considering applications for permits, the Authority will give weight to child protection issues and will also consider the suitability of the location, in particular the:

- proximity of premises to schools and vulnerable adult centres (e.g. a centre for gambling addicts);
- proximity to residential areas where there may be a high concentration of families with children;
- town centre or edge of town centre locations.

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

5.43 An applicant must be 18 years of age or over. Relevant convictions will be taken into account, especially with respect to child protection issues.

Prize Gaming Permits

5.44 These permits cover gaming where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming - the prize is determined by the operator before play commences.

5.46 Consideration will be given to the following factors:

- proximity of premises to schools and vulnerable adult centres (e.g. a centre for gambling addicts);
- proximity to residential areas where there may be a high concentration of families with children;
- town centre or edge of town centre locations.

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

5.48 The applicant must be 18 years of age or over. Relevant convictions will be taken into account, especially with respect to child protection issues.

Travelling Fairs

5.49 Provided a travelling fair allows only category D gaming machines to be made available, and the facilities for gambling (whether by way of gaming machine or otherwise) amount together to no more than an ancillary amusement at the fair, then no application for a licence is required under the Act. The Authority will want to satisfy itself from time to time that gambling at a travelling fair is within the definition of section 286 of the Act. A guide for those wishing to operate gambling machines at travelling fairs is available on the Commission website.

Small Society Lotteries

5.50 Small society lotteries are distinguished from large society lotteries by the amount of the proceeds that they generate. A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less. Other lotteries are dealt with by the Gambling Commission.

5.51 Small society lotteries are required to be registered with the local authority in the area where their principal office is located.

Temporary Use Notices

- 5.52 Premises which are not licensed for gambling may be used by a licensed operator for an aggregate period of 21 days in 12 months for prescribed types of gambling. In order to do so, the operator must serve a temporary use notice (or notices) on the Authority, the Commission and the Police. These are the only bodies who may object to such a notice. There are a number of statutory limits as regards Temporary Use Notices. It is noted that it falls to the Authority to decide what constitutes a “set of premises” where Temporary Use Notices are received relating to the same building/site (see Gambling Commission’s Guidance to Licensing Authorities).

Occasional Use Notices

- 5.53 Betting on unlicensed tracks may be authorised for up to 8 days in a calendar year by the service of occasional use notices by the occupier of the track or the person responsible for the administration of the event.

The Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. The Authority will need to consider whether a Notice in respect of premises can be dealt with under the definition of a “Track”. It will also need to consider whether the Applicant is permitted to avail him/herself of the notice, however, there is no provision for objections to be made to this type of activity or for it to be prohibited.

Casinos

- 5.54 The Authority has passed a “no Casino resolution” under Section 166 of the Gambling Act 2005. This means that it has taken the decision not to issue any casino premises licences in the district of Ashfield.

Bingo

- 5.55 The holder of a bingo operating licence can apply for a bingo premises licence to provide any type of bingo game, including cash and prize bingo. Commercial bingo halls will also require a bingo premises licence from the Authority.
- 5.57 If the only type of bingo to be provided is prize bingo then this may be authorised by way of permit.
- 5.58 If children are allowed to enter premises licensed for bingo it is important that that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Authority will expect to see that:
- all such machines are located in an area of the premises separate from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - only adults (over 18s) are admitted to the area where the machines are located;
 - access to the area where the machines are located is supervised;
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - at the entrance to, and inside any such an area, there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

- 5.59 The Gambling Commission has issued guidance about the need for licensing authorities to take into account the suitability and layout of bingo premises. Therefore, plans should make clear what is being sought for authorisation under the bingo premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence. It would be helpful to the Authority and the Responsible Authorities if the plans were marked using a colour-coded scheme or at a minimum by use of a key to denote the use of those areas shown. The Gambling Commission has issued guidance on the division of a building into more than one premises which can be found at **www.gamblingcommission.gov.uk**.
- 5.60 A limited number of gaming machines may also be made available at bingo licensed premises.
- 5.61 Bingo is a class of equal chance gaming and is permitted in alcohol licensed premises and in clubs, provided it remains below a certain threshold as directed by the law, otherwise it will require a bingo operating licence which will have to be obtained from the Gambling Commission.
- 5.62 Developers may wish to apply to the Authority for a provisional statement before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in the light of a need to obtain a premises licence.

There is no need to hold an operating licence in order to apply for a provisional statement.

6. INSPECTION AND ENFORCEMENT

General Statement

- 6.1 The authority will have regard to its General / Corporate Enforcement Policy, the relevant provisions of the Act, any relevant guidance and / or codes of practice when considering taking enforcement action.
- 6.2 It is the intention of the authority to establish and maintain enforcement protocols with other enforcement agencies.

Inspections

- 6.3 The authority will inspect gambling premises and facilities for compliance with the Act and any licence conditions through the application of a risk based inspection programme.
- 6.4 The inspection programme will, in principle, operate a light touch in respect of low-risk premises whilst applying greater attention to those premises which are considered to present a higher risk.
- 6.5 In addition to programmed inspections, the licensing authority will also investigate any evidence based complaints that it receives.

Policy Four

- 6.6 **The authority will adopt a risk based assessment approach for determining the frequency of compliance inspections. The risk rating will be based broadly on the following factors:**
- location of the premises and their impact on the surrounding area;
 - enforcement history of the premises;
 - nature of the licensed or permitted operation;
 - potential to have an adverse affect on the licensing objectives; and
 - management record.

REASON: To provide a targeted and cost efficient enforcement service which will encourage and improve operating practice, promote the licensing objectives, and drive out poor practices; whilst at the same time meet accepted best practice principles of compliance inspection.

Enforcement

- 6.7 In general, the Gambling Commission will take the lead on the investigation and where appropriate, the prosecution of illegal gambling. There may be occasions in which the licensing authority is better placed to take the lead, particularly where there is illegal activity on a smaller scale confined to the authority's area.
- 6.8 Where a licensed premise is situated in more than one administrative area then this authority will liaise with the other authority to determine the most appropriate course of action and who will lead any investigation or prosecution.
- 6.9 Part 15 of the Act gives "authorised persons" power of investigation and section 346 enables licensing authorities to institute criminal proceedings in respect of offences described in that section.

In exercising these functions, the licensing authority will endeavour to follow the Better Regulation and Hampton principles. The principles require that enforcement should be:

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

6.10 The licensing authority will work closely with the Gambling Commission and exchange information on suspected illegal gambling and any proposed action that the authority considers necessary.

6.11 The main enforcement and compliance role for the licensing authority in terms of the Gambling Act 2005 will be to ensure compliance with the Premises Licences and other permissions which it authorises.

The Gambling Commission will be the enforcement body for Operator and Personal Licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines will not be dealt with by the licensing authority but will be notified to the Gambling Commission.

6.12 The authority may institute proceedings in respect of a number of offences as identified in section 346 of the Act.

6.13 The authority will avoid duplication with other regulatory regimes.

Glossary of Terms

Many of the terms used in this statement of licensing policy are defined in the appropriate section of the Act. Section 353 identifies various terminologies and directs the reader to the relevant section of the Act, where appropriate, for a full and complete meaning of the term.

In the interests of clarity the following terms, which are used in this statement of licensing policy, are defined below:

Terminology	Definition
“the Act”	The Gambling Act 2005 (c19)
“Authority”	This refers to the “licensing authority” as defined by section 2 of the Act
“authorised person”	An officer of a licensing authority, and an officer of an authority other than a licensing authority, both of whom have been authorised for a purpose relating to premises in that authority’s area
“authorised local authority officer”	An officer of a licensing authority who is an authorised person for a purpose relating to premises in that authority’s area
“gambling commission”	An organisation established under section 20 of the Act that is responsible for regulating gambling in Great Britain
“guidance”	“Guidance to licensing authorities”, , issued by the gambling commission under section 25 of the Gambling Act 2005
“interested parties”	Defined at paragraph 2.3 of this statement of licensing principles
“mandatory condition”	A condition that must be placed on a licence by virtue of regulations
“regulations”	Refers to regulations made under the Gambling Act 2005
“responsible authorities”	Public bodies that must be notified of applications for premises licences and they also have the right to make representations in relation to those applications. They are listed in full in section 157 of the Act.

APPENDIX ONE

List of Bodies and Organisations Consulted

1. District Councillors
2. Directors and relevant Business Managers
3. Betting Shops/Bookmakers
4. Bingo Halls
5. Amusement Arcades
6. Parish & Town Councils
7. Town Centre Partnerships
8. Pub Watch
9. Nottinghamshire Police
10. Nottinghamshire Fire & Rescue
11. Licensing Solicitors
12. Gamblers Anonymous
13. NCC – Children’s Directorate
14. British Casino Association
15. Casino Operators Association of the U.K.
16. British Amusement Catering Trades Association
17. The Bingo Association
18. British Beer & Pub Association Midlands
19. Association of British Bookmakers
20. Gambling Commission
21. H.M. Customs & Excise
22. Members of Parliament

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