

**ASHFIELD DISTRICT COUNCIL**



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

## **Agenda**

### **Licensing Committee**

Date: **Tuesday, 22nd October, 2024**

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Time: **10.00 am**

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

For any further information please contact:

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# Licensing Committee

## Membership

**Chairman:** Councillor Warren Nuttall

**Councillors:**

Jamie Bell

Jodine Cronshaw

Julie Gregory

Dawn Justice

John Wilmott

Ian Briggs

Paul Grafton

Dale Grounds

Sarah Madigan

## FILMING/AUDIO RECORDING NOTICE

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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.



**Theresa Hodgkinson**  
**Chief Executive**

## **AGENDA**

**Page**

1. To receive apologies for absence, if any.
2. **Declarations of Disclosable Pecuniary or Personal Interests and/or Non-Registrable Interests.**
3. To receive and approve as a correct record the minutes of the meeting of the Committee held on 19 June 2024. 5 - 8
4. Review of the Statement of Gambling Policy. 9 - 46
5. **Modernisation of Conditions to be attached to Licences for Premises providing Massage, Special Treatments, Laser Treatments, Tanning and Sauna Services.** 47 - 74

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## LICENSING COMMITTEE

Meeting held in the Committee Room, Council Offices, Urban Road, Kirkby-in-Ashfield,  
on Wednesday, 19th June, 2024 at 2.00 pm

**Present:** Councillor Warren Nuttall in the Chair;

Councillors Jamie Bell, Ian Briggs, Paul Grafton,  
Dale Grounds and John Wilmott.

**Apologies for Absence:** Councillors Jodine Cronshaw, Julie Gregory and  
Dawn Justice.

**Officers Present:** Julian Alison, Lynn Cain and Hannah Cash.

### **L.1 Declarations of Disclosable Pecuniary or Personal Interests and/or Non-Registrable Interests**

No declarations of interest were made.

### **L.2 Minutes**

RESOLVED

that the minutes of the meeting of the Committee held on 10 October 2023, be  
received and approved as a correct record.

### **L.3 Adoption of a Permanent Pavement Licence Scheme**

Committee was requested to consider and approve the adoption of the  
permanent Pavement Licence Scheme which would supersede the Temporary  
Licence Scheme adopted by the Committee on 30 July 2020. The Pavement  
Licence fees were also presented for approval.

RESOLVED that

- a) the permanent Pavement Licence Scheme, as appended to the report, be  
approved to replace the temporary scheme adopted by the Committee on  
30 July 2020;
- b) the proposed fees for Pavement Licences, as presented, be approved;
- c) delegated authority be granted to the Chief Executive and Executive  
Director for Place, to determine applications for pavement licences as  
required.

#### **L.4 Review of Street Trading Policy**

Committee Members were asked to review the current Street Trading Policy and determine whether it should be amended or re-adopted as presented.

RESOLVED that

- a) the valid responses received during the consultation period, be received and noted;
- b) having reviewed the current Street Trading Policy, as detailed within the report, the Policy be readopted without change.

#### **L.5 Review of the Statement of Gambling Policy**

Committee Members were recommended to consider and agree the content of the Draft Revised Statement of Gambling Policy in readiness for the public consultation programme, as required.

RESOLVED that

- a) having considered the content of the Draft Statement of Gambling Policy as presented, it be agreed that it remains unchanged (apart from the minor textual amendments highlighted in the report), in light of there being no amendments to the Gambling Act 2005 or the Guidance issued to Licensing Authorities since the implementation of the current Policy;
- b) it be agreed that the "No Casino" Resolution remains in force;
- c) the public consultation timetable in respect of the Draft Statement of Gambling Policy, be duly noted;
- d) the Licensing Manager be authorised to carry out the public consultation programme, as outlined within the report.

#### **L.6 Modernisation of Conditions to be attached to Licences for Premises providing Massage, Special Treatments, Laser Treatments, Tanning and Sauna Services**

Committee was requested to agree the attached draft conditions applicable to the various licensable activities described within the report and approve a short public consultation exercise to be conducted by the Environmental Health Team.

RESOLVED that

- a) approval be given to the proposed draft conditions for the licensable activities of Massage & Special Treatments conducted under the Nottinghamshire County Council Act 1985;
- b) the short public consultation exercise to ascertain the view/responses of local licence holders in respect of the draft conditions, be approved;

- c) the Environmental Health Manager (Commercial and Environmental Protection), be authorised to facilitate the consultation programme, as outlined within the report.

The meeting closed at 2.45 pm

Chairman.

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|                               |                                                             |
|-------------------------------|-------------------------------------------------------------|
| <b>Report To:</b>             | <b>LICENSING COMMITTEE</b>                                  |
| <b>Date:</b>                  | <b>22<sup>ND</sup> OCTOBER 2024</b>                         |
| <b>Heading:</b>               | <b>REVIEW OF THE STATEMENT OF GAMBLING POLICY</b>           |
| <b>Executive Lead Member:</b> | <b>DEPUTY LEADER – STRATEGIC HOUSING AND CLIMATE CHANGE</b> |
| <b>Ward/s:</b>                | <b>ALL</b>                                                  |
| <b>Key Decision:</b>          | <b>YES</b>                                                  |
| <b>Subject to Call-In:</b>    | <b>NO</b>                                                   |

### Purpose of Report

To agree a Draft Revised Statement of Gambling Policy for adoption by Council.

### Recommendation(s)

The Licensing Committee is recommended to:

- a) Consider any comments received on the revised Draft Revised Statement of Gambling Policy as detailed within this report;
- b) Resolve whether any amendments to the revised draft Statement of Gambling Policy are necessary in light of any comments received; and permit the Licensing Manager & Executive Director - Place to make any appropriate amendments, in consultation with the Chair of Licensing Committee; and
- c) Subject to any amendments to the draft Policy, recommend Council to adopt the revised Statement of Gambling Policy and to maintain the “No Casino” Resolution at its meeting on 25<sup>th</sup> November 2024, effective from 31<sup>st</sup> January 2025.

### 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. At its meeting on 19<sup>th</sup> June 2024, the Committee agreed a revised draft

Statement of Gambling Policy, and requested that the Licensing Manager carry out a 6 week consultation seeking comments in relation to the draft revised Policy.

## **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 31<sup>st</sup> 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 2021, 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**

In light of there being no amendments to the Gambling Act 2005, or to the Gambling Commission's Guidance to Licensing Authorities since the 2018 review carried out by Ashfield District Council, and in line with the other Nottinghamshire Councils, no additions or amendments to the existing Policy have been made.

## **Consultation on the Draft Revised Statement of Licensing Policy**

The draft Revised Statement of Gambling Licensing Policy was approved by the Committee prior to its publication.

The consultation timetable to be followed is detailed below:

- 19<sup>th</sup> June 2024: Licensing Committee to agree that the draft revised Statement of Licensing Policy be put out to consultation.
- Consultation between 1<sup>st</sup> July 2024 – 18<sup>th</sup> August 2024 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.
- 22<sup>nd</sup> October 2024: 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.
- 25<sup>th</sup> November 2024: The Licensing Committee's recommendation is put to Council to adopt the revised final Policy.

## **Responses to the Consultation**

No valid responses were received during the consultation period. Therefore no further amendments are proposed to the Statement of Licensing 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 31<sup>st</sup> January 2025.

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:** No financial implications. [PH 10/09/2024].

| 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. KB 10.09.2024

**Environmental/Sustainability:**

By approving this Policy, the Council is able to control Betting and Gaming throughout the District, ensuring the protection and sustainability of the local environment.

**Equalities:**

There are no diversity or equality implications contained within this report.

**Other Implications:**

None.

**Reason(s) for Urgency**

Not applicable

**Reason(s) for Exemption**

Not applicable

## **Background Papers**

**Appendix One:** Revised draft Statement of Gambling Policy

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**GAMBLING ACT 2005  
STATEMENT  
OF  
GAMBLING POLICY  
2025 – 2028**

## **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 1<sup>st</sup> July 2024 until 18<sup>th</sup> August 2024.



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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 126,300 (2021 Census). 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 Abbey (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 assessments 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 came into force on 6<sup>th</sup> 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. Such risk assessments should also be retained at the premises.
- 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 took effect from 6<sup>th</sup> 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. A map providing details of these areas can be found online at: [www.nottinghamshireinsight.org.uk/d/205125](http://www.nottinghamshireinsight.org.uk/d/205125)



### 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](http://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's Partnership 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



## **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 / website addresses for organisations such as GamCare and Gamblers Anonymous

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: <http://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](http://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 and the Regulators Code, 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 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:

| <b>Terminology</b>                          | <b>Definition</b>                                                                                                                                                                                                    |
|---------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>“the Act”</b>                            | The Gambling Act 2005 (c19)                                                                                                                                                                                          |
| <b>“Authority”</b>                          | This refers to the “licensing authority” as defined by section 2 of the Act                                                                                                                                          |
| <b>“authorised person”</b>                  | An officer of a licensing authority, <b>and</b> 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           |
| <b>“authorised local authority officer”</b> | An officer of a licensing authority who is an authorised person for a purpose relating to premises in that authority’s area                                                                                          |
| <b>“gambling commission”</b>                | An organisation established under section 20 of the Act that is responsible for regulating gambling in Great Britain                                                                                                 |
| <b>“guidance”</b>                           | “Guidance to licensing authorities”, , issued by the gambling commission under section 25 of the Gambling Act 2005                                                                                                   |
| <b>“interested parties”</b>                 | Defined at paragraph 2.3 of this statement of licensing principles                                                                                                                                                   |
| <b>“mandatory condition”</b>                | A condition that must be placed on a licence by virtue of regulations                                                                                                                                                |
| <b>“regulations”</b>                        | Refers to regulations made under the Gambling Act 2005                                                                                                                                                               |
| <b>“responsible authorities”</b>            | 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. Nottinghamshire County Council Safeguarding Children Partnership
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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|                               |                                                                                                                                                                         |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Report To:</b>             | <b>LICENSING COMMITTEE</b>                                                                                                                                              |
| <b>Date:</b>                  | <b>22<sup>ND</sup> OCTOBER 2024</b>                                                                                                                                     |
| <b>Heading:</b>               | <b>MODERNISATION OF CONDITIONS TO BE ATTACHED TO LICENCES ISSUED FOR PREMISES PROVIDING MASSAGE, SPECIAL TREATMENTS, LASER TREATMENTS, TANNING &amp; SAUNA SERVICES</b> |
| <b>Executive Lead Member:</b> | <b>DEPUTY LEADER – STRATEGIC HOUSING AND CLIMATE CHANGE</b>                                                                                                             |
| <b>Ward/s:</b>                | <b>ALL</b>                                                                                                                                                              |
| <b>Key Decision:</b>          | <b>NO</b>                                                                                                                                                               |
| <b>Subject to Call-In:</b>    | <b>NO</b>                                                                                                                                                               |

## Purpose of Report

To agree and adopt the attached Conditions applicable to the various licensable activities described within this report, following the close of the public consultation period.

## Recommendation(s)

The Licensing Committee is recommended to:

- a) Consider any comments received relating to the draft Conditions applicable to the various licensable activities described within this report;
- a) Resolve whether any amendments to the draft Conditions are necessary in light of any comments received; and permit the Environmental Health Team Manager, in consultation with the Chair of Licensing Committee, to make any appropriate amendments; and
- b) Subject to any amendments to the draft Conditions, adopt draft Conditions to be effective from 1<sup>st</sup> January 2025.

## Reasons for Recommendation(s)

The Council issues licences for the provision of Massage & Special Treatments, Laser Treatments, and the provision of Tanning & Sauna services. Across Nottinghamshire, the Council Environmental Health Teams have been working together to formulate a more modern set of conditions to be attached to any licences issued for Massage & Special Treatment activities. The legislation applicable to these licensable activities is the Nottinghamshire County Council Act 1985.

## **Alternative Options Considered**

### **Do nothing: not recommended**

The current conditions in place for the provision of the licensable activities described in this report have been in existence for a long period of time, and as changes in technology, practices, and society occur, there is a pressing need to ensure that the Council adopts licence conditions that promote the use of best practice by licensed premises, and ensure a more modern set of conditions to promote the safety of customers using the services provided by such premises. The proposed conditions are consistent with those adopted recently by the other District and Borough Councils in Nottinghamshire, and as such ensure for consistency across the County.

## **Detailed Information**

### **Introduction**

The Committee is reminded that the licensable activities contained within this report relate solely to those delegated to the Nottinghamshire District Councils under the Nottinghamshire County Council Act 1985.

The Council Environmental Health Team has continued to work with their counterparts throughout the other Nottinghamshire Councils, so that a consistent approach is taken to assist applicants for licences, and to promote a high level of safety standards for consumers.

The current conditions attached to such licences have been in need of modernisation for quite some time, and this report is the conclusion of the work undertaken by relevant Teams across all of the Nottinghamshire Authorities, to promote and update the conditions attached to such licences.

### **Massage & Special Treatments Licences**

To assist all parties to this Committee meeting, a Massage and/or Special Treatments Licence is required under Part IV of the Nottinghamshire County Council Act 1985, by any person carrying on a business to provide the following services:

- **Full body and part Massage**
- **Electric treatment**
- **Radiant heat, light or electric vapour treatment**
- **Sauna or other baths for therapeutic treatment**
- **UV tanning equipment including sunbeds and sun showers**
- **Laser and/or Intense Pulse Light (IPL) treatment using Class 3B and Class 4 Lasers**

All Local Authorities in Nottinghamshire including Ashfield District Council have reviewed the conditions applied to Massage and Special Treatment Licences to ensure consistency across the County, and to ensure the minimum standards of safety and hygiene for clients and practitioners are promoted through the conditions attached to such licences.

The proposed draft conditions are attached at **Appendix One**, and list the proposed conditions for the provision of the following licensable activities:

- **Conditions for all Massage and Special Treatment Licences**
- **Conditions applicable to Establishments offering Sauna and/or Spa Pool Treatments**
- **Conditions applicable to Establishments offering the use of UV tanning equipment**
- **Conditions for the Use of Class 3B and Class 4 Lasers and Intense Light Systems**



Guidance notes for applicants and practitioners of the above licensable activities has also been modernised to assist the Trade, and can be found at **Appendix Two**.

## **Consultation on the Draft Revised License Conditions**

The draft conditions received approval from the Committee on 19<sup>th</sup> June 2024, prior to commencing a formal consultation.

The consultation timetable is detailed below:

- **19<sup>th</sup> June 2024:** Licensing Committee to agree that the draft conditions be put out to consultation.
- **1<sup>st</sup> July 2024 – 18<sup>th</sup> August 2024:** Consultation with all current holders of licences relating to the activities contained within this report.
- **22<sup>nd</sup> October 2024:** any valid consultation responses will be put before the Licensing Committee for consideration; and for the Committee to instruct the Environmental Health Team Manager to make any relevant changes to the draft conditions to finalise accordingly, and for the Committee to adopt the final conditions.

## **Consultation Responses**

All current licence holders were written to by the Environmental Health Team Manager in good time ahead of the commencement of the consultation seeking any comments as to the proposals, and the consultation was also hosted for the entire duration of the above specified period on the Council website. No responses were received to the public consultation.

## **Commencement of Licence Conditions**

To ensure that licence holders have fair notice and opportunity to meet the new standards, the new regime will be introduced with effect on 1<sup>st</sup> January 2025.

## **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. [PH 10/09/2024].

| 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. KB 10.09.2024

**Environmental/Sustainability:**

There are no Environmental/Sustainability implications contained within this report.

**Equalities:**

There no diversity or equality implications contained within this report.

**Other Implications:**

None

**Reason(s) for Urgency**

None

**Reason(s) for Exemption**

None

**Background Papers**

**Appendix One:** Draft Conditions

**Appendix Two:** Guidance Notes

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# **APPENDIX ONE**

## **Nottinghamshire County Council Act 1985** **Standard Conditions**

### **Part 1 – Conditions for all Massage and Special Treatment Licences**

### **Part 2 – Conditions applicable to Establishments offering Sauna and/or Spa Pool Treatments**

### **Part 3 – Conditions applicable to Establishments offering the use of UV tanning equipment**

### **Part 4 – Conditions for the Use of Class 3B and Class 4 Lasers and Intense Light Systems**

## **Part 1 – Conditions applicable to ALL Massage and Special Treatment Licences**

In these conditions:

**“Council” or “Local Authority”** means the Local Authority who may issue a massage and special treatments licence.

**“Establishment”** means and includes any premises used or represented as being or intended to be used for the reception or treatment of persons requiring massage or special treatment.

**“Licence Holder”** means the holder of this Licence issued by the Council under Part IV of the Nottinghamshire County Council Act who is responsible for compliance with these conditions

**“Massage and Special Treatment or Licensable Treatment”** means and includes (a) massage, or (b) electric treatment or radiant heat, light, electric vapour or sauna or other baths for therapeutic treatment or (c) other similar treatment that requires a licence from the Local Authority under Part IV of the Nottinghamshire County Council Act 1985.

**“Operator”** means any person providing a licensable treatment on behalf of the Licence Holder.

**“Premises”** means the premises identified in the body of this licence as the place from which the Licence Holder operates.

**“User(s) or Client(s)”** means any person receiving the massage or special treatment provided or operated by the Licence Holder.

1. This licence relates only to Licensable Treatments of the kind specified at the Establishment listed on this licence.
2. The Licence Holder shall notify the Council in writing of all new Operators engaged in giving treatment with their names, addresses and qualifications within 28 days of those Operators commencing treatment.
3. An application for the grant or renewal of a licence shall be made on the official form supplied by the Council, which shall be properly completed and signed by the person or persons actually proposing to or carrying on the Establishment.
4. Unless the licence is previously revoked, the licence will expire twelve months from the date of issue.
5. The Council may on application of the Licence Holder, or of any person to whom he wishes to assign the licence, transfer the licence to that person after receipt of a completed application form and payment of the appropriate fee.

### DOCUMENTS

6. The Licence Holder shall set a list of fees and charges for all Licensable Treatments given at the Establishment. The list of fees and charges shall be

displayed in a prominent place in the Establishment for Clients to see and on any website for the Establishment.

7. The Licence Holder shall not, suffer or permit in the Establishment, any act of an indecent or disorderly character and shall take all necessary steps to exclude from the Establishment a Client or any other person who has committed such an act in the Establishment.
8. Unless the Licence Holder has written consent from the Council, the Licence Holder shall not employ anyone at the premises whose licence has previously been revoked or who has been refused a licence because they were unsuitable to hold a licence or employ anyone at the premises where the Council has previously considered that individual to be unsuitable because of misconduct.

## PRACITITIONERS AND CLIENTS

9. All Operator(s) shall be adequately trained and competent or supervised by a competent Operator.
10. The Licence Holder shall prepare and maintain a register of all Operators including trainees who carry out Licensable Treatments at the Establishment. The register shall include the following:
  - a. Name and home address
  - b. Date of birth
  - c. A photograph of the Operator
  - d. A list of licensable treatments the operator can carry out
  - e. Details of their qualifications and training including any copies of certificates
11. Trainee and newly qualified Operators shall be supervised until the Licence Holder is satisfied that they are competent to practice. Trainees can only carry out Licensable Treatments under the supervision of an Operator who has attained the relevant qualification and/or experience for that Licensable Treatment.
12. The Licence Holder shall ensure all Operators employed in the Establishment shall be decently and properly dressed at all times, except for those persons receiving treatment in accordance with the conditions of this Licence.
13. The Licence Holder shall ensure all Operators complete a consultation form for all Clients prior to treatment that shall include:
  - a. Their name, date of birth and contact details
  - b. Nature of the treatment
  - c. Relevant medical history, health related questions and assessment including contraindications to treatment
  - d. Name of the operator giving the treatment.
  - e. A declaration that the risks associated with the treatment have been explained to the Client and understood.
14. The Licence Holder shall ensure that all Clients are provided with verbal and **written aftercare** advice that can be made available to them following the treatment. Evidence that Clients have received written aftercare advice shall be retained.

## PREMISES

15. All internal walls, doors, windows, partitions, floors and floor coverings, ceilings shall be kept clean and in good repair as to enable them to be cleaned effectively.
16. All treatment rooms shall ensure the privacy of Clients at all times.
17. All treatment rooms that are provided with door locks shall be capable of being opened from the outside in the case of an emergency.
18. The premises, all furniture, instruments and equipment used for treatment purposes shall be kept clean, fit for purpose and in such good repair as to enable them to be cleaned effectively.
19. All tables, couches and seats used by Clients in the treatment areas shall have a smooth impervious surface and be cleaned and disinfected between each Client's use or have such suitable covering which shall be changed and where appropriate disposed of after each Client's use.
20. Operators shall ensure that any article or instrument used in the treatment:
  - a. is clean and in good repair and so far, as is appropriate, is sterile.
  - b. has not previously been used in connection with any other Client unless it consists of a material which can be and has been adequately cleaned and, so far as is appropriate, sterilised.
21. The Licence Holder shall provide suitable and sufficient washing facilities to enable hygienic practices by all Operators including:
  - a. A wash hand basin located to minimise the risk of cross contamination
  - b. Hot and cold running water at the wash hand basin
  - c. Drainage to the wash hand basin
  - d. Antibacterial soap
  - e. Drying facilities
22. All waste material and other litter from the treatment shall be placed in a suitably covered receptacle with adequate facilities provided for the disposal of the waste.



## **Part 2 – Conditions applicable to Establishments offering Sauna, Steam Rooms and/or Spa Pool Treatments**

In these conditions:

*“**Sauna**” means an insulated enclosure usually made of wood, together with heat generating equipment usually in the form of a heat-generating stove. Benches are provided within the sauna enclosure. Saunas provide a dry heat and the temperature may range from 85°C to 100°C for up to a 10 minute treatment.*

*“**Spa Pool**” means a pool full of warm water at approximately body temperature, designed for sitting in rather than swimming. It has jets of water, air bubbles or combination of both to provide a warm water massage. This includes jacuzzi and hot tubs in communal areas.*

*“**Steam Room**” means an enclosure made of an impervious material and steam generating equipment. They are designed to operate at temperatures of up to 50°C regulated by a thermostat with relative humidity of 80 to 100%. They produce a wet humid heat and are intended for indoor use. The treatment usually lasts between 6 and 12 minutes.*

### **AGE**

1. The Licence Holder shall ensure no person under the age of 16 is permitted to use the Sauna or Steam Room facilities alone. Persons aged 14 or 15 years are permitted to use the Sauna or Steam Room if accompanied by a parent or guardian.

### **FACILITIES**

2. Guidelines on the safe use of the Sauna, Steam Room and/or Spa Pool shall be clearly displayed upon the entrance to the Sauna and/or Steam Room or near each unit.
3. Sauna/Steam Rooms shall have:
  - a) Adequate lighting to enable users to enter and exit safely
  - b) High and low level vents to provide adequate ventilation
  - c) A glazed panel to allow safe access and egress by Clients and supervising staff
  - d) A clock or timer visible to users from within the Sauna/Steam Room in order to monitor time elapsed in the Sauna and/or Steam Room facility
  - e) A thermometer indicating the temperature inside the sauna and/or steam room
4. Shower facilities shall be provided close to the Sauna, Steam Room and/or Spa Pool and Clients shall be advised to shower before entering.
5. A supply of fresh drinking water shall be available close to the Sauna and/or Steam Room, free of charge.
6. The temperature control device shall not be accessible to users of the Sauna and/or Steam Room.

7. Where the Sauna has hot coals, the coals shall be suitably protected by a guard rail or barrier that extends at least 100mm above the height of the coals.
8. There shall be a non-verbal alarm system in the facility linked to a manned reception area for summoning help when users are left unattended. The alarm shall continue to sound until it is manually switched to the 'off' position in order to silence it. The non-verbal alarm system shall be fitted within easy reach of a person using the equipment
9. The alarm system shall be tested daily when the Sauna, Steam Room and/or Spa Pool is available for use and the Licence Holder shall ensure records are maintained to show these checks are carried out by a competent person.
10. Clients shall be made aware of the alarm mechanism and how to use it.

## PROCEDURES

11. The Licence Holder shall have a written policy detailing the action to be taken in the event of the alarm system being activated. This shall be communicated to all relevant Operators.
12. The surface of the Sauna and/or Steam Room shall be cleaned and disinfected each day in accordance with manufacturer's instructions and with cleaning materials specified by the manufacturer.
13. The Licence Holder shall provide a procedure whereby all Steam Rooms are checked on a half hourly basis for cleanliness and for state of health of the user e.g. signs of fainting.

## SPA POOL MANAGEMENT

14. Regular testing of the Spa Pool water shall be carried out by or on behalf of the Licence Holder to confirm that the water is chemically and bacteriologically within acceptable limits.
15. Records showing the pH and disinfectant levels (Chlorine, Bromine etc) shall be retained at the Establishment and be available to a Local Authority Officer upon request.
16. The Licence Holder must have a written policy of action to be taken in the event of an unsatisfactory microbiological result or other health concerns associated with use of the pool.
17. The Licence Holder shall have a written procedure detailing steps taken to ensure the maximum bather load for the facility is not exceeded.
18. The Spa Pool shall be emptied and refilled at regular intervals in accordance with the manufacturer's guidance and usage but in any event at least every week.

19. The water circulation system shall be in operation for a minimum of three hours per day.
20. Water jets shall be operated for a minimum of one hour per day.
21. The pool shall be drained and refilled if left unused for 5 days or more.

### **Part 3 – Conditions applicable to Establishments offering the use of UV Tanning Equipment**

In these conditions:

***“UV Tanning Equipment” means any electrically-powered device designed to produce tanning of the human skin by the emission of ultra-violet radiation , provided by or made available at the Establishment.***

1. The Licence Holder shall not permit:
  - The use of UV tanning equipment by
  - the hire of UV tanning equipment by, or
  - the sale of UV tanning equipment to persons aged under 18 years
2. All UV tanning equipment shall be adequately supervised. Tanning equipment shall not be used without the knowledge and authorisation of staff. Self-service UV tanning equipment is prohibited.
3. The Licence Holder shall ensure appropriately trained and competent Operators are available to provide adequate advice, supervision and assistance to Users. The training shall include suitable instruction in the control, use and operation of UV tanning equipment and its health and safety aspects. This shall be documented and available upon request by an Authorised Officer of the Local Authority.
4. Users shall be given full instruction on how to operate the equipment correctly and safely.
5. The Licence Holder shall ensure all Users are assessed and the following details recorded:
  - the Users skin type
  - any Contra Indicators relevant to this type of treatment
  - a record of the date and details of each use by the User
  - confirmation that full instruction on how to operate the equipment correctly and safely has been given
6. The Licence Holder shall ensure the details recorded for each User required by Condition 5 above are reviewed on an annual basis. Evidence of the annual review shall be retained by the Licence Holder.
7. The Licence Holder shall prepare a schedule of maximum exposure times based on the information supplied by the manufacturer of the UV Tanning Equipment and/or bulbs and the Operator shall advise Clients of suitable exposure levels to avoid over-exposure.
8. The Licence Holder shall ensure that the user is only exposed to a suitable strength and length of treatment appropriate for the user’s skin category thereby not exposing Clients to any undue risk from using UV tanning

9. All UV tanning equipment shall be compliant with a maximum UV output of 0.3W/m<sup>2</sup> as specified in BS EN 60335-2-27 and any superseding standard.
10. Service and repair of the UV Tanning Equipment shall be carried out by a competent person in accordance with the manufacturer's instructions or operating manual for the UV Tanning Equipment. The Licence Holder shall produce, upon request by an Authorised Officer of the Local Authority, maintenance records for the UV tanning equipment.
11. A readily identifiable emergency stop mechanism shall be provided within easy reach of the User using the UV tanning equipment for use in an emergency to enable the user to switch off the equipment.
12. A suitable and sufficient warning system shall be provided that is accessible by the User to enable them to summon assistance. This shall be maintained in working order at all times.
13. All doors to treatment areas and individual tanning booths shall be able to be locked for user privacy and be capable of being overridden in an emergency, to allow access and egress.
14. The Licence Holder shall provide adequate protective eyewear free of charge. The user shall be advised to wear eye protection at every tanning session. Eye protection shall be properly cleaned and disinfected between each use or single-use protection provided.
15. The Licence Holder shall provide suitable facilities for Users to enable the removal of cosmetics; body sprays etc before using of the UV tanning equipment.
16. Arrangements shall be made to ensure that the surface of the UV tanning equipment is cleaned and disinfected after each use in accordance with manufacturer's instructions.
17. Signs shall be displayed in prominent positions giving current guidance to users as to the risks associated with UV Tanning treatments.
18. Where new tubes are fitted to UV tanning equipment, signs shall be displayed in a prominent position advising users to reduce their exposure times. These warning signs shall be displayed in accordance with timeframes specified by the tube manufacturer.
19. The Licence Holder shall ensure their users leave at least 24 hours between each tanning session.

## **Part 4 – Conditions for the Use of Class 3B and Class 4 Lasers and Intense Light Systems**

In these conditions:

|                                                         |                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Authorised User</b>                                  | Means any person who is suitably qualified to use Class 3B and Class 4 Lasers and/or Intense Light Systems at the Premises                                                                                                                                                                                                                                                                                                                                                |
| <b>The Controlled Area</b>                              | Means the room in which a specified piece of the Prescribed Equipment is used                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Duty Holder</b>                                      | Means the legal duty holder for the purposes of the Nottinghamshire County Council Act 1985 and health and safety legislation                                                                                                                                                                                                                                                                                                                                             |
| <b>Expert Registered Healthcare Professional (ERHP)</b> | The ERHP is an expert doctor, dentist, clinical scientist or registered nurse with verifiable clinical expertise in using laser/IPLs to treat patients/clients and who can demonstrate that they have the necessary knowledge and experience to produce a treatment protocol. The ERHP must also be registered with their appropriate professional body and must ensure that any protocols written are within their area of expertise                                     |
| <b>Intense Light System (ILS)</b>                       | Means an intense light, being broadband non-coherent light which may or may not be filtered to produce a specified range of wavelengths; such radiation being delivered to the body with the aim of causing thermal, mechanical or chemical damage or physiological changes to structures such as the hair follicles, skin blemishes, or blood vessels while sparing surrounding tissues as far as is reasonably practicable                                              |
| <b>Laser</b>                                            | Means a Class 3B or Class 4 laser product, as defined in part 1 of the BS EN 60825-1 (Safety of laser products – Equipment classification and requirements)                                                                                                                                                                                                                                                                                                               |
| <b>Laser Protection Advisor (LPA)</b>                   | Means any person holding a current Certificate of Competence from a recognised assessing body to act as a Laser Protection Adviser or Radiation Protection Adviser e.g. a member of the RPA 2000 or Association of Laser Safety Professionals (ALSP).<br><br>The LPA is the person providing expert advice on laser/IPL safety. The LPA will be knowledgeable and have expertise in matters relating to optical radiation equipment safety. The duties of the LPA include |

undertaking hazard analysis and risk assessment for each laser and IPL installation which are accepted by the employer to form part of the service's overall risk assessment framework. The LPA advises on laser/IPL safety training, the suitability of personal protective eyewear and ensuring that Local Rules are produced, signed, dated and implemented for each installation.

**Laser Protection Supervisor (LPS)**

Means a person having undergone the laser safety Core of Knowledge as defined by the Medicines and Healthcare Products Regulatory Agency and who is employed at the Premises to ensure that the Local Rules, risk assessments, operating practices, policies and procedures are implemented

**The Local Rules**

Means the Risk Assessments and Operating Practices prepared in accordance with condition 3 below

**The Premises**

Means the premises identified in the body of this licence as the place in which the Prescribed Equipment is operated

**The Prescribed Equipment**

Means the Laser/Intense Light System(s) identified in the body of this licence, as stipulated in the Premises Licence. The equipment must be legitimately CE-marked to indicate conformity with the relevant European Directive(s)

**Specified Treatments**

Means the treatments identified in the body of this Licence which are permitted to be carried out in the Premises using the Prescribed Equipment

**The Treatment Protocol**

Means a protocol produced or approved by an Expert Registered Healthcare Professional (ERHP) in relation to the practitioner's relevant area of practice which includes the matters specified in Condition 2.2 below

## **1. USE OF LASERS AND INTENSE PULSED LIGHT SYSTEMS**

- 1.1. Only the Specified Treatments may be provided at the Premises and only the Prescribed Equipment may be used to provide those Treatments.
- 1.2. No person shall be permitted to use the Prescribed Equipment unless they are appropriately trained in accordance with Section 7 and listed on the Register of Authorised Users in accordance with Section 4.
- 1.3. This Licence shall be displayed in a prominent position within the Premises where it can be easily viewed by Clients.
- 1.4. Written confirmation shall be provided by the Client prior to treatment that the risks and complications associated with the treatment which they are about to receive have been explained to them and have been understood by them, and that they consent to the treatment.
- 1.5. No persons under the age of eighteen (18) years may receive Specified Treatment(s) unless for the purpose of medical treatment provided under the supervision or direction of a registered medical practitioner.

## **2. TREATMENT PROTOCOL**

- 2.1. A Treatment Protocol shall be produced by an Expert Registered Healthcare Professional (ERHP) and submitted to the Council for each treatment, specific to the Prescribed Equipment used, before that treatment is carried out or the equipment is used. If any revisions or amendments are made to the Treatment Protocol during the term of the licence, a copy of the revised Protocol shall be submitted to the Council as soon as is reasonably practicable and in any event within seven working days of those revisions taking effect.
- 2.2. A Treatment Protocol shall include the following:
  - 2.2.1. name and technical specifications of the equipment to which the Protocol relates
  - 2.2.2. contraindications to treatment
  - 2.2.3. treatment technique – general
  - 2.2.4. the treatment technique specific to application
  - 2.2.5. the risks and complications to be explained to the Client prior to treatment
  - 2.2.6. cleanliness and infection control
  - 2.2.7. pre-treatment tests
  - 2.2.8. post-treatment care
  - 2.2.9. recognition of treatment-related problems
  - 2.2.10. emergency procedures
  - 2.2.11. permitted variation on machine variables
  - 2.2.12. procedure in the event of equipment failure



2.2.13.a version number or date

- 2.3. The treatment protocol shall be signed by the Expert Registered Healthcare Professional (ERHP) to confirm that the document is fit for purpose.
- 2.4. The Treatment Protocol shall be followed at all times this licence is in force and the equipment remains Prescribed Equipment.

### **3. LOCAL RULES**

- 3.1. Local Rules shall be produced and submitted to the Council for the Prescribed Equipment and if applicable for each handpiece on multi-platform laser/ILS to be used at the Premises before that equipment is used. If any revisions or amendments are made to the Local Rules during the term of the licence, a copy of the revised Local Rules shall be submitted to the Council as soon as is reasonably practicable and in any event within seven working days of those revisions taking effect.
- 3.2. The Licence Holder shall employ the services of a certified LPA to assist in the production of the Local Rules. Evidence of the LPA's laser/IPL certification should be available for reference on site.
- 3.3. The Local Rules document shall be issued, signed and dated by both the LPA and the duty holder.
- 3.4. The LPA shall visit the Premises in person initially to produce the Local Rules, risk assessments and operating practices. The risk assessment shall be signed, dated and include a date for next review/assessment.
- 3.5. A laser/IPL safety audit shall be completed every year and an on-site visit at least every four years by the LPA.
- 3.6. The Prescribed Equipment shall only be used in accordance with the Local Rules.
- 3.7. The Local Rules shall include information on the following:
  - 3.7.1. An assessment of the risks associated with the use of the Prescribed Equipment
  - 3.7.2. Device description (including output, serial numbers etc) for all Prescribed Equipment
  - 3.7.3. Written procedures for safe use of the Prescribed Equipment (to include information on prevention of use by unauthorised persons; safe operation of device etc)
  - 3.7.4. Adverse incident procedures including actions that shall be taken in cases of emergency e.g. eye exposure and details of the local accident and emergency department
  - 3.7.5. Emergency shutdown procedures (as set down in manufacturer's instruction manual or treatment protocol)

- 3.7.6. Details of the nominated LPA (including his or her name, business address and telephone number)
  - 3.7.7. Details of nominated the LPS (including his or her full name, business address and telephone number)
  - 3.7.8. Training requirements for Authorised Users for the use of Prescribed Equipment
  - 3.7.9. A detailed plan of the Controlled Area(s), showing each piece of the Prescribed Equipment to be used in the Area and details of access to the Equipment, together with a complete plan of the Premises
  - 3.7.10. Responsibilities of Authorised Users
  - 3.7.11. Details of Protective eyewear (including information relating to when eyewear be worn and the minimum specification of protection required)
- 3.8. The Local Rules shall be updated if there are any changes made to any of the items detailed in Condition 3.7 above. Each update shall be approved by the LPA.
- 3.9. The Local Rules relevant to each specific piece of Prescribed Equipment shall be kept in the Controlled Area relating to that piece of Equipment whilst it is being operated.

#### **4. REGISTER OF AUTHORISED USERS**

- 4.1. A Register of Authorised Users shall be kept at the Establishment which includes details of trained personnel and signed declarations by those individuals stating that they accept and understand the procedures drawn up for the use of Prescribed Equipment.
- 4.2. Copies of any training or qualification certificates held by the Authorised Users shall be kept with the Register of Authorised Users.
- 4.3. Authorised Users shall sign statements to the effect that they have read, understood and will follow Local Rules at all times.

#### **5. REGISTER OF LASER USE**

- 5.1. A register shall be maintained for each piece of Prescribed Equipment to record the following information each time that the equipment is operated:
  - 5.1.1. the full name, date of birth and address of the person treated or a unique link to the customer details kept elsewhere
  - 5.1.2. date and time of treatment
  - 5.1.3. the Authorised User's signature
  - 5.1.4. the treatment given, including the site and an indication of the size of the area treated, type of treatment; equipment used and Laser/ILS parameters used
  - 5.1.5. any accident or adverse effects

- 5.2. The Register shall be either:
- a. A bound hard copy book with sequentially numbered pages with the front page containing details of the name and serial number of Prescribed Equipment, or;
  - b. An electronic record that does not allow overwriting to the original entry

## **6. LASER PROTECTION SUPERVISOR (LPS)**

- 6.1. A suitably qualified and authorised member of staff having day to day responsibility for the premises shall be identified as the Laser Protection Supervisor (LPS), who shall ensure that the Register is maintained and the Local Rules and licence conditions are adhered to.

## **7. TRAINING**

- 7.1. All Authorised Users shall hold the Core of Knowledge Training Certificate. Core of knowledge training shall be repeated periodically at least every 5 years.
- 7.2. Authorised Users shall only use the Prescribed Equipment for treatments for which they have received the appropriate training; including suitable and sufficient training provided by the manufacturer or supplier for each specific piece of Prescribed Equipment and if applicable each handpiece that they operate on a multi-platform laser/ILS.
- 7.3. All Authorised Users shall receive regular update training, both planned and in reaction to relevant technological and medical developments.
- 7.4. Details of all training shall be recorded in the Register of Authorised Users required by Condition 4.1 above.

## **8. CONTROLLED AREA**

- 8.1. Prescribed Equipment shall only be used in a Controlled Area designated for its use in accordance with Condition 3.7.9 above.
- 8.2. The Controlled Area shall be clearly defined and not used for any other purposes, or as access or egress to other areas when treatment is being carried out.
- 8.3. An approved warning sign or light entry system which complies with current British Standards shall be in place on the door of the Controlled Area which shall only be on display when the Prescribed Equipment is in use.
- 8.4. The door to the Controlled Area shall be fitted with a suitable locking device to control access, which can be operated from the outside in an emergency.
- 8.5. Any windows in the Controlled Area shall be fitted with opaque blinds approved by the LPA, unless otherwise agreed in writing by the Local Authority.
- 8.6. The Controlled Area shall be kept clear of clutter.

- 8.7. Surfaces within the Controlled Area shall be of a matt or eggshell finish wherever possible. Mirrors and/or other reflective surfaces shall be covered or removed during treatment, and jewellery shall not be worn by the Authorised User or Client.
- 8.8. All Prescribed Equipment shall comply with current and any superseding standards (BS EN 60601-2-22; and BS EN 60601-2-57 for ILS) and shall display labels identifying them, their wavelength or range of wavelengths and the maximum output fluence, energy or power of the radiation emitted. The labels shall be clearly visible on the Prescribed Equipment.
- 8.9. Lasers/ILS shall be serviced annually or in accordance with the Manufacturers' Instructions, by a competent person. A record of all such servicing, and any repairs to the Laser/ILS equipment shall be kept at the Premises.
- 8.10. The LPS shall ensure that the key **or access code** to any Prescribed Equipment is kept secure and only Authorised Users have access to the key or access code.
- 8.11. No more than one Prescribed Equipment shall be switched on in the Controlled Area during Client treatment.
- 8.12. When the Prescribed Equipment is in stand-by mode or in operation, the number of persons in the room shall be kept to a minimum.

## **9. PROTECTIVE EYEWEAR**

- 9.1. Protective eyewear which has been approved in writing by the LPA shall be worn by everyone within the Controlled Area whenever there is a risk of exposure to the laser beam/intense light radiation.
- 9.2. All protective eyewear shall be clearly marked with the wavelength range and protection offered as detailed in the Local Rules and shall comply with BS EN 207:2009 for lasers and BS ISO 12609-1 and -2:2013 for ILS, as amended.
- 9.3. The protective eyewear should be clearly marked for use with a particular laser or ILS system e.g. with colour coded labels so they are easy to distinguish.

EN 207:2009 requires the wavelength range(s) and protection level(s) to be etched into the 'glass' (labels or prints are not adequate) and the 'CE' Mark shall appear on both the glass and the frame.

- 9.4. Protective eyewear shall be maintained in a clean serviceable condition. Suitable storage shall be provided for protective eyewear, to prevent damage and unauthorised access to the equipment. Eyewear shall be cleaned as per the manufacturer's instructions.

## **10. INSPECTION OF RECORDS**

- 10.1. All records, training attendance certificates, and documents to which these conditions refer shall be kept on the Premises and shall be available for inspection by an Officer authorised by the Local Authority upon request.

### GUIDANCE NOTES FOR ESTABLISHMENTS THAT UNDERTAKE LICENSABLE TREATMENTS UNDER THE NOTTINGHAMSHIRE COUNTY COUNCIL ACT 1985 (PART IV)

#### INTRODUCTION

This guidance has been produced to help applicants apply for a massage and special treatments licence under the Nottinghamshire County Council Act 1985 (Part IV) and to ensure compliance with the conditions within the licence. The definitions used within this document are consistent with the definitions listed within the Licence Conditions.

There are a number of treatments licensed under the Nottinghamshire County Council Act 1985. The term '*establishment for massage or special treatment*' means any premises used for or represented as being intended to be used for the reception or treatment of persons requiring:

- i. massage; or
- ii. electric treatment of radiant heat, light, electric vapour or sauna or other baths for therapeutic treatment; or
- iii. other similar treatment.

Examples of licensable treatments include the operation of Ultraviolet (UV) Tanning Equipment and Class 3B and 4 lasers for tattoo removal or hair removal etc. If you are unsure whether the treatments you intend to offer would require a licence under the Act 1985, please contact [healthandsafety@ashfield.gov.uk](mailto:healthandsafety@ashfield.gov.uk) for advice.

#### APPLICATIONS AND RENEWALS

Massage and special treatment licence applications must be made on the official application forms issued by the Local Authority. The applicant must ensure all sections of the application form are completed and any supporting documents such as evidence of practitioner qualifications and public liability insurance certificates are enclosed with the application. Applications for Class 3B and 4 lasers and IPL systems require additional documents to be submitted with the application.

Submitting a completed application form with all supporting evidence should reduce any delay in issuing the licence.

Existing licence holders should submit their renewal application to Ashfield District Council at least **10 weeks** before their current licence expires. Ashfield District Council will write to you before your licence expires.

As part of the grant and renewal process, an Environmental Health Officer or Licensing Officer may arrange to carry out an inspection of your premises to assess compliance with the licence conditions. The findings from these inspections will be confirmed to the applicant or Licence Holder before the licence is issued. When processing renewal applications, the council will consider the findings from compliance inspections undertaken during the term of the licence.

Where additional Operators begin giving licensable treatment at the Establishment under the provisions of a licence, the Licence Holder must notify the Local Authority within **28 days** of their details using Section 2 of the application form.

## **TRAINING AND QUALIFICATIONS**

Licence Holders must ensure that all Operators have attained the minimum level of qualification, training and/or competence before permitting them to provide treatments on the premises. Please note that to operate Class 3B and 4 lasers, prescribed standards of training are defined within the conditions.

Licence Holders should accept national qualifications such as National Vocational Qualifications (NVQ) contained within the Regulated Qualifications Framework (RQF), City and Guilds or equivalent.

Where Operators hold international qualifications, which are not generally recognised in the UK, they should request a comparability certificate from the UK National Information Centre for global qualifications and skills (UK ENIC). A compatibility certificate will provide the Licence Holder with what the qualification equivalent in the UK is.

Where there are no nationally recognised qualifications for a particular special treatment, the Licence Holder must determine whether the evidence of training undertaken and any relevant experience of an Operator demonstrates their competence to practice in the Establishment.

In addition to their professional qualifications and training, the Operator must be able to demonstrate their understanding of hygienic practices including hand washing, maintenance and cleaning of the working environment and the procedures in place to ensure the health, safety and welfare of clients before, during and after the treatment.

Any trainee at the premises who is carrying out their training or gaining experience can carry out licensable treatments under the supervision of a competent person, determined by the Licence Holder. All trainees should be fully instructed and trained in the practices at the Establishment in accordance with the above paragraph.

## **PART 1 – GENERAL CONDITIONS FOR ALL MASSAGE AND SPECIAL TREATMENTS**

These conditions set out the minimum requirements for Operators, practices and the Establishment. All Operators i.e., persons providing hands on treatment must always be decently and properly dressed. This means wearing clothing that is clean, comfortable and practical that allows the Operator to deliver a professional service.

All Clients must be assessed prior to any Licensable Treatment to determine whether the Massage or Special Treatment is suitable for them. This will involve an assessment of medical history, contraindications to treatment and the sharing of information about risks associated with the treatment. This could be recorded on written forms or an electronic database.

Aftercare advice must be given verbally and in a written form. Written aftercare advice could be given at the Establishment in the form of a written leaflet to be taken by the Client, an email or other online publication or through reference to a dedicated webpage that the Client can refer to after the treatment.

Guidance notes for establishments that undertake licensable treatments under the Nottinghamshire County Council Act 1985 (Part IV)

The licence conditions require the premises, its fixtures and fittings and any equipment used in the Licensable Treatments to be fit for purpose, in a good state of repair and capable of being kept clean. Any equipment used must be suitably cleaned, disinfected and/or sterilised, as appropriate, to ensure the risk of spreading infectious disease is minimised.

## **PART 2 – SAUNA, STEAM ROOM AND SPA POOLS**

These conditions set out the minimum requirements for the management of saunas, steam rooms and spa pools.

The Clients suitability for using saunas, steam rooms and spa pools must be assessed prior to use with particular attention given to Clients taking medication including blood thinning medication and who may be pregnant. Further consultation by their GP may be needed before they use these facilities.

The Licence Holder must develop and maintain procedures for checking the safety of the sauna, steam room and spa pool to include the safety of users, the condition of the premises and the facilities associated with the licensable treatment. The suitability and validity of these procedures will be assessed during the inspection.

Spa pools must be appropriately monitored and managed to ensure its chemical and microbiological quality is maintained to protect clients and staff. The system for monitoring and checking spa pool water and evidence of the testing carried out should be available upon request.

Licence Holders should review the contents of HSG 282 “*The control of Legionella and other infectious agents in spa pool systems*” from the Health and Safety Executive (HSE), for information about routine monitoring, testing and actions to take in an emergency. Additional information is available from the Pool Water Treatment Advisory Group <https://www.pwtag.org/>.

## **PART 3 – UV TANNING EQUIPMENT**

This section relates to any UV tanning equipment, including sunbeds and sun showers, used to tan a clients skin within an Establishment.

The Licence Holder must ensure all Operators working in the Establishment are suitably instructed and trained. This training must consist of carrying out an assessment of each Users suitability for treatment by considering their contraindicators, their skin type and information provided by the manufacturer of the sunbed/lamp such as a lamp technical data sheet to determine an appropriate tanning time.

Any User showing contra-indicators such as any medical condition that is worsened by sunlight; have a large number of freckles and/or red hair; have fair, sensitive skin that burns easily; or who have a large number of moles should be advised against using UV tanning equipment.

All UV tanning equipment must conform to standards set out in BS EN 60335-2-27 which includes not exceeding the maximum irradiance level of 0.3 W/m<sup>2</sup>. The 0.3 W/m<sup>2</sup> irradiance level is the amount of UV exposure that the EU’s Scientific Committee on

Guidance notes for establishments that undertake licensable treatments under the Nottinghamshire County Council Act 1985 (Part IV)

Consumer Products (SCCP) set as the limit for effective irradiance (Irradiance is a measure of the intensity of the sun).

Equipment with an irradiance level greater than 0.3 W/m<sup>2</sup> would be deemed unsafe under the General Product Safety Regulations 2005 and may invalidate any Public Liability Insurance.

Licence Holder's must ensure the sunbed lamps are compatible with their sunbed equipment and ballast.

## **PART 4 – CLASS 3B AND CLASS 4 LASERS AND INTENSE PULSED LIGHT SYSTEMS (IPL)**

The term "light" includes the use of lasers and intense pulsed light. Since October 2010, the Use of lasers and intense pulse light in beauty salons or tattoo studios (and other similar premises) is now enforced by Local Authorities in Nottinghamshire under the Nottinghamshire County Council Act 1985.

### **KEY STAFF**

A **Laser Protection Advisor (LPA)** must be appointed to provide expert advice on laser safety and assist in the formulation of the Local Rules. The Laser Protection Advisor must hold a valid certificate of competence from a recognised assessing body such as [RPA 2000](#), [Association of Laser Safety Professionals](#) or the [UK Health Security Agency](#).

The **Laser Protection Supervisor (LPS)** is the practitioner responsible for the use of the Laser/IPL and the implementation of the safety systems associated with the laser/IPL within the Establishment. The LPS also has responsibilities for ensuring the laser is kept secure at all times. It is recommended that the door to the Controlled Area is kept locked when not in use.

An **Authorised User** is a practitioner who is suitably qualified to use the laser or IPL system and whose details are recorded in the **Register of Authorised Users**. All Authorised Users must hold a Core of Knowledge certificate and evidence of training on the prescribed equipment (the laser/IPL equipment permitted for use under the terms of the licence issued).

There is a sample Core of Knowledge syllabus available from the MHRA within "*Lasers, intense light source systems and LEDs – guidance for safe use in medical, surgical, dental and aesthetic practices*" dated September 2015 and from the British Medical Laser Association at <https://www.bmla.co.uk/wp-content/uploads/core-of-knowledge.pdf>.

Licence Holders must ensure any Core of Knowledge training meets the syllabus. Whilst there is no statutory approvals body for core of knowledge courses, some organisations and bodies 'approve' courses to ensure course consistency.

The British Medical Laser Association (BMLA) have also produced essential standards specifically for non-surgical aesthetic applications using Class 3B and 4 Lasers. This includes details on training and qualifications. This document is available at



Guidance notes for establishments that undertake licensable treatments under the Nottinghamshire County Council Act 1985 (Part IV)

<https://bmla.co.uk/wp-content/documents/BMLA%20Essential-Standards-May-2017.pdf>.

A Safety Awareness Course is recommended for those who are present during laser/ILS use but do not fire the laser themselves.

## DOCUMENTATION

A **Treatment Protocol** document produced (or approved) and signed by an Expert Registered Healthcare Professional (ERHP) must be followed in accordance with the licence conditions. This document must be specific to the prescribed equipment in the Establishment, the treatments and the Establishment itself. This provides specific information about how the treatments are carried out and the precautions to take (see Section 2 of Part 4).

The Laser Protection Advisor (LPA) shall oversee the preparation of the **Local Rules**, that provide details of the risks associated with the prescribed equipment, written safety procedures and details of the protective eyewear required (see Section 3 of Part 4).

A **Register of Authorised Users**, which may form part of the Local Rules, must be prepared and include the name and details of all trained operators who may operate the laser (see Section 4 of Part 4).

*A **Register of Laser Use** must be utilised to record specific details each time the prescribed equipment is operated. This must be in a hard copy format within a bound book with sequentially numbered pages and the serial number and laser/IPL details must be recorded at the front of the record **OR** an electronic database that **does not** allow the original entry to be overwritten. If you keep electronic records where the records can be overwritten, you must keep a register in a hard copy format in accordance with Condition 5.2(a).*

Evidence of the **Laser Safety Audit** (Part 4, Condition 3.5) by the LPA and any **Servicing Records** (Part 4, Condition 8.9) must be available for the Local Authority upon request. The user manual and/or instructions for use should also be readily available.

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