

# LICENSING COMMITTEE AGENDA



**Wednesday 17<sup>th</sup> June 2015**

**at 3.00pm**

**in Committee Room B,  
Civic Centre, Hartlepool**

**MEMBERS: LICENSING COMMITTEE:**

Councillors Ainslie, Barclay, Beck, Cook, Fleet, Gibbon, Griffin, Hall, Jackson, Lawton, Martin-Wells and Morris

**1. APOLOGIES FOR ABSENCE**

**2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS**

**3. MINUTES**

- 3.1 To approve the minutes of the Licensing Sub-Committee meeting held on 5<sup>th</sup> March 2015
- 3.2 To approve the minutes of the Licensing Committee meeting held on 18<sup>th</sup> March 2015
- 3.3 To approve the minutes of the Licensing Sub-Committee meeting held on 26<sup>th</sup> March 2015
- 3.4 To approve the minutes of the Licensing Sub-Committee meeting held at 10.00am on 5<sup>th</sup> May 2015
- 3.5 To approve the minutes of the Licensing Sub-Committee meeting held at 2.00pm on 5<sup>th</sup> May 2015

**4. ITEMS REQUIRING DECISION**

- 4.1 Licensing Committee – Sub-Committee Memberships – *Chief Solicitor*
- 4.2 House to house collections – *Director of Public Health*



- 4.3 Licensing Act Licensing Policy – *Director of Public Health*
- 4.4 Gambling Act Statement of Licensing Principles – *Director of Public Health*

**5. ITEMS FOR INFORMATION**

No items

**6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT**



## **LICENSING SUB COMMITTEE**

### **MINUTES AND DECISION RECORD**

5<sup>th</sup> March 2015

The meeting commenced at 2pm in the Civic Centre, Hartlepool

#### **Present:**

Councillor: George Morris (In the Chair)

Councillor: Steve Gibbon

In accordance with Council Procedure Rule 5.2 (ii), Councillor Paul Beck was in attendance as substitute for Councillor Ged Hall and Councillor Sheila Griffin was in attendance as substitute for Councillor Peter Jackson.

Officers: Ian Harrison, Trading Standards and Licensing Manager  
Tony Macnab, Solicitor  
Jo Stubbs, Democratic Services Officer

#### **24. Apologies for Absence**

Apologies were submitted by Councillors Ged Hall and Peter Jackson.

#### **25. Declarations of interest by Members**

None

#### **26. Local Government (Access to Information) (Variation Order) 2006**

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 27 – (Hackney Carriage / Private Hire Drivers Licence SJR) – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that

information).

Minute 28 – (Hackney Carriage Drivers Licence WH) – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

## **27. Hackney Carriage / Private Hire Drivers Licence SJR**

*(Director of Public Health)* This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

The Committee was asked to consider an application for a Hackney Carriage / Private Hire drivers licence. The driver was in attendance and addressed the Committee. Details are provided in the exempt section of the minutes.

### **Decision**

The decision is set out in the exempt section of the minutes.

## **28. Hackney Carriage Drivers Licence WH**

*(Director of Public Health)* This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

The Committee was asked to consider what action should be taken against a licensed Hackney carriage driver. The driver was not in attendance. Details are provided in the exempt section of the minutes.

### **Decision**

The decision is set out in the exempt section of the minutes

The meeting concluded at 2:30pm.

CHAIR

# **LICENSING COMMITTEE**

## **MINUTES AND DECISION RECORD**

18<sup>th</sup> March 2015

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

**Present:**

Councillor: George Morris (In the Chair)

Councillors: Jim Ainslie, Paul Beck, Rob Cook, Mary Fleet, Sheila Griffin,  
Ged Hall, Tom Hind and Peter Jackson

Officers: Ian Harrison, Trading Standards and Licensing Manager  
Tony Macnab, Solicitor  
Jo Stubbs, Democratic Services Officer

Also Present: Brian Anderson

### **19. Apologies for Absence**

Apologies were submitted by Councillors Keith Dawkins, Steve Gibbon and Geoff Lilley.

### **20. Declarations of interest by Members**

Councillor Paul Beck declared a personal interest in item 4.1 (Hackney Carriage Tariffs) as a number of his relatives work as taxi drivers.

### **21. Confirmation of the minutes of the Licensing Committee meeting held on 28<sup>th</sup> January 2015**

Approved

### **22. Confirmation of the minutes of the Licensing Sub-Committee meeting held on 30th January 2015**

Approved

### **23. Hackney Carriage Tariffs** *(Director of Public Health)*

Members were advised that at the Annual General Meeting for licensed hackney carriage owners in January 2015, a proposal was put forward to

change the current tariffs from October 2015. This would include a change to the distances travelled before the price rises on the meter, an increase in the surcharge for larger vehicles carrying 5 or more passengers and an increase in the charge for waiting times. The proposed new tariff rates were appended to the report as was a comparison of the current and proposed new charges with the national average and the North area average. This showed that even with the proposed increases Hartlepool would still be equal or less than the average in the North and well below the national average. Drivers were not obliged to charge the new increased rates but could not exceed them. If the new charges were approved a Public Notice would be placed in the Hartlepool Mail informing the public. Any objections would be referred back to the Committee before the increases were implemented. Brian Anderson, a licensed hackney carriage driver, spoke in favour of the proposed increases. Members were happy to support their request.

### Decision

- That the mileage distances be increased as follows:

(1) For hirings begun between 9 am and 5 pm on any day other than Sundays and those shown at (2), (3) and [4]: -

£2.50 plus 10p for every 174 yards (160 metres) after the first 174 yards (160 metres)

(2) For all hirings begun between 6.30 am and 11.30 pm on Sundays, between 6.30 am and 9 am and 5 pm and 11.30 pm on any day other than those shown at (3) or [4]: -

£2.50 plus 10p for every 131 yards (120 metres) after the first 142 yards (131 metres)

[3] For all hirings begun between 11.30 pm and 6.30 am and all hirings on any Bank Holiday or Public Holiday and all hirings on 24 and 31 December other than those shown at (4): -

£2.50 plus 10p for every 109 yards (100 metres) after the first 131 yards (120 metres)

[4] For all hirings begun between 7pm on 24th December and 0630 am on 27th December and between 7 pm on 31st December and 0630 am on 2nd January: -

£4.00 plus 10p for every 87 yards (80 metres) after the first 109 yards (100 metres)

- That the surcharge for vehicles carrying five or more passengers be increased to £2.
- That the waiting times be increased as follows:
  - (a) For all hirings shown at (1) and (2) under MILEAGE for each period of 40 seconds or uncompleted part thereof 10p
  - (b) For all hirings shown at (3) and [4] under MILEAGE for each period of up to 30 seconds or uncompleted part thereof 10p

The meeting concluded at 10:25am

CHAIR

## **LICENSING SUB COMMITTEE**

### **MINUTES AND DECISION RECORD**

26<sup>th</sup> March 2015

The meeting commenced at 2.30pm in the Civic Centre, Hartlepool

#### **Present:**

Councillor: Rob Cook (In the Chair)

Councillor: Sheila Griffin

In accordance with Council Procedure Rule 5.2 (ii), Councillor Jim Ainslie was in attendance as substitute for Councillor Mary Fleet

Officers: Ian Harrison, Trading Standards and Licensing Manager  
Tony Macnab, Solicitor  
Jo Stubbs, Democratic Services Officer

#### **29. Apologies for Absence**

Apologies were submitted by Councillors Mary Fleet and Tom Hind.

#### **30. Declarations of interest by Members**

None

#### **31. Local Government (Access to Information) (Variation Order) 2006**

Under Section 100(A)(4) of the Local Government Act 1972, the press and public were excluded from the meeting for the following items of business on the grounds that they involved the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006.

Minute 32 – (Private Hire Drivers Licence CMS) – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).



Minute 33 – (Hackney Carriage / Private Hire Drivers Licence PW) – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

Minute 34 – (Private Hire Drivers Licence RWD) – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

Minute 35 – (Hackney Carriage Licence WH) – This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

### **32. Private Hire Drivers Licence CMS** *(Director of Public Health)*

This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

The Committee was asked to consider what action, if any, should be taken against a licensed private hire driver. The driver was in attendance and addressed the Committee. Details are provided in the exempt section of the minutes.

#### **Decision**

The decision is set out in the exempt section of the minutes.

### **33. Hackney Carriage / Private Hire Drivers Licence PW** *(Director of Public Health)*

This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

The Committee was asked to consider an application for a hackney carriage / private hire drivers licence. The driver was in attendance and addressed the Committee. Details are provided in the exempt section of the minutes.

#### **Decision**

The decision is set out in the exempt section of the minutes

**34. Private Hire Drivers Licence RWD** (*Director of Public Health*)

This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

The Committee was asked to consider what action, if any, should be taken against a licensed private hire driver. The driver was in attendance and addressed the Committee. Details are provided in the exempt section of the minutes.

Decision

The decision is set out in the exempt section of the minutes

**35. Hackney Carriage Drivers Licence WH** (*Director of Public Health*)

This item contains exempt information under Schedule 12A Local Government Act 1972 as amended by the Local Government (Access to Information) (Variation) Order 2006 namely (para 1) information relating to the financial or business affairs of a particular person (including the authority holding that information).

The Committee was asked to consider what action, if any, should be taken against a licensed hackney carriage driver. The driver was in attendance and addressed the Committee. Details are provided in the exempt section of the minutes.

Decision

The decision is set out in the exempt section of the minutes

The meeting concluded at 4.50pm.

CHAIR

## LICENSING SUB COMMITTEE

### MINUTES AND DECISION RECORD

5<sup>th</sup> May 2015

The meeting commenced at 10.00am in the Civic Centre, Hartlepool

**Present:**

Councillor: Rob Cook (In the Chair)

Councillors: Sheila Griffin and Tom Hind

Officers: Ian Harrison, Trading Standards and Licensing Manager  
Tony MacNab, Solicitor  
Jo Stubbs, Democratic Services Officer

#### **36. Apologies for Absence**

None

#### **37. Declarations of interest by Members**

None

#### **38. Application for a new premises licence – Headland Local Shop, 31 Northgate, Hartlepool** *(Director of Public Health)*

The Licensing Sub-Committee considered an application from Varan Thananayagam (the applicant) for a licence authorising the supply of alcohol from 8am to 11pm seven days a week. Two letters of objection had been received and a 63 signature petition submitted. The objections referred to concerns over potential nuisance and anti-social behaviour, safety issues due to a potential increase in traffic and concerns over the premises' close proximity to a youth centre. Members were advised that the applicant had agreed to the attachment of a number of conditions to the licence aimed at preventing the sale of alcohol to children and reducing potential crime and disorder. These were appended to the report. It was noted that the hours requested were outside those recommended within the Council's licensing policy however these were only recommendations and could be deviated from.

Ms Jane Gilliead outlined the application on behalf of Mr Thanahayagam (also present). His family had been running shops for 10 years and both

himself and his wife were personal licence holders. During that time they had sold a number of age restricted products with no problems and the additional conditions would help promote the licensing objectives. She acknowledged that the hours requested were outside the Council's licensing policy but this was not an absolute policy. Furthermore other premises in the area were able to sell alcohol outside of these hours. There was no saturation policy and decisions could only be based on facts rather than potential risks.

Members asked whether the condition relating to the provision of CCTV could be amended to cover the outside of the premises rather than entrances and exits only. Ms Gilliead confirmed that the applicant would be happy to comply with this.

Miss Bulvinder Kaur spoke in objection to the application. She acknowledged that her primary concern was the competition which a new retailer would bring to her premises. However she also raised issues relating to crime and disorder specifically its proximity to the youth club and the potential of children indulging in anti-social behaviour and attempting to buy products underage. Parking and the volume of traffic in this area was also a problem and this would only be increased by the granting of this licence. Ms Kaur also referred to a previous attempt by her to purchase another premises which had been turned down on the basis that someone else was opening a similar shop in the area. The Trading Standards and Licensing Manager indicated that he was unaware of the circumstances surrounding this refusal and suggested it may be connected to the planning regulations. There was no saturation policy in relation to licensing applications and decisions could not be based on whether a premises was needed or not.

Ms C Tomlinson spoke in support of Ms Kaur specifically in relation to the parking and the volume of traffic in that area which she felt would leave children at increased risk of harm.

The Sub-Committee considered the application and representations put forward by the Applicant and the oral and written objections put forward, both in person and as previously submitted. Whilst members were concerned at the hours requested they acknowledged that other nearby premises had similar licensing hours. They also acknowledged the concerns raised by objectors relating to parking and traffic and the possibility that children using the youth centre might attempt to purchase under-age goods but felt there was no evidence to show that the agreed conditions would not help to prevent this. Members therefore agreed to grant the application as requested subject to the amendment of the condition relating to CCTV to allow for coverage outside the premises rather than limiting it to the entrances and exits only.

**Decision**

That the application for the supply of alcohol at Headland Local Shop, 31 Northgate 7 days a week 8am-11pm be granted subject to the amendment of the condition relating to CCTV to cover all areas outside the premises.

The meeting concluded at 11:45

CHAIR

## LICENSING SUB COMMITTEE

### MINUTES AND DECISION RECORD

5 MAY 2015

The meeting commenced at 2.00 pm in the Civic Centre, Hartlepool

**Present:**

Councillor Ged Hall (In the Chair)

Councillors: Keith Dawkins and Mary Fleet.

Also Present: Dawn McManus, applicant.

Officers: Ian Harrison, Trading Standards and Licensing Manager  
Tony MacNab, Solicitor  
David Cosgrove, Democratic Services Team

#### **39. Apologies for Absence**

None.

#### **40. Declarations of interest by Members**

None.

#### **41. Application for a New Premises Licence, Red Dreams, Unit 5, 110 Whitby Street, Hartlepool** *(Director of Public Health)*

The Trading Standards and Licensing Manager reported that a new premises application had been received relating to Red Dreams at Unit 5, 110 Whitby Street. The applicant had applied for the supply of alcohol on sales Monday to Friday 18:00 to 23:00 and Saturdays and Sundays 12:00 to 15:00 and 18:00 and 23:00 and regulated entertainment Monday to Sunday 10:00 to 23:00. Following advertisement, there had been one objection received from a local business. The officer clarified that the application was for on sales only.

The Trading Standards and Licensing Manager reported that a number of conditions had been agreed following discussions between the applicant, Environmental Health and the Police. These were designed to reduce the possibility of sales of alcohol to children and the installation of a CCTV

system and the applicant's acceptance of them had resulted in there being no objections from either Environmental Health or the Police.

The report indicated that the premises to which the application related had previously had four separate authorised Temporary Events in 2014 allowing the supply of alcohol and regulated entertainment. No complaints had been received by Hartlepool Borough Council in relation to any of the temporary events.

Addressing the objection received, the Trading Standards and Licensing Manager indicated that the objector had not been able to attend the hearing and had made his apologies to the Sub Committee. The objector had forward some e-mail correspondence with the Council's Technical Services Team in relation to the parking issues that were part of the objection submitted. The objector also raised concerns with potential for problems with drunken young people in an area where heavy good vehicles regularly operated.

The applicant, Dawn McManus was present at the meeting and addressed the sub committee. The applicant circulated some additional documentation to the sub committee which showed the premises in greater detail together with some additional photographs. The applicant briefly explained the history behind Red Dreams and indicated that the group was seeking charitable status and expanding the age range of young people it would offer support and service to.

The Pluto Room at the premises was the only part of the building that alcohol sales and the drinking of alcohol would be permitted in as this was the main venue hall used for concerts and events. The room could only accommodate 120 people standing and 80 people seated and the events would be more likely to have the room set out for seating. Three of the four temporary licence events had used the room set out for seating with only one standing event when two additional SIA registered door staff had been employed for that event over and above the normal staffing. There had been other events at the premises when no alcohol licence had been required. The applicant stated that the alcohol sales would only be permitted when there was to be an audience of over 18's; usually friends and family of the young people that attended Red Dreams.

In addressing the concerns relating to car parking, the applicant stated that the car park for the building had ten parking spaces. The applicant had stated that the majority of events would be held on an evening after 6 o'clock when most of the other businesses in the immediate vicinity would be closed. The applicant had sought agreement with a number of other businesses around her premises to use their car parking to augment the parking at the premises when events were being held. The trustees of the charity had also decided that they would issue 'parking permits' for the vehicles parked in the additional parking spaces to show they were in attendance at Red Dreams and were parked in agreement with the owners. The Trustees were also looking to install additional CCTV cameras to cover

some additional exterior aspects of the building and some of the additional car parking.

The applicant also stated that not all the parking issues related to Red Dreams. There was also a dance school operating from the site which was totally independent of Red Dreams. The applicant indicated that she would speak to the owner of that business to suggest a similar approach.

Members questioned the location of The Pluto Room and its links to the rest of the premises. The applicant explained the position of the room and indicated that it could be accessed independently of the rest of the facilities. Members questioned the parking issues during the day time. The applicant indicated that the onsite parking was usually ample for day to day operations.

Members questioned the use of the car park for events and whether the seeking of the alcohol licence was an essential part of the business expansion of Red Dreams. The applicant stated that there would be an increase in events activity but that the alcohol licence wouldn't be used for all events. It would provide, however, greater flexibility. Members questioned how many young people were currently attending Red Dreams. The applicant stated that regularly around 120 9 to 19 year olds attended with 30 over 19's. A Member indicated that the implication from the objector was that all the audiences were young people whereas the applicant was indicating that the audiences would be largely adults. The applicant stated that most of the audiences were adults. The group had recently held a WW1 commemoration event when lots of pensioners attended for example. Most of the events would have a seated audience and most would have a 14+ age range. There had only been one wholly 18+ event and that was for the launch of their record label's first EP when the additional door staff had been employed.

Members questioned further the staffing arrangements. The applicant stated that all events would have four members of Red Dreams staff in attendance. Additional door staff for 18+ events where the audience was standing would also be used. The area where alcohol was to be served from was small, so there was no space for large displays of alcohol. A Member questioned further the attendance at events where there had been no alcohol available. The applicant stated that the events run with soft drinks only did have lower attendance. The application was essentially aimed at letting those parents that attended events have an alcoholic drink if they wanted one. The applicant added that the advertisement of events wouldn't include the availability of alcoholic drinks.

The Trading Standards and Licensing Manager stated that he had no comments to add in summing up. The applicant only indicated that Red Dreams would accept any conditions that the sub committee believed should be added to any approval.

The sub committee withdrew to consider its decision.



In their deliberations, the sub committee focussed on the parking issues and the arrangements proposed by the applicant, the potential for disturbance and the submitted objection. The sub committee also took note of the operation of the dance school.

In considering the licensing objectives the sub committee considered that the applicant had reasonably addressed the four objectives in the application and the additional parking arrangements put in place.

The sub committee returned to the meeting to convey its decision.

The Chair stated that the Sub-Committee had given very careful consideration to the detailed application and the representations made at the meeting. In reaching the decision the sub committee had regard to the four licensing objectives set out in the Licensing Act 2003 and the Council's Statement of Licensing Policy 2011.

### **Decision**

The decision of the Sub-Committee with regard to this application was to approve it in its entirety.

The meeting concluded at 3.10 pm.

CHAIR

# LICENSING COMMITTEE

17 June 2015



**Report of:** Chief Solicitor

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**Subject:** LICENSING COMMITTEE - SUB COMMITTEE MEMBERSHIPS

## 1. PURPOSE OF REPORT

- 1.1 To re-appoint and fill vacancies on the Licensing Sub Committees.

## 2. BACKGROUND

- 2.1 There are four sub committees of three members dedicated to considering licences for premises and three sub committees of four members dedicated to considering licences for hackney carriage and private hire drivers.
- 2.2 Following a discussion with the Chair, the following proposed sub committee memberships are set out for Members consideration / discussion.

Licensing Sub Committees for premises licences: -

1. George Morris (Chair), Trish Lawton, Peter Jackson
2. Ray Martin-Wells (Chair), Mary Fleet, Paul Beck
3. Jim Ainslie (Chair), Ged Hall, Alan Barclay
4. Rob Cook (Chair), Steve Gibbon, Sheila Griffin

Licensing Sub Committees for hackney carriage and private hire licences: -

1. George Morris (Chair), Trish Lawton, Peter Jackson, Alan Barclay
2. Ray Martin-Wells (Chair), Mary Fleet, Paul Beck, Rob Cook
3. Ged Hall (Chair), Jim Ainslie, Steve Gibbon, Sheila Griffin

While it is accepted that political balance is difficult to maintain on sub committees of three, there should at least be two parties represented on each sub committee. The proposals set out meet that requirement as far as practicable.

### **3. LEGAL CONSIDERATIONS**

- 3.1 The Local Government and Housing Act, 1989, requires 'as far as practicable' that a local authority allocates seats on Committees and Sub Committees in the same proportion to reflect the number of Members in each political group to the overall membership of the authority. It is therefore open to the Licensing Committee to agree the composition (in this case) of its Sub Committees which departs from the above principle, where it is appropriate and practicable to do so. This would apply where the nominations received required the various Sub Committees to have a 'disproportionate' number of Members from the same political group, in order to allow its business to be transacted.

### **4. RECOMMENDATION**

The Committee is requested to consider and agree the Sub Committee memberships set out above.

### **5. REASONS FOR RECOMMENDATIONS**

Without the vacancies being filled the Licensing Sub Committees cannot operate properly as a minimum of three members need to be present.

### **6. BACKGROUND PAPERS**

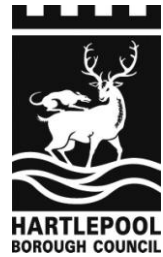
Licensing Act Committee Minutes 7 January 2005  
Licensing Act Committee Minutes 27 July 2005  
Licensing Committee Minutes 15 March 2006  
Licensing Committee Minutes 2 July 2008  
Licensing Committee Minutes 29 July 2009  
Extraordinary Council Minutes 6 March 2013  
Licensing Committee Minutes 23 July 2014

### **7. CONTACT OFFICER**

Jo Stubbs, Democratic Services Officer  
01429 523568  
Jo.stubbs@hartlepool.gov.uk

# LICENSING COMMITTEE

17<sup>th</sup> June 2015



**Report of:** Director of Public Health

**Subject:** HOUSE TO HOUSE COLLECTIONS

## 1. PURPOSE OF REPORT

- 1.1 To seek the views of Members on issues surrounding the consideration of applications for House to House Collection licences.

## 2. BACKGROUND

- 2.1 By virtue of the House to House Collections Act 1939 and the House to House Regulations 1947 anyone wishing to carry out a house to house collection for charitable purposes must first obtain a licence from the local authority.
- 2.2 House to house collections regularly take place in Hartlepool and typically involve the unsolicited delivery of plastic bags to local residents asking for donations of clothing and other items such as books, shoes or anything of value in order to benefit a good cause or charity.
- 2.3 Residents are asked to leave bags of donations on the street or doorstep which are then collected and transported to regional centres where they are sorted and sold for a profit.
- 2.4 If the charity has engaged a commercial collection company the costs of the collection will be recovered from the proceeds and the remainder will be regarded as 'profit'. If collection costs are high, the amount of profit will be low. The profit, or sometimes a proportion of the profit, is then donated to the good cause.
- 2.5 A House to House Collection licence must be granted by a licensing authority unless it believes there are grounds to refuse it. The grounds for refusal are as follows: -
- i. That the total amount likely to be applied to the charitable purpose as a result of the collection is inadequate in proportion to the value of proceeds likely to be received

- ii. That remuneration that will be retained or received is excessive
  - iii. That granting the licence would facilitate the commission of an offence under the Vagrancy Act
  - iv. That the applicant is unfit due to previous criminal convictions
  - v. That the applicant has failed to ensure that the persons conducting the collection are fit and proper
  - vi. That the applicant has failed to supply the local authority with relevant information
- 2.6 In April 2011, following a significant increase in the number of collections being requested and, in some instances, the very low amount of benefit that was being received by the good causes being 'promoted', the issue of house to house collections was considered by the Licensing Committee.
- 2.7 The Committee determined to introduce a policy that states that for an application to be approved, the applicant must be able to demonstrate that either: -
- i. A minimum of 75% of the proceeds (not the profits) of the collection are donated to the good cause, or
  - ii. That, where the percentage is less than 75%, the collection bag or collection leaflet clearly and prominently states the percentage that will be donated.
- 2.8 At a meeting of the Licensing Committee on 28<sup>th</sup> January 2015 Members were asked whether the current policy should remain as it was resulting in what could be seen as a legitimate charity having its house to house collections refused as it was unable and unwilling to meet the requirements of Hartlepool's policy.
- 2.9 The Chief Executive of the Great North Air Ambulance attended the meeting and explained how a trading company had been established to carry out its collections and donate the resulting 'profit' to the Great North Air Ambulance charity.
- 2.10 It was explained however, that around 80% of the value of the donations was retained to cover the costs of the trading operation and therefore only around 20% of the value of goods donated was actually being paid over to the charity. The Great North Air Ambulance was therefore unable to meet Hartlepool's policy requirement that at least 75% of the value of donations be paid to the good cause being promoted.
- 2.11 The Chief Executive also stated that Hartlepool's alternative requirement of printing the actual donated percentage onto the collection leaflets was 'impractical'.
- 2.12 The Licensing Committee considered the representations made by the Great North Air Ambulance and granted a short term approval for collections to continue and determined to re-consider its policy at a later date.

### 3. DETAILS

- 3.1 Hartlepool's current policy states that an applicant for a House to House Collection licence must be able to demonstrate that either: -
- i. A minimum of 75% of the proceeds (not the profits) of the collection are donated to the good cause, or
  - ii. That, where the percentage is less than 75%, the collection bag or collection leaflet clearly and prominently states the percentage that will be donated.
- 3.2 The licensing committee has heard from the Chief Executive of the Great North Air Ambulance who stated that Hartlepool's current policy is too onerous for businesses that operate across many local authority boundaries and therefore it is a requirement that cannot be practically or economically be met.
- 3.3 Information provided by the National Association of Licensing and Enforcement Officers states that published accounts from collectors across the country indicate that a typical percentage of proceeds donated to good causes is around 20%.
- 3.4 Whilst Hartlepool's current policy requires a minimum of 75%, it must be remembered that applicants can still have their applications approved if they are willing to provide potential donors with details about the true percentage of proceeds to be donated.
- 3.5 It may be considered that this policy introduces transparency into the house to house collection business as it requires collectors to explain how much of the value of goods collected will be donated to the good cause.
- 3.6 Members may feel that it is appropriate to retain a policy that challenges the efficiency of house to house collections whilst recognising that the current figure of 75% may be too high to allow legitimate charities to carry on collecting.
- 3.7 Since Hartlepool adopted its current policy in 2011 the number of House to House applications being granted has fallen considerably. It could be argued that this has reduced the amounts being raised for good causes, or, alternatively, that the same level of donations are being made but to more efficient collectors.
- 3.8 The options available to the committee may be summarised as follows: -
- i. Retain the policy as detailed in paragraph 3.1
  - ii. Retain the policy as detailed in paragraph 3.1 but amend the 75% donation figure to, for example, 50% (or some other figure Members considered appropriate)

- iii. Remove the requirement for a minimum percentage to be donated and replace it with a requirement for all collections to detail the percentage of proceeds to be donated
- iv. Withdraw the policy altogether and approve all applications

**4. SECTION 17**

- 4.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as 'Section 17'.
- 4.2 There are no Section 17 issues associated with this matter.

**5. RECOMMENDATIONS**

- 5.1 That Members note the contents of this report.
- 5.2 That Members consider the options detailed in paragraph 3.8 and determine which of the options should be adopted.

**6. REASONS FOR RECOMMENDATIONS**

- 6.1 The current House to House Collections policy introduces transparency into the house to house collection business as it requires collectors to either donate a significant majority of the value of goods collected or to explain how much of the value of goods collected will be donated to the good cause.

**7. BACKGROUND PAPERS**

- 7.1 Licensing Committee report and minutes – 13<sup>th</sup> April 2011  
Licensing Committee report and minutes – 28<sup>th</sup> January 2015

**8. CONTACT OFFICER**

Louise Wallace  
Director of Public Health  
Hartlepool Borough Council  
Tel: 01429 284030

[Louise.wallace@hartlepool.gov.uk](mailto:Louise.wallace@hartlepool.gov.uk)



**Report of:** Director of Public Health

**Subject:** LICENSING ACT LICENSING POLICY

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## **1. PURPOSE OF REPORT**

- 1.1 To seek approval of the proposed licensing policy as required by the Licensing Act 2003.
- 1.2 To seek approval for the commencement of a consultation exercise relating to the draft licensing policy.

## **2. BACKGROUND**

- 2.1 Section 5 of the Licensing Act 2003 states that each licensing authority must determine and publish a licensing policy every five years.
- 2.2 A licensing policy details how the licensing authority intends to discharge its licensing functions and also how it expects licence holders to contribute towards the promotion of the Act's four licensing objectives which are: -
  - Prevention of public nuisance
  - Public safety
  - Prevention of crime and disorder
  - Protection of children from harm
- 2.3 A licensing policy does not create new obligations for existing licence holders but can be referred to when considering new applications or variations to existing licences.
- 2.4 The current licensing policy became effective as of 1<sup>st</sup> January 2011 and, as such, a new or revised policy must be published no later than 1<sup>st</sup> January 2016.
- 2.5 Subject to Committee's agreement it is proposed that the current policy be retained, with only minor amendments, as a basis for consultation and a further report be brought back to Committee in November 2015. A formal recommendation for adoption of the policy can then be made by the Committee, to full Council, at its meeting in December 2015.



- 2.6 A copy of the proposed draft policy is attached as **Appendix 1**.

### 3. ISSUES FOR CONSIDERATION

- 3.1 The proposed policy does not differ significantly from the policy that has been in place since 2011 and which, in general terms, follows national guidance.

- 3.2 There are however, three proposed amendments to the current policy which are: -

- i. The introduction of an expectation that 'vertical drinking establishments' will use plastic glasses after midnight
- ii. The introduction of an expectation that all licensed premises will not sell alcohol below 50p per unit of alcohol
- iii. An amendment to the 'cumulative impact area' which has been part of the Council's licensing policy since 2004

#### 3.3 Plastic Glasses

- 3.4 Members will be aware that broken glasses and bottles can, in the wrong hands, sometimes be used as a stabbing weapon that can cause very serious injury.

- 3.5 Whilst 'glassings' are thankfully very rare, their potential consequences can be so severe that it is appropriate to consider whether more steps can be taken to reduce the risks involved.

- 3.6 The draft policy contains an expectation that 'vertical drinking establishments' would use plastic glasses after midnight. A 'vertical drinking establishment' is a well known term within the licensed trade and relates to premises where all, or the significant majority, of customers are expected to stand whilst drinking.

- 3.7 Most late night premises in Hartlepool could be defined as being 'vertical drinking establishments'.

- 3.8 The proposed condition specifically refers to plastic and not toughened glass as toughened glass can be extremely hard meaning that whilst it cannot be broken to create a stabbing weapon, it can still cause serious blunt force injuries if thrown.

- 3.9 The proposed condition will not require all licensed premises to introduce plastic glasses. It will however create an expectation for new licensees and could also be referred to if an existing premises licence is called in for review.

- 3.10 As with all matters contained in the licensing policy it would be for the applicant (or licence holder in the event of a review) to satisfy a licensing sub-committee that the plastic glasses condition should not be applied to them.

### 3.11 Minimum Unit Pricing

3.12 A minimum unit price of alcohol refers to the allocation of a fixed minimum price for each unit of alcohol contained within an alcoholic drink.

3.13 In the UK a unit of alcohol is defined as 10ml of pure alcohol.

3.14 A 440ml can of 5% strength lager contains 22ml of pure alcohol – equating to 2.2 units.

A 700ml bottle of 37.5% strength vodka contains 262ml of pure alcohol – equating to 26.2 units.

A 175ml glass of 11% strength wine contains 19ml of pure alcohol – equating to 1.9 units.

3.15 A minimum unit price of 50p per unit of alcohol would result in a product that contained 2 units of alcohol costing a minimum of £1. A drink containing 10 units of alcohol would cost a least £5 and so on.

3.16 The draft licensing policy states that the Council recognises the link between cheap prices and higher alcohol consumption and creates an expectation that licensees will price their products responsibly. The policy refers to a minimum price of 50p per unit which is the figure generally accepted as one that would have a significant impact on those with harmful drinking habits whilst having minimal impact on responsible, casual drinkers.

3.17 The introduction of a minimum pricing expectation within the licensing policy does not make it a criminal offence to supply alcohol below 50p per unit but it will provide licensing sub-committees with the opportunity to consider whether a licensee is pricing their products responsibly.

### 3.18 Cumulative Impact Area (CIA)

3.19 The statutory guidance that accompanies the Licensing Act states that licensing authorities can designate specific areas as being saturated where the promotion of the licensing objectives may be affected by a significant number of licensed premises concentrated in one area. There is an expectation that CIA's will be regularly reviewed.

3.20 The adoption of a CIA creates a rebuttable presumption that any further applications for licences within the designated area will be refused unless the applicant can demonstrate to the licensing authority that the granting of a licence will not determinately impact on the licensing objectives.

3.21 Hartlepool has included a CIA in its licensing policy since the Licensing Act was first introduced and, during that time, the area has always remained the same. The current CIA is attached as **Appendix 2**.

3.22 As a significant number of licensed premises have closed over recent years it has become necessary to re-visit and redefine the current CIA.

3.23 The proposed new area which no longer includes the area West of Park Road, North of Errol Street and South of Park Road is attached as **Appendix 3.**

#### **4. EQUALITY AND DIVERSITY CONSIDERATIONS**

4.1 There are no equality or diversity implications.

#### **5. SECTION 17**

5.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as 'Section 17'.

5.2 The adoption of an effective licensing policy will contribute towards reducing crime and disorder.

#### **6. RECOMMENDATIONS**

6.1 That Members note the contents of this report and approve the draft licensing policy required by the Licensing Act as detailed in Appendix 1.

6.2 That Members approve the commencement of consultation on the draft licensing policy as contained in Appendix 1.

#### **7. BACKGROUND PAPERS**

7.1 There are no background papers to accompany this report.

#### **8. CONTACT OFFICER**

Louise Wallace  
Director of Public Health  
Hartlepool Borough Council  
Tel: 01429 284030  
Louise.wallace@hartlepool.gov.uk



# HARTLEPOOL BOROUGH COUNCIL

## STATEMENT OF LICENSING POLICY

2016

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APPENDIX ONE

APPENDIX TWO

## **1. INTRODUCTION**

- 1.1 This policy statement is based on the provisions of the Licensing Act 2003 and has taken full account of the Guidance issued under section 182 of the Licensing Act 2003 by the Secretary of State for the Department of Culture, Media and Sport (DCMS).
- 1.2 This policy will apply for a period of five years from 1<sup>st</sup> January 2016. It will be kept under review and revised/amended if considered appropriate to support the licensing objectives. Any policy changes or revisions will be subject to consultation.

### **The Borough of Hartlepool**

- 1.3 Hartlepool Borough Council, acting as the licensing authority for the Licensing Act, recognises the benefits to Hartlepool of a thriving service economy and wishes to promote, wherever possible, a town that meets and exceeds the requirements of its residents and visitors. However, the licensing authority recognises that certain types of licensed premises, particularly those offering alcohol and/or music, may have a detrimental impact on those who live nearby through the escape of noise or the actions of patrons both on and off the premises.
- 1.4 The licensing authority intends to seek a balance between the needs of residents and local businesses by using this Licensing Policy, and other strategies, to promote and encourage well-managed, neighbour friendly licensed premises that represent a positive addition to life in Hartlepool.

### **Legal Background to this Policy Statement**

- 1.5 Hartlepool Borough Council, acting as the licensing authority, is able to grant or reject applications for the sale of alcohol, the provision of regulated entertainment or late night refreshment. Conditions designed to ensure safety, protect children from harm, prevent crime, disorder and public nuisance will be attached to licences where appropriate. However, the ability of licensing authorities to grant licences and attach conditions is limited by provisions in the Act, Regulations made under the Act and by guidance from the Secretary of State. The licensing authority must have regard to the guidance and will deviate only where there are justifiable reasons for doing so.
- 1.6 In formulating this policy document the licensing authority has had regard to the provisions of the European Convention on Human Rights, recognising that everyone has the right to respect for his/her home and private life and that every person is entitled to the peaceful enjoyment of his/her possessions (including a licence).

- 1.7 The Human Rights Act 1998 makes it unlawful for a public authority to act in a way which will be incompatible with a convention right. The licensing authority will endeavour to ensure that any licensing decision does not cause a breach of a convention right.
- 1.8 The licensing authority in taking into account the provisions of the Crime & Disorder Act 1998 will also have regard to the likely effect of the exercise of their functions on crime and order in their area and do all they can to prevent such crime and disorder.

## **2. PURPOSE AND SCOPE OF THE LICENSING POLICY**

### **Purpose**

- 2.1 The licensing policy has four main purposes:
  - To reinforce to elected Members on the Licensing Committee, the boundaries and powers of the local authority, and to provide them with parameters under which to make their decisions.
  - To inform the licence applicants of the parameters under which the authority will make licence decisions, and therefore how a licensed premises is likely to be able to operate within the area. (Note however that each case will be examined on an individual basis.)
  - To inform residents and businesses of the parameters under which the authority will make licence decisions, and therefore how their needs will be addressed.
  - To support decisions made by the licensing authority when these decisions are challenged in a court of law.

### **Scope**

- 2.2 The Act is concerned about the supply and sale of alcohol, the provision of certain entertainment and late night refreshment.
- 2.3 Activities that require a licence under the Licensing Act 2003 and covered by this policy include:
  - Retail sale of alcohol
  - Supply of hot food or drink from a premises from 23.00 to 05.00 hours
  - Supply of alcohol or provision of regulated entertainment to club members or guests
  - Provision of entertainment listed below (known as regulated entertainment) to the public or section of the public or club members or with a view to profit:

- Performances of a play
- Exhibition of a film
- Indoor sporting events
- A boxing or wrestling entertainment
- Live music performances
- Playing of recorded music
- Dance performances
- Provision of facilities for making music
- Provision of dancing facilities

- 2.4 The scope of the policy covers new applications, renewals where appropriate, transfers and variations of licences and certificates including where applicable temporary events notices. It will also include review of licences and certificates which may lead to the revocation of a licence or certificate.

### **3. TYPES OF LICENCES**

#### **Personal Licences**

- 3.1 A personal licence will be granted where an applicant:
- is aged 18 or over
  - possesses an accredited licensing qualification
  - has not forfeited a personal licence in the last 5 years
  - has not been convicted of a relevant offence
- 3.2 The licensing authority will, however, reject any application where the applicant fails to meet a), b) or c).
- 3.3 Where an applicant has an “unspent” relevant conviction, the police may oppose the application. If such an objection is lodged a licensing hearing will be held. Where no such application is received from the police, the licensing authority will grant the licence.
- 3.4 At a hearing the licensing authority will consider carefully whether the granting of a licence will be in keeping with the promotion of the crime and disorder objective. Considerations will include the seriousness and relevance of the conviction(s), the period that has elapsed since the offence(s) were committed and any mitigating circumstances. The licensing authority will only grant the application if it is satisfied that doing so will promote this objective.
- 3.5 Reason(s): Prevention of crime and disorder is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. The holder of a personal licence should be a person who is not only properly qualified but a person who will assist the fight against crime. Granting a licence to a known criminal will, in many cases, undermine rather than promote the crime and disorder objective.



## **Premises Licences and Club Premises Certificates**

- 3.6 An application for a premises licence or club premises certificate must consist of: -
- an application form, in the prescribed format, detailing the licensable activities and proposed operating hours
  - an operating schedule
  - a plan of the premises to which the application relates
  - the appropriate fee
- 3.7 If the licensable activities include the sale of alcohol a consent form from the individual agreeing to be the designated premises supervisor will also be required (not required for club premises certificates).
- 3.8 The application must be advertised in the prescribed manner.

## **4. LICENSING PRINCIPLES**

### **General**

- 4.1 In carrying out its licensing functions the authority will promote the licensing objectives set out in the Act. These are:
- the prevention of crime and disorder;
  - public safety;
  - the prevention of public nuisance; and
  - the protection of children from harm
- 4.2 To achieve these objectives the authority will use its full range of powers and consider all relevant responsibilities including its planning controls, transport controls and crime and disorder policies. The authority will enter into appropriate partnership arrangements, working closely with the police, the fire authority, local businesses, community representatives and local people in meeting these objectives.
- 4.3 In determining a licence application the overriding principle adopted by the licensing authority will be that each application will be determined on its individual merits.
- 4.4 The Act covers the licensing of individuals for the retail sale of alcohol (personal licences), the licensing of premises for the retail sale of alcohol, the provision of regulated entertainment or late night refreshment (premises licences), the supply of alcohol and/or the provision of regulated entertainment from certain clubs (club premises certificates) and the permitting of certain licensable activities on a temporary basis (temporary event notices).

- 4.5 In general a reference in this policy to a licence will include a club premises certificate.

### **Duplication**

- 4.7 So far as possible, this Policy is not intended to duplicate existing legislation and regulatory regimes that are already placed on employers and operators, e.g. Health and Safety at Work etc. Act 1974. Conditions in respect of public safety will be attached to licences only if they are considered necessary for the promotion of the licensing objectives. However, it is likely that there may be duplication with regard to the imposition of some planning conditions.

### **Licence Conditions**

- 4.8 Licensing is about regulating the carrying on of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act. Conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others granted relevant authorisations.

Conditions will be specifically tailored to the premises and activities to be undertaken, with a view to ensuring the licensing objectives are achieved.

- 4.9 Licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are away from licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned.
- 4.10 The licensing authority will not impose blanket standard conditions. Licence conditions will be tailored to the individual application to help promote the licensing objectives. Where appropriate, conditions from the DCMS standard “pool” of conditions will be used. Licence conditions will not be imposed where it is considered that other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
- 4.11 In the spirit of openness, transparency and reasonableness, licensing authority officers will seek to discuss proposed conditions in advance with the applicant and/or representative with the aim of achieving a mutually agreeable level of protection to the public and fulfilment of the licensing objectives.

## Alcohol Harm Reduction

- 4.12 The licensing authority recognises that for most people alcohol represents an enjoyable addition to well-balanced social activities. However, there is increasing concern that for some people alcohol misuse is leading to self harm and social nuisance.
- 4.13 In determining licence applications, the licensing authority will have regard to the Government's Alcohol Harm Reduction Strategy and commends to all applicants the Portman Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older.

## Protection of Children

- 4.14 Whilst the protection of children from harm is a primary licensing objective, the licensing authority will not normally impose conditions restricting or prohibiting the admission of children to licensed premises, believing this should remain a matter of discretion for the licence holder and has taken account of the view of DCMS that the use of licensed premises by children should be encouraged. However, conditions designed to protect children will be imposed where necessary.
- 4.15 The licensing authority will not impose any licence conditions requiring the admission of children to licensed premises.
- 4.16 Examples of premises where the introduction of additional controls are likely to be necessary are:
- Where entertainment or services of an adult or sexual nature are commonly provided.
  - Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or premises with a reputation for underage drinking.
  - Where there is a known association with drug taking or dealing.
  - Where there is a strong element of gambling on the premises.
  - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
  - Where entertaining or providing facilities for the entertainment of children is a significant part of the premises' operation.
- 4.17 In such circumstances, additional conditions may be imposed where considered necessary for the prevention of harm to children. These may include: -
- Limitations on the hours when children may be present
  - Age limitations
  - Limitations on the parts of premises to which children will be given access

- Requirements for accompanying adults
  - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 4.18 Where the exhibition of films is permitted, the licensing authority will impose a condition requiring the exhibition of films to be limited to only those age groups recommended by either the British Board of Film Classification or the licensing authority. For such films, licensees must indicate in their operating schedules how such action will be assured. Only in exceptional cases will variations of this general rule be granted by the licensing authority and then only with appropriate safeguards.
- 4.19 In relation to specialist Film Festivals where it is desired to show films not classified by the BBFC the Licensing authority will, provided adequate notice has been given, classify the films concerned. Information regarding such classifications will be available for inspection at the Civic Centre, Victoria Road, Hartlepool. To achieve consistency and the protection of children the licensing authority will use the guidelines published by the BBFC.
- 4.20 In connection with the protection of children from harm, the licensing authority will provide details of which body is responsible for such matters. Details of licence applications, where relevant, should be forwarded to this nominated body for examination.
- 4.21 Where there is provision of entertainment specifically for children (e.g. a children's disco) the licensing authority will require the presence of sufficient adults to control the entertainment and the access and egress of the children to ensure their safety.
- 4.22 Where it is the intention of the licensee to offer responsibility for the supervision of children as part of a licensable activity, the licensing authority may require licensees to take appropriate measures to ensure the suitability of employees for such purposes – this may involve employees providing a Criminal Records Bureau Disclosure. Even where not specifically required by the licensing authority, all licensees are encouraged to ensure that only suitable staff are allowed to work with children.

### **Designated Premises Supervisors**

- 4.23 The sale and supply of alcohol, because of its impact on the wider community and on crime and anti-social behaviour, carries with it greater responsibility than that associated with the provision of regulated entertainment and late night refreshment.
- 4.24 Because of this the licensing authority expects that the designated premises supervisor (DPS) for a licensed premises will be able to demonstrate that they are in day to day control of the premises, playing an active role in its operation through a regular personal presence.

## **Licensing Hours**

- 4.25 The licensing authority does not accept that longer opening hours have been a benefit to Hartlepool but rather that they place an undue and unnecessary strain on the local transport infrastructure, Accident & Emergency services and law enforcement agencies and creates a nuisance for those residents who are affected by the general operation of a premises or from revellers returning home during the early hours.

Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping but licences for before 9:00 a.m. or after 10:00 p.m. in residential areas will generally be refused. In addition, licence applications for the supply of alcohol for consumption on the premises for before 9:00 a.m. or after 11:30 p.m. in residential areas will generally be refused.

In non residential areas applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 2:00 a.m. will normally be refused subject to relevant representations being received.

- 4.26 Whilst zoning will not be adopted, the licensing authority will impose stricter conditions with regard to noise control in areas which have denser residential accommodation.

## **Live Music, Dancing & Theatre**

- 4.27 The licensing authority recognises that traditional cultural activities such as music and dancing should be encouraged as part of a wider cultural strategy. Account should be taken of the need to encourage and promote entertainment such as live music, dancing and theatre for the wider cultural benefits of communities generally.
- 4.28 Only conditions considered necessary, proportionate and reasonable for the promotion of the licensing objectives will be attached to licences for activities of this nature. The authority will avoid measures that may deter live music, dancing and theatre by imposing unjustified indirect substantial costs. The licensing authority will closely monitor the impact of licensing on such activities and, where a negative impact can be identified, will re-visit the Licensing Policy with a view to investigating how the situation might be reversed.

## **Enforcement**

- 4.29 Where necessary, enforcement action will be taken in accordance with the principles of the Regulators Code and the Council's Licensing Enforcement Policy.

- 4.30 In particular, regard will be had to the fundamental principles recommended by the Better Regulation Task Force for good enforcement:
- Targeting - i.e. focusing on activities that give rise to the most serious risks or where hazards are least well controlled.
  - Consistency - i.e. similar approaches in similar circumstances to achieve similar ends.
  - Transparency - i.e. helping duty holders to understand what is expected and distinguishing between statutory requirements and guidance.
  - Proportionality - i.e. action taken should be proportional to the risk presented.
- 4.31 The authority will establish protocols with the local police and the fire brigade on enforcement issues to avoid duplication and to provide for the most efficient deployment of council, police and fire officers in respect of inspection of licensed premises and the enforcement of licensing law.
- 4.32 Furthermore the policy of the Council will be a light touch inspection regime for well managed and maintained premises with a targeted and increased inspection and enforcement regime for “high-risk” premises and those suspected of not being operated within the terms and conditions of the licence.

### **Integration of Strategies and Other Policies**

- 4.33 Hartlepool Borough Council fully recognises and endorses the value of good relations between persons of different racial groups. The licensing authority recognises the obligations placed upon it by the Equality Act 2010 and will ensure that this Policy promotes race equality and the elimination of unlawful discrimination.
- 4.34 The Council will integrate its various strategies to achieve consistency and transparency in the achievement of the licensing objectives.
- 4.35 Arrangements for reporting to local authority transport committees will be made to ensure transport strategies take account of the need to quickly disperse people from busy town centre areas to reduce the potential for nuisance and disturbance.
- 4.36 Arrangements will be made for the reporting of Hartlepool’s employment situation and the needs of the local tourist economy to the licensing committee to ensure that these issues are taken into account when licensing matters are being considered.
- 4.37 Licence conditions will reflect local crime prevention strategies and input from the Safer Hartlepool Partnership.

## 5. CONSIDERATIONS

### General Requirements

- 5.1 The licensing authority will expect individual applicants to address the licensing objectives in their operating schedule, (as required under the Act). The operating schedule will have regard to the nature of the area where the premises are situated, the type of premises concerned, the licensable activities to be provided, the times during which it is proposed that relevant licensable activities are to take place and details of other times during which it is proposed that the premises are to be open to the public.
- 5.2 In many cases it may be helpful to all concerned for Council officers to discuss with applicants and/or their advisers a draft operating schedule before it is formally submitted, e.g. as happens with the existing One Stop Shop approach. This will help ensure it properly addresses all the issues of concern to the council. Where licensable activities include the supply of alcohol, specified information on the individual identified as premises supervisor shall be supplied as well as whether the supply of alcohol is proposed for consumption on and/or off the premises and operational procedures.

### Nuisance

- 5.3 The licensing authority will expect the operating schedule to clearly demonstrate actions intended to ensure the operation will be “neighbour friendly”. In particular, the applicant shall propose adequate practical steps to prevent disturbance to local residents.
- 5.4 The licensing authority does not accept that longer opening hours have been a benefit to Hartlepool but rather that they place an undue and unnecessary strain on the local transport infrastructure, Accident & Emergency services and law enforcement agencies and creates a nuisance for those residents who are affected by the general operation of a premises or from revellers returning home during the early hours.
- 5.5 Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping but licences for before 9:00 a.m. or after 10:00 p.m. in residential areas will generally be refused. In addition, licence applications for the supply of alcohol for consumption on the premises for before 9:00 a.m. or after 11:30 p.m. in residential areas will generally be refused.
- 5.6 In non residential areas applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 2:00 a.m. will normally be refused subject to relevant representations being received.

- 5.7 In relation to noise from within the building the licensing authority will expect the applicant to have carried out acoustic tests to ascertain whether there is sound leakage. This noise could relate not only to entertainment but also from air handling equipment or patrons. The licensing authority will expect potential noise breakout to have been addressed in practical ways such as:
- Keeping doors and windows closed and providing suitable mechanical ventilation
  - Reducing sound levels and installing a suitable noise limiting device, calibrated and set at a limit approved by Council officers, to prevent sound exceeding an appropriate level
  - Installing soundproofing measures to control noise breakout and vibration to a level acceptable to the Council.
- 5.8 The licensing authority will expect venues that attract queues to formulate a scheme to avoid disturbance to nearby residents. In some cases this may be achieved by simply ensuring that the direction of the queue is away from residential accommodation.
- 5.9 However, possible excessive noise generated by customers and/or disorder requires more rigorous action. It is important that queues formed later in the evening or in early morning are adequately supervised to keep noise/disorder to a minimum. Such action can also help stop drug dealing during the queuing process but the prime purpose will be to prevent noise and disturbance. Door supervisors will generally be expected to carry out this role, but they must be adequately trained and given clear instructions as to their duties and responsibilities – where necessary they should be adequately supervised by a suitably nominated person or persons.
- 5.10 In terms of patrons leaving the premises, particularly late at night or early in the morning, the licensing authority will expect the applicant to indicate in their operating schedule that consideration has been given to, and included where appropriate, such practical steps as:
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors, etc
  - At appropriate times making announcements to the same effect.
  - Instructing door staff to ask customers leaving the premises to leave the area quietly
  - Reducing the volume of music towards closing time and where appropriate playing quieter, more soothing music.
  - The availability of licensed taxis or private hire vehicles to take patrons from the premises
  - In appropriate cases door supervisors or a premises manager patrolling nearby streets periodically to assess for themselves whether there is a noise or disorder problem and how best to deal with it
  - Banning from the premises people who regularly leave in a noisy fashion.
  - Increasing outside lighting levels



- Where there is a private forecourt, yard, etc, preventing patrons from using it for eating and drinking etc after a certain time. Planning conditions are usually imposed to restrict use after 8.00 pm or at sunset where adjacent to residential properties.
- 5.11 Reason(s): It is extremely irritating to residents disturbed by the sound of music escaping from licensed premises. Noise breakout may preclude the grant of a licence or if one has already been granted, for it to be reviewed with a view to possible revocation. It may also lead to a noise abatement notice being issued under the Environmental Protection Act. Responsible applicants and licensees will be expected to avoid the need for such action and promote the licensing objective of preventing public nuisance.
- 5.12 There can be little doubt that a well-managed licensed venue can benefit the local community. However, there is clearly a risk of local residents being disturbed particularly if the venue is open late at night. People leaving the premises, particularly late at night or in the early hours of the morning, can be a significant problem. Customers may be less inhibited about their behaviour and may be unaware of the noise they are creating.
- 5.13 A responsible applicant or licensee will wish to further the licensing objective of preventing public nuisance by introducing practical measures such as those referred to above to prevent such nuisance.

### **Prevention of Crime and Disorder**

- 5.14 The licensing authority does not accept that longer opening hours have been a benefit to Hartlepool but rather that they place an undue and unnecessary strain on the local transport infrastructure, Accident & Emergency services and law enforcement agencies and creates a nuisance for those residents who are affected by the general operation of a premises or from revellers returning home during the early hours.

Shops, stores and supermarkets will in general be licensed to provide sales of alcohol for consumption off the premises at any time when the retail outlet is open for shopping but licences for before 9:00 a.m. or after 10:00 p.m. in residential areas will generally be refused. In addition, licence applications for the supply of alcohol for consumption on the premises for before 9:00 a.m. or after 11:30 p.m. in residential areas will generally be refused.

In non residential areas applications for licences to allow the sale of alcohol or the supply of late night refreshment beyond 2:00 a.m. will normally be refused subject to relevant representations being received.

- 5.15 The licensing authority will expect an applicant to indicate in their operating schedule the steps proposed to prevent crime and disorder such as:
- Use of CCTV both within and outside the premises
  - Procedures to prevent the supply of alcohol to those already drunk
  - Metal detection and search facilities

- Procedures for risk assessing promotions and events such as “happy hours” for the potential to cause crime and disorder, and plans for minimising such risks
  - Measures to prevent the use or supply of illegal drugs
  - Employment of licensed door supervisors and other appropriately trained staff
  - Participation in an appropriate scheme designed to ensure effective liaison with the local community
- 5.16 Reason(s): Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Council under the Crime and Disorder Act 1998. It is important, therefore, that the applicant is able to demonstrate to the licensing authority the practical steps that will be taken to further this objective.
- 5.17 Premises that are supplying alcohol for consumption on the premises after midnight and whose operation, at that time, is primarily or significantly of the ‘vertical drinking’ format, shall provide all drinks in plastic glasses.
- 5.18 Reason: Standard drinking glasses are made of annealed glass that, when broken, can create long shards which can be used as a stabbing weapon. Toughened glass will shatter completely when broken but, due to its manufacturing process, is extremely hard and may cause blunt force injuries if thrown or used as a weapon.
- 5.19 Rigid or flexible plastic glasses will not shatter when broken and will not cause blunt force injuries. As such, the licensing authority believes such a condition is a reasonable and proportionate requirement that will prevent those serious injuries that occur when drinking glasses are used as weapons.

### **Construction/Maintenance and Safety**

- 5.20 The licensing authority will expect licensed premises to meet all legal safety requirements, but in addition wishes to promote the highest possible standards of safety for patrons and others who may be affected by a licensed premises. It will expect the applicant to have addressed the requirements of Health and Safety at Work and Fire Safety legislation and, where appropriate, other technical standards that may be appropriate for the premises concerned.
- 5.21 The licensing authority will also expect the operating schedule to detail how the premises will be properly managed and maintained to ensure public safety at all times.
- 5.22 The licensing authority expects licensed premises to be a safe environment and applicants will be expected to consider how customers can be kept safe from foreseeable risks.

- 5.23 For those premises that operate 'vertical drinking' applicants will be expected to consider the introduction of plastic drinking glasses after midnight.
- 5.24 Reason: There are many incidents of people being seriously injured when a glass, or bottle, has been used as a weapon on licensed premises. Whilst the use of toughened glass can prevent a glass being broken and used as a stabbing weapon, the toughening process makes it extremely hard and, if thrown, it can still cause serious blunt force injuries. Plastic glasses will not pose any stabbing or blunt force injury risks.

### **Pricing of Alcohol**

- 5.25 The Licensing Authority will encourage all licensed premises to apply a minimum price of 50p per unit of alcohol to all products sold under their premises licence. (The unit pricing will be reviewed in line with national Guidance.)
- 5.26 Where licensed premises are found to be selling alcohol below this price, and problems associated with that premises are in breach of the licensing objectives, a responsible authority or interested party may bring a review. Following the review, the Licensing Committee may impose a condition in relation to the pricing of alcohol, in order to uphold the licensing objectives.
- 5.27 The Licensing Authority will expect applicants to demonstrate in their operating schedule how the pricing of alcohol products on sale in their premises will not negatively impact on the licensing objectives.
- 5.28 **Reason:** The licensing authority believes the price of a product influences its demand and, where alcohol is sold cheaply, consumers may be encouraged to buy, and consume, more of it.
- 5.29 The expectation that licensees will not sell alcohol below the stated minimum unit price does not create a legally binding obligation but it does place a duty on licensees to take into account the price of the alcohol they sell and the effect that price may have on levels of alcohol consumption.
- 5.30 If a licence is reviewed and the Licensing Authority believes that one or more of the licensing objectives has been undermined because of the price that alcohol has been sold at, it may impose a condition on the licence to prevent irresponsible pricing in future.

### **Access for Persons with Disabilities**

- 5.31 All premises are expected to provide adequate facilities and access for people with disabilities. The needs of disabled people must therefore be addressed in the operating schedule.

- 5.32 Reason(s): Wherever practicable, persons with disabilities should not be treated in a less advantageous way. In addition, responsibilities under the Disability Discrimination Act 1995 will need to be considered and adequate facilities provided in premises where necessary.

### **Publicity**

- 5.33 All those affected by an application should be made aware of its existence and of the opportunity to make representations. In an attempt to ensure this is achieved, applications for a premises licence will be advertised in accordance with statutory requirements.
- 5.34 Reason(s): The grant of a licence can have a significant impact on the lives or businesses of those living or working in the vicinity of premises for which a licence is sought. Therefore, all those likely to be affected by an application have the right to be made aware of it and of the opportunity to make representations.

### **Other Policies, Objectives and Guidance**

- 5.35 Applicants for licences will be expected to have taken into account relevant strategies and policies such as the local crime prevention strategies, planning and transportation policies, tourism and cultural strategies in determining their operating schedules.
- 5.36 In addition to the above, applicants will also be expected to address the impact of their premises on the local community and demonstrate that matters such as the prevention and clearance of litter and other waste materials arising from the use of their premises have been considered.

### **Planning**

- 5.37 Premises for which a licence is required must have a suitable, appropriate authorised use under planning legislation.
- 5.38 The licensing authority will not normally entertain an application for a licence unless the applicant can demonstrate that the premises have either an appropriate (in terms of the activity and hours sought) planning consent, or an appropriate certificate of lawful use or development. Exceptions may be made where the applicant can demonstrate compelling reasons why the application should not be refused and the planning status of the premises has not yet been finalised.
- 5.39 Reason(s): Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority Planning Committee or following appeals against decisions taken by that committee. Proper integration will be assured by the Licensing Committees,

where appropriate, by providing regular reports to the Planning Committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder. This will enable the Planning Committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.

- 5.40 There is effective consultation between licensing and planning authorities with regard to their respective applications. It is important that there is consistency of approach.

### **Drug Awareness**

- 5.41 The licensing authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises. However, it is recognised that special conditions may need to be imposed on certain venues where drug use is, or has been, taking place in order to reduce the sale and consumption of drugs and to create a safer environment for those who may have taken them. Such conditions, if imposed, will take account of those issues discussed in the 'Safer Clubbing Guide' issued by the Home Office. Advice will be taken from the Police and the local drugs action team before any action is taken under this paragraph.
- 5.42 The licensing authority will expect licensees of venues to take all reasonable steps to prevent the entry of drugs into their premises, to take appropriate steps to prevent drugs changing hands within the premises and to otherwise adopt precautionary measures to address the consequences of drug misuse.
- 5.43 In particular the licensing authority will expect licensees of such venues to be familiar with the contents of Chapter 4 (drug awareness) of the British Institute of Inn-keeping Awarding Body (BIAB) Level 2 National Certificate for Entertainment Licensees and to be following the recommendations of that handbook.
- 5.44 It is hoped that licensees will follow these recommendations on a voluntary basis as failure to do so could lead to the licence being reviewed with the possibility of revocation. In appropriate cases the licensing authority will consider imposing licence conditions to address these recommendations.
- 5.45 Reason: The purpose of this policy is to further the crime prevention objective and to ensure public safety by preventing a tragic loss of life caused by drug abuse, overheating and other factors.

### **Door Supervisors**

- 5.46 Whenever any persons are employed at licensed premises to carry out any regulated security activity, all such persons must be licensed with the Security Industry Authority.

- 5.47 The licensing authority may consider that certain premises require stricter supervision for the purpose of promoting the reduction of crime and disorder or other licensing objectives. In such cases, the licensing authority may impose a condition that licensed door supervisors must be employed at the premises either at all times or at such times as certain licensable activities are being carried out.
- 5.48 Reason: Door supervisors, and others placed in a similar position, are often those first called upon to respond to issues of safety and disorder on licensed premises. The licensing authority intends to ensure that such people are equipped with the skills necessary for the discharge of this important role.

## **6. SPECIAL POLICY**

### **6.1 Cumulative Impact**

- 6.2 'Need' which concerns the commercial demand for another premises such as a pub, restaurant or hotel, is not a matter for a licensing authority in discharging its licensing functions or for its statement of licensing policy. However, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a licensing authority and its licensing committee to consider.
- 6.3 In determining an application the licensing authority will take into account, in the interests of public safety and the avoidance of nuisance, the cumulative effect that the existence of a saturation of premises in one area may have. A saturation of licensed premises can attract customers to the area that has an impact on the surrounding area beyond the control of individual licence holders. In this respect, the DCMS advocates consideration of a Cumulative Impact Policy to respond to the unique circumstances that can be caused by a concentration of licensed premises.

### **6.4 The Adoption of a Cumulative Impact Policy**

- 6.5 The licensing authority has carefully considered the issues of alcohol related crime, disorder and nuisance in Hartlepool and is committed to working with licensees, responsible authorities and residents to reduce these incidents wherever possible. This licensing policy indicates a number of ways in which relevant bodies can work together to promote a safe and 'neighbour friendly' night time economy.
- 6.6 The licensing authority does recognise however, that there may be instances where problems of crime, disorder and nuisance do not arise because of the failings of one particular premises but rather are caused by the cumulative effect of a number of licensed premises operating within a small area.
- 6.7 Guidance published by the Secretary of State for Culture, Media and Sport allows licensing authorities to consider the issue of 'cumulative impact' and,

where appropriate, to introduce a Cumulative Impact Policy to control such matters.

- 6.8 A Cumulative Impact Policy creates a rebuttable presumption that applications for new premises licences, club premises certificates or material variations will normally be refused, if relevant representations are received.
- 6.9 Such a presumption would only apply if one or more responsible authorities or interested parties made relevant representations to the licensing authority regarding a new application.
- 6.10 Applications for premises licences or club certificates for premises situated within the identified Cumulative Impact Policy area will be required to demonstrate in their operating schedules how the operation of their business will not add to the cumulative impact already being experienced in this area.
- 6.11 In all circumstances the licensing authority will consider each application on its own merits and such a policy should not be considered as absolute. A Cumulative Impact Policy will not be used to control general opening hours in a particular area.
- 6.12 For the authority to introduce a Cumulative Impact Policy for any area, the following steps will be considered:-
  - Identification of serious and chronic concerns from a responsible authority or representatives of residents about crime and disorder or nuisance taking account of the Crime & Disorder Act 1998.
  - Assessment of the causes.
  - Consideration of whether it can be demonstrated that crime and disorder and nuisance is arising and is caused by the customers of licensed premises, and if so identifying the area from which problems are arising and the boundaries of that area.
- 6.13 Following the receipt of evidence of crime, disorder and nuisance from Cleveland Police the licensing authority has chosen to adopt a Cumulative Impact Policy to ensure the promotion of the licensing objectives in a specific designated area.
- 6.14 The area to which the Cumulative Impact Policy applies can be found detailed in Appendix One.
- 6.15 The Cumulative Impact Policy shall only apply to the operation of premises between midnight and 5:00 a.m. each day.
- 6.16 The authority believes that there is sufficient relevant evidence to support the adoption of a Cumulative Impact Policy that is both appropriate and proportionate for the promotion of the licensing objectives in the area concerned.

6.17 This Cumulative Impact Policy must not be regarded as absolute and the licensing authority will consider every licence application on its own merits.

6.18 The licensing authority will regularly review the effect of this Cumulative Impact Policy and will amend or remove it where considered necessary.

6.19 Anyone considering making an application for either a premises licence or a club premises certificate for a premises situated within the area identified in Appendix One is advised to contact the Licensing Team at Hartlepool Borough Council for advice before making an application.

#### 6.20 **Additional Measures to Tackle Cumulative Effect**

6.21 The licensing authority recognises that, in addition to the adoption of a Cumulative Impact Policy there are a number of other mechanisms for addressing anti-social behaviour and nuisance once customers are away from the vicinity of licensed premises. These include:

- Planning Controls
- Positive measures to create a safe and clean town centre environment in partnerships with local businesses, transport operators and other departments of the local authority.
- Powers of local authorities to designate parts of the local authority areas as places where alcohol may not be consumed publicly.
- Police enforcement of the normal law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices and Directions to Leave.
- The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
- The confiscation of alcohol from adults and children in designated areas.
- Police powers to close down instantly for up to 24 hours any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
- The power of the Police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

6.22 The authority supports and encourages the implementation of all such measures to help reduce anti-social and nuisance behaviour.

## 7. **ADMINISTRATION, EXERCISE & DELEGATION OF FUNCTIONS**

7.1 The licensing authority has delegated its decision-making functions to the Licensing Committee, Sub-Committees and officers in accordance with the guidance issued by the Secretary of State.



- 7.2 Many decisions and functions are purely administrative in nature and these will be delegated to officers in the interests of speed, efficiency and cost-effectiveness.
- 7.3 Detailed information regarding the delegation of functions can be found in Appendix Two.

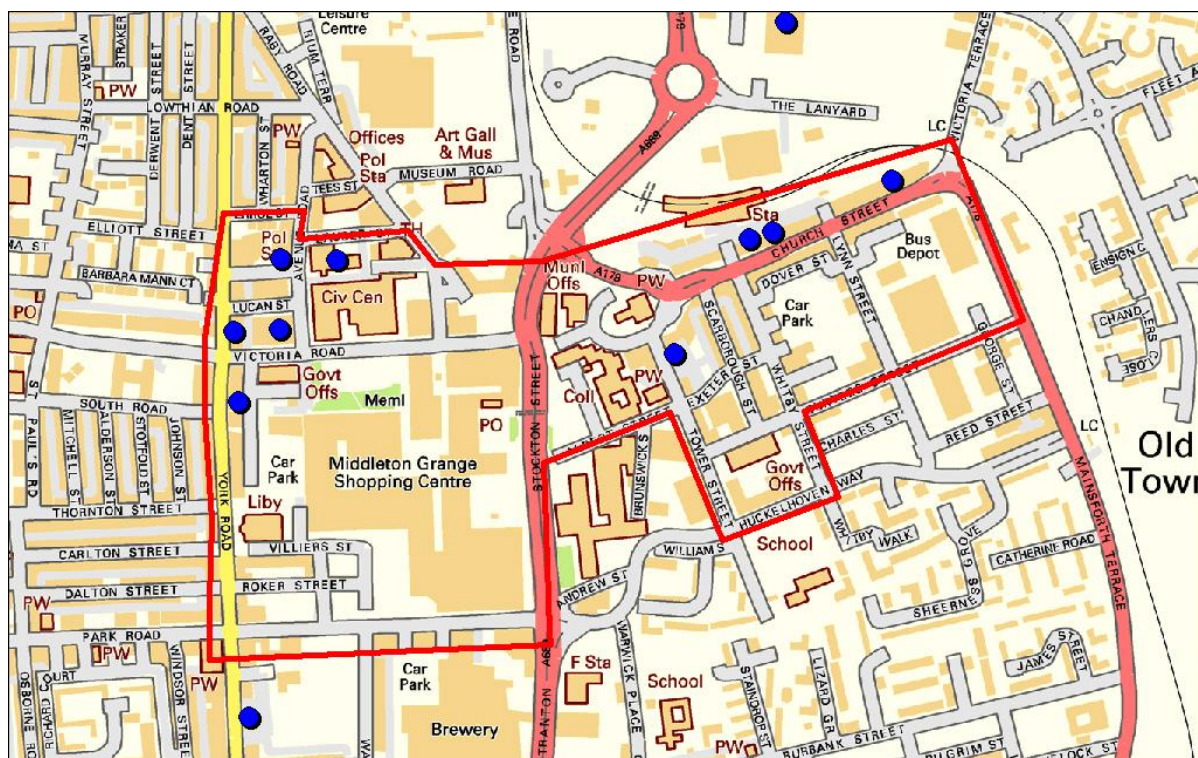
## **8. CONTACT DETAILS**

- 8.1 Further details regarding the licensing application process, including application forms can be obtained from:

The Licensing Team  
Hartlepool Borough Council  
Civic Centre  
Victoria Road  
Hartlepool  
TS24 8AY

Tel No: 01429 523354  
Fax No: 01429 523308  
Email: [licensing@hartlepool.gov.uk](mailto:licensing@hartlepool.gov.uk)

## APPENDIX ONE – Designated Area for Special Policy

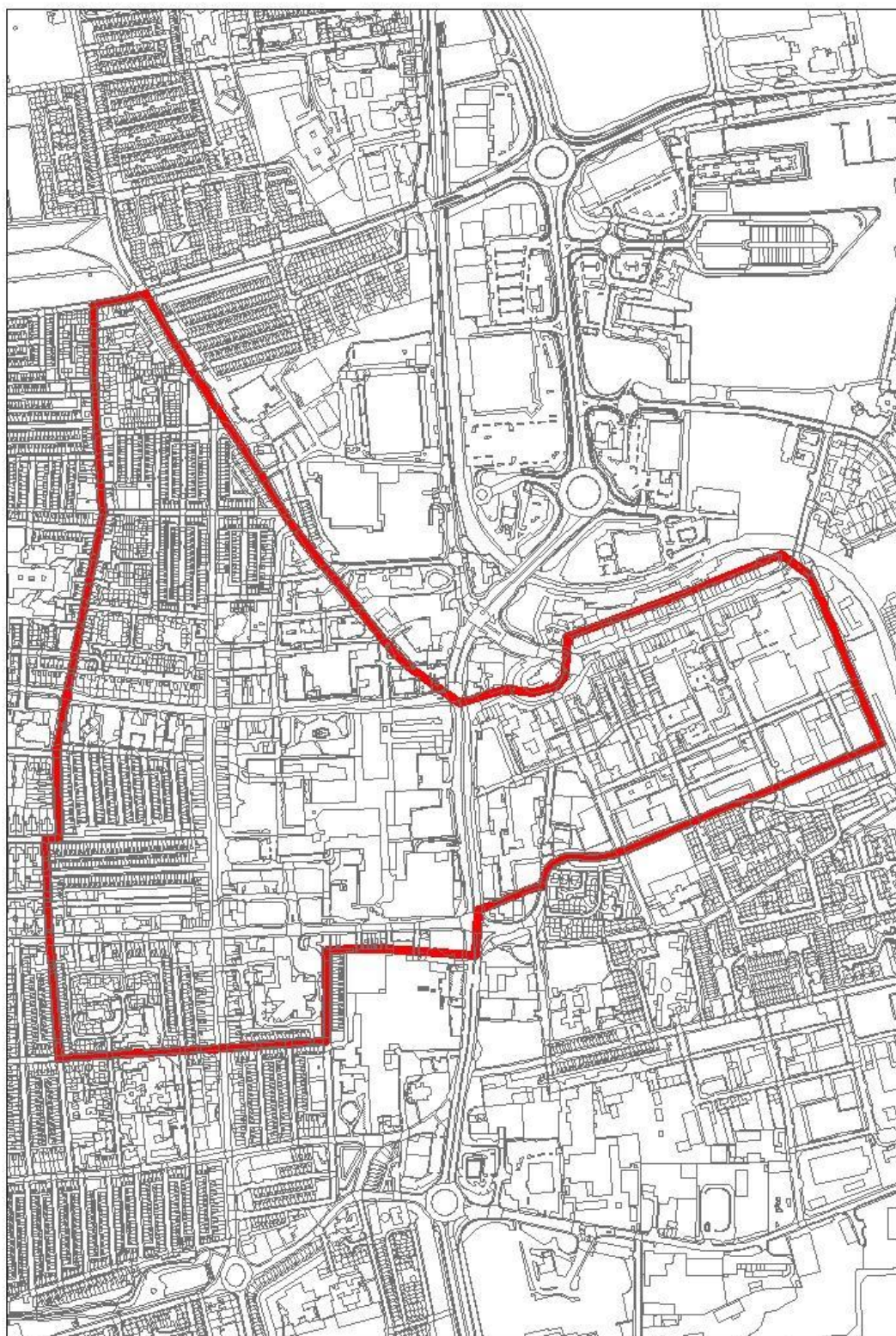


## APPENDIX TWO

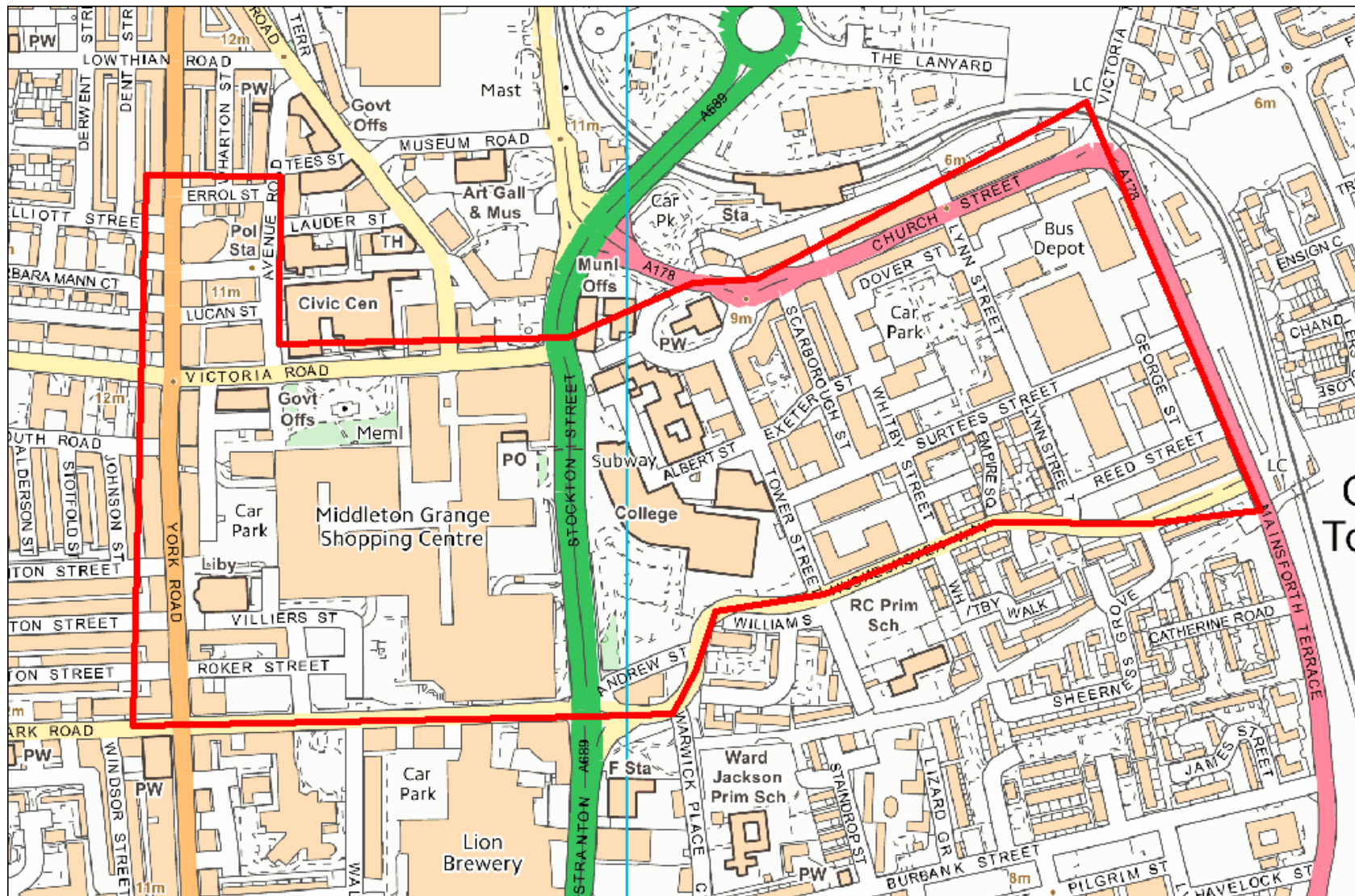
### Delegation of Functions

Matter to be dealt with	Full Committee	Sub Committee	Officers
Application for personal licence		If an objection made	If no objection made
Application for premises certificate		If a representation made	If no representation made
Application for provisional statement		If a representation made	If no representation made
Application to vary premises licence/club premises certificate		If a representation made	If no representation made
Application to vary designated premises supervisor		If a police objection	All other cases
Request to be removed as designated premises supervisor			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for interim authorities		If a police objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is relevant frivolous vexatious etc.			All cases
Decision to make representations on behalf of the licensing authority acting as a Responsible Authority			All cases
Determination of a police objection to a temporary event notice		All cases	









## LICENSING COMMITTEE

17<sup>th</sup> June 2015



**Report of:** Director of Public Health

**Subject:** GAMBLING ACT STATEMENT OF LICENSING PRINCIPLES

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### 1. PURPOSE OF REPORT

- 1.1 To seek approval of the proposed draft statement of licensing principles as required by the Gambling Act 2005.
- 1.2 To seek approval for the commencement of a consultation exercise relating to the draft statement of licensing principles.

### 2. BACKGROUND

- 2.1 The Gambling Act 2005 came into force in 2007 and transferred a range of licensing responsibilities from the Gaming Board and local Magistrates Courts to local authorities and the newly formed Gambling Commission.
- 2.2 Licensable activities that fall within local authority control include bingo halls, betting shops, amusement arcades and casinos.
- 2.3 The Gambling Act 2005 also requires licensing authorities to publish, every three years, a statement of the principles that they propose to apply in exercising their functions under the Act – commonly referred to as a licensing policy.
- 2.4 Hartlepool's current licensing policy was published in January 2013 and, as such, a new policy must be published no later than January 2016.
- 2.5 Subject to Committee's agreement it is proposed that the current policy be retained as a basis for consultation and a further report be brought back to Committee in November 2015. A formal recommendation for adoption of the policy can then be made by the Committee, to full Council, at its meeting in December 2015.
- 2.6 A copy of the proposed policy is attached as **Appendix 1**.

**3. ISSUES**

- 3.1 There are no substantive changes proposed to the policy that was adopted by full Council in 2013 which means it retains the 'No Casino' resolution whereby the Council states that it will not consider any application for a casino in the borough.
- 3.2 Members may wish to consider whether the retention of this resolution is appropriate.

**4. EQUALITY AND DIVERSITY CONSIDERATIONS**

- 4.1 There are no equality or diversity implications.

**5. SECTION 17**

- 5.1 The Crime and Disorder Act 1998 requires Local Authorities to consider the impact of everything they do in relation to crime and disorder in all their activities. This duty is what is referred to as 'Section 17'.
- 5.2 The adoption of an effective Statement of Licensing Principles may contribute towards reducing any causal link between crime and gambling.

**6. RECOMMENDATIONS**

- 6.1 That Members note the contents of this report and approve the draft Statement of Licensing Principles required by the Gambling Act as detailed in Appendix 1.
- 6.2 That Members approve the commencement of consultation on the draft Statement of Licensing Principles as contained in Appendix 1.

**7. BACKGROUND PAPERS**

- 7.1 There are no background papers to accompany this report.

**8. CONTACT OFFICER**

Louise Wallace  
Director of Public Health  
Hartlepool Borough Council

Tel: 01429 284030  
Louise.wallace@hartlepool.gov.uk



# STATEMENT OF PRINCIPLES

## Gambling Act 2005

(Published XX January 2016)



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*This Statement of Licensing Principles was approved by Hartlepool Borough Council on XXXXX.*

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 4<sup>th</sup> Edition, published September 2012.*

## **PART A**

### **1. The Licensing Objectives**

- 1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
  - Ensuring that gambling is conducted in a fair and open way
  - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 1.2 It should be noted that the Gambling Commission has stated: “The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling”.
- 1.3 This licensing authority is aware that, as per Section 153, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it:
- In accordance with any relevant code of practice issued by the Gambling Commission
  - In accordance with any relevant guidance issued by the Gambling Commission
  - Reasonably consistent with the licensing objectives and
  - In accordance with the authority’s statement of licensing policy

### **2. Introduction**

- 2.1 Hartlepool is situated on the North East coast of England. The Borough consists of the town of Hartlepool and a number of small outlying villages. The total area of the Borough is 9,390 hectares.
- 2.2 Hartlepool is a unitary authority, providing a full range of services. It adjoins Durham to the north, Sedgefield District Council to the west and Stockton on Tees Borough Council to the south. The residential population is 90,161 of which ethnic minorities comprise 1.2% (2001 census).
- 2.3 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 2.4 Hartlepool Borough Council consulted widely on this statement before it was published. A list of those persons consulted is contained in Appendix I.
- 2.5 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;

- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

2.6 Our consultation took place between XXXXX and XXXXX and we followed the Code of Practice on Consultations published by HM Government in 2008 which is available at <http://www.bis.gov.uk/files/file47158.pdf>.

2.7 The policy was approved at a meeting of the Full Council on XXXXX and was published via our website on XXXXX. Hard copies of the policy are available on request from the address detailed below.

2.8 Should you have any comments as regards this policy statement, or the consultation process, please send them via e-mail or letter to the following contact:

Trading Standards & Licensing Manager  
Hartlepool Borough Council  
Civic Centre  
Victoria Road  
Hartlepool  
TS24 8AY

e-mail: [licensing@hartlepool.gov.uk](mailto:licensing@hartlepool.gov.uk)

2.9 It should be noted that this statement of licensing principles will not override the right of any person to make an application (other than for a casino), make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

### 3. Declaration

3.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

### 4. Responsible Authorities

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

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

4.2 Hartlepool Borough Council designates the Local Safeguarding Children Board for this purpose.

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

## **5. Interested parties**

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:
- 5.2 "For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person-
- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
  - b) has business interests that might be affected by the authorised activities, or
  - c) represents persons who satisfy paragraph (a) or (b)"
- 5.3 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:
- 5.4 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities at 8.11 to 8.19. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.5 Interested parties can be persons who are democratically elected such as councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the councillor / MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.6 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the licensing department at the Civic Centre, Hartlepool.

## **6. Exchange of Information**

- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing 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.

6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## **7. Enforcement**

7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 This licensing authority's principles are that:

7.3 It will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:

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

7.4 As per the Gambling Commission's Guidance to Licensing Authorities this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.5 This licensing authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives
- Relevant codes of practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of licensing policy

7.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

7.7 This licensing authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of local authorities.

7.8 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the licensing department, Hartlepool Borough Council, Civic Centre, Hartlepool, TS24 8AY. Our risk methodology is also available upon request.

## **8. Licensing authority functions**

8.1 Licensing authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue *Club Machine Permits* to *Commercial Clubs*
- Grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register *small society lotteries* below prescribed thresholds
- Issue *Prize Gaming Permits*
- Receive and Endorse *Temporary Use Notices*
- Receive *Occasional Use Notices*
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

8.2 It should be noted that licensing authorities are not to be involved in licensing remote gambling at all, which is regulated by the Gambling Commission via operating licences.

## **PART B**

### **PREMISES LICENCES: CONSIDERATION OF APPLICATIONS**

#### **9. General Principles**

9.1 Premises licences are subject to the requirements set out in the Gambling Act 2005 and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate.

#### **9.2 (i) Decision-making**

9.3 This licensing authority is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks it:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

9.4 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos - page 12) and also that unmet demand is not a criterion for a licensing authority.

9.5 **Definition of "premises"** – In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being 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, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

9.6 The Gambling Commission states in the third edition of its Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

9.7 This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular

care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

- The third licensing objective seeks to protect children from being harmed by gambling. In practice that means not only preventing them from taking part in gambling, but also preventing them from being in close proximity to gambling. Therefore premises should be configured so that children are not invited to participate in, have accidental access to or closely observe gambling where they are prohibited from participating.
- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not “drift” into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity names on the premises licence.

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

- Do the premises have a separate registration for business rates
- Is the premises’ neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

9.9 This authority will consider these and other relevant factors in making its decision, depending on all the circumstances of the case.

9.10 **The Gambling Commission’s relevant access provisions for each premises type are reproduced below:**

#### 9.11 **Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

#### 9.12 **Adult Gaming Centre**

- No customer must be able to access the premises directly from any other licensed gambling premises

#### 9.13 **Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop



from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

#### **9.14 Tracks**

- No customer should be able to access the premises directly from:
  - a casino
  - an adult gaming centre

#### **9.15 Bingo Premises**

- No customer must be able to access the premise directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

#### **9.16 Family Entertainment Centre**

- No customer must be able to access the premises directly from:
  - a casino
  - an adult gaming centre
  - a betting premises, other than a track

Part 7 of the Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

#### **9.17 Premises “ready for gambling”**

9.18 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

9.19 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.

9.20 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

9.21 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

9.22 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

9.23 **Location** - This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

9.24 **Planning** - The Gambling Commission Guidance to Licensing Authorities states:

7.59 – In determining applications the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

9.25 This authority will not take into account irrelevant matters as per the above guidance. In addition this authority notes the following excerpt from the Guidance:

7.66 - When dealing with a premises licence application for finished buildings, the licensing authority should not take into account whether those buildings have or comply with the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents licensing authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.

9.26 **Duplication with other regulatory regimes** - This licensing authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

9.27 When dealing with a premises licence application for finished buildings, this authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

9.28 **Licensing objectives** - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.

9.29 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is

aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.

- 9.30 Ensuring that gambling is conducted in a fair and open way - **This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences.**
- 9.31 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.
- 9.32 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.
- 9.33 As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis.
- 9.34 **Conditions** - Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
  - directly related to the premises and the type of licence applied for;
  - fairly and reasonably related to the scale and type of premises; and
  - reasonable in all other respects.
- 9.35 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.
- 9.36 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include

the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.

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

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults are admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;
- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

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

9.39 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

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

9.41 **Door Supervisors** - The Gambling Commission advises in its Guidance to Licensing Authorities that if a licensing authority is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it may require that the entrances to the premises are controlled by a door supervisor, and is entitled to impose a premises licence to this effect.

9.42 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

## **10. Adult Gaming Centres**

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

10.2 This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

## **11. (Licensed) Family Entertainment Centres:**

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

11.2 This licensing authority may consider measures to meet the licensing objectives such as:

- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

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

11.4 This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering

the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

## **12. Casinos**

- 12.1 This licensing authority has passed a 'no casino' resolution on the basis that whilst it recognises that gambling can be an enjoyable and harmless activity for many, it believes that a casino may provide an environment that may harm vulnerable persons who may gamble beyond their means.
- 12.2 Potential licence applicants should note that as a 'no-casino' resolution has been passed by this authority no applications for casino premises licences will be considered. Any applications received will be returned with a notification that a 'no-casino' resolution is in place.

## **13. Bingo premises**

- 13.1 This licensing authority notes that the Gambling Commission's Guidance states:

*18.4 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.*

- 13.2 This authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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

## **14. Betting premises**

- 14.1 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (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.

## **15. Travelling Fairs**

- 15.1 This licensing authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

15.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

15.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **16. Provisional Statements**

16.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

16.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

- expects to be constructed;
- expects to be altered; or
- expects to acquire a right to occupy.

16.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.

16.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.

16.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

- they concern matters which could not have been addressed at the provisional statement stage, or
- they reflect a change in the applicant's circumstances.

16.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances;
- or
- where the premises has not been constructed in accordance with the plan

submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## **17. Reviews:**

- 17.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below;
  - in accordance with any relevant Code of Practice issued by the Gambling Commission;
  - in accordance with any relevant guidance issued by the Gambling Commission;
  - reasonably consistent with the licensing objectives; and
  - in accordance with the authority's statement of principles.
- 17.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 17.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 17.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 17.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 17.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
  - (a) add, remove or amend a licence condition imposed by the licensing authority;
  - (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 17.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 17.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.



17.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

**PART C**  
**Permits / Temporary & Occasional Use Notice**

**18. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

- 18.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 18.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25. The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year licensing policy statement, licensing authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits...., licensing authorities will want to give weight to child protection issues." (24.6)
- 18.3 Guidance also states: "...An application for a permit may be granted only if the licensing authority is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application....Licensing authorities might wish to consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
  - that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)
- 18.4 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 18.5 Statement of Principles This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

**19. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1)) - Automatic entitlement: 2 machines**

19.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

19.2 The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

**19.3 Permit: 3 or more machines**

19.4 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

19.5 This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

19.6 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.

19.7 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

19.8 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

## **20. Prize Gaming Permits**

- 20.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 20.2 This licensing authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations;
  - that the gaming offered is within the law
  - Clear policies that outline the steps to be taken to protect children from harm.
- 20.3 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).
- 20.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
  - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
  - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - participation in the gaming must not entitle the player to take part in any other gambling.

## **21. Club Gaming and Club Machines Permits**

- 21.1 Members Clubs and Miners’ welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations. A Club Gaming machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 21.2 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted “wholly or mainly” for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members’ club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men’s clubs, branches of Royal British Legion and clubs with political affiliations."

21.3 The Commission Guidance also notes that "licensing authorities may only refuse an application on the grounds that:

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

21.4 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

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

21.5 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **22. Temporary Use Notices**

22.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according the Gambling Commission, would include hotels, conference centres and sporting venues.

22.2 The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

22.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

22.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling

Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

22.5 In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

22.6 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

### **23. Occasional Use Notices:**

23.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

**PART D****SUMMARY OF LICENSING AUTHORITY DELEGATIONS PERMITTED  
UNDER THE GAMBLING ACT**

<b>Matter to be dealt with</b>	<b>Full Council</b>	<b>Sub-Committee of Licensing Committee</b>	<b>Officers</b>
Final approval of three year licensing policy	X		
Policy not to permit casinos	X		
Application for premises licence		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where no representations received/representati ons have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

**CONTACT DETAILS, ADVICE & GUIDANCE**

Further details regarding the licensing application process, including application forms, can be obtained from:

The Licensing Team  
Hartlepool Borough Council  
Civic Centre  
Victoria Road  
Hartlepool  
TS24 8AY

Tel No: 01429 523354  
Fax No: 01429 523308  
Email: [licensing@hartlepool.gov.uk](mailto:licensing@hartlepool.gov.uk)  
Web Site: [www.hartlepool.gov.uk/licensing](http://www.hartlepool.gov.uk/licensing)



## **CONSULTATION**

The following individuals/agencies and organisations were consulted about this Statement of Licensing Principles between June and August 2015: -

The Mayor of Hartlepool  
Hartlepool Borough Council councillors  
Parish Councils  
Chief of Cleveland Police  
Cleveland Fire Service  
Hartlepool Borough Council Planning Department  
Hartlepool Borough Council Trading Standards Service  
Hartlepool Borough Council Environmental Health  
HMRC  
Hartlepool Borough Council Safeguarding Board  
Gamblers Anonymous  
GamCare  
British Beer and Pub Association  
Association of British Bookmakers  
Bingo Association  
Remote Gambling Association  
Business in Sport & Leisure  
Casino Operators Association  
BACTA  
British Holiday & Home Parks Association  
British Race Courses Association Ltd  
British Casino Association