

LICENSING COMMITTEE AGENDA



Wednesday 13 June 2018

at 10.00am

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

MEMBERS: LICENSING COMMITTEE:

Councillors, Barclay, Beck, Brown, Buchan, Cook, Fleming, Hall, Hamilton, Hunter, Morris, T Richardson and Vacancy

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 15th March 2018
- 3.2 To approve the minutes of the Licensing Committee meeting held on 21st March 2018
- 3.3 To approve the minutes of the Licensing Sub-Committee meeting held on 20th April 2018

4. ITEMS REQUIRING DECISION

- 4.1 Licensing Committee – Sub Committee memberships – *Interim Chief Solicitor*
- 4.2 Gambling Act – Statement of Licensing Principles – *Assistant Director (Environment and Neighbourhood Services)*

5. ITEMS FOR INFORMATION

No items.

6. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT



FOR INFORMATION; -

Date of next meeting: - 10.00am on Wednesday 10th October
2018 in Committee Room B



LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

15th March 2018

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

Present:

Councillor: Rob Cook (In the Chair)

Councillors: Paul Beck, Jim Lindridge and Brenda Loynes

Officers: Ian Harrison, Trading Standards and Licensing Manager
Nicola Purdy, Technical Officer (Licensing)
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

81. Apologies for Absence

None

82. Declarations of interest by Members

None

83. 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 84 – Hackney Carriage / Private Hire Drivers Licence KI – 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, information relating to the financial or business affairs of a particular person (including the authority holding that information) (para. 1).

84. Hackney Carriage / Private Hire Drivers Licence

(Assistant Director (Environment and Neighbourhood Services)) 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)

Members were asked to consider what action, if any, should be taken against a licensed hackney carriage and private hire driver. Further detail is provided in the restricted minutes.

Decision

Detailed in the restricted minutes.

The meeting concluded at 3.20pm.

CHAIR

LICENSING COMMITTEE

MINUTES AND DECISION RECORD

21st March 2018

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

Present:

Councillor: Brenda Loynes (In the Chair)

Councillors: Paul Beck, Bob Buchan, Rob Cook, Tim Fleming, Ged Hall,
Jim Lindridge and George Morris

Also Present: Graham Pickering, Great North Air Ambulance Service

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

7. Apologies for Absence

Apologies were submitted by Councillors Lesley Hamilton, Dave Hunter, Jean Robinson and Katie Trueman.

8. Declarations of interest by Members

None

9. Confirmation of the minutes of the sub-committee meeting held on 13th June 2017

Minutes approved

10. Confirmation of the minutes of the sub-committee meeting held on 19th July 2017

Minutes approved

11. Confirmation of the minutes of the sub-committee meeting held on 21st July 2017

Minutes approved

12. Confirmation of the minutes of the committee meeting held on 26th July 2017

Minutes approved

13. Confirmation of the minutes of the sub-committee meeting held on 25th September 2017

Minutes approved

14. Confirmation of the minutes of the sub-committee meeting held on 27th September 2017

Minutes approved

15. Confirmation of the minutes of the sub-committee meeting held on 1st November 2017

Minutes approved

16. Confirmation of the minutes of the sub-committee meeting held on 22nd November 2017

Minutes approved

17. Confirmation of the minutes of the sub-committee meeting held on 23rd February 2018

Minutes approved

18. House to House Collections (*Assistant Director (Environment and Neighbourhood Services)*)

Under 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. A House to House collection licence must be granted by a licensing authority unless it believes there are grounds to refuse it. These include that the total amount likely to be applied is inadequate in proportion to the value of the proceeds, that any remuneration to be received would be excessive and that the applicant or persons conducting the collection are unfit. In April

2011 the Licensing Committee had determined that all applicants must demonstrate that a minimum of 75% of the proceeds of the collection would be donated to the good cause before a licence was granted. If they were unable to do so the collection bag or leaflet must clearly and prominently state the percentage to be donated in order to grant a licence.

In January 2015 the Chief Executive of the Great North Air Ambulance (GNAA) had attended a Licensing Committee meeting to explain why his organisation were unable to comply with the Council's policy in this regard. Members had subsequently decided to amend the policy to allow for exemptions to be made for individual charities on a case by case basis. The GNAA were given a 3-year exemption, which was now due for renewal.

Mr Pickering, Chief Executive of the GNAA, advised members that circumstances had not changed since 2015 in terms of their collection procedures. A trading company had been established to carry out collections and donate the resulting profit to the charity. Around 80% of donations were retained to cover the cost of the trading company leaving 20% for the charity. The requirement to print the actual donated percentage onto the collection leaflets was impractical. He described the process of collection and distribution of clothing overseas, explaining why the decision had been made not to use agents in the same way as other charities. In the previous year £6 million had been donated and Hartlepool was a significant supporter in this. He urged members to renew the licence as its loss would have a significant impact on the charity.

The Chair declared a personal interest in this item as her grandson works for GNAA.

Members expressed their support for the GNAA and the valuable contribution they make. They acknowledged their heavy reliance on donations from Hartlepool and saw no reason not to renew their licence on the basis previously agreed. A member queried whether it would be possible to amend the existing policy to require 90% of the profits made from house to house collections to be given over to the charity but the Trading Standards and Licensing Manager felt this could be risky as it would allow the collector to decide how much of the funding collected was to be deemed 'profit'. Concerns were also raised at the number of collection bags seen at car boot sales in the region and the possibility that bags left out for collection were being intercepted and sold on. These concerns were acknowledged but without proof little could be done.

Decision

That a further 3-year exemption from the Council's House to House collections policy for the Great North Air Ambulance be approved.

19. Taxi Licensing Policy *(Assistant Director (Environment and Neighbourhood Services))*

The Trading Standards and Licensing Manager informed members that an enquiry had recently been received from a business interested in providing a horse drawn carriage taxi service in Hartlepool. In order to facilitate this type of service it would be necessary to add appropriate conditions to the current Taxi Licensing policy. An amended policy was therefore attached for members' approval.

Members raised the following queries:

- a. What could be done to prevent manure littering the carriageways?
The Trading Standards and Licensing Manager confirmed that there was a condition requiring the carriage to be fitted with equipment to collect and retain manure.
- b. Would the same conditions related to disabled access apply to horse drawn carriages? The Trading Standards and Licensing Manager advised that it would not be possible to make it a requirement that the carriages be wheelchair accessible.
- c. Would there be an age limit on those licensed to drive these vehicles? The Trading Standards and Licensing Manager indicated that the same age limit conditions relating to hackney carriage and private hire drivers would apply for horse drawn carriages i.e. a minimum driving age of 18 with a minimum 12-months driving experience. A member suggested that this be amended to a minimum age of 21 for all licensed drivers. This was approved unanimously by the Committee. The Manager would check the relevant government legislation to ensure that a minimum age was not stipulated. If it was he would report back to the Committee otherwise the Council policy would be amended.
- d. Would the new policy apply to weddings and funerals? The Trading Standards and Licensing Manager reported that they were exempt.
- e. Would the drivers need to complete the knowledge test? The Trading Standards and Licensing Manager confirmed that they would not.
- f. Would there be a condition relating to persons suffering from allergies? The Trading Standards and Licensing Manager advised that there would not and the onus would be on the user to ensure they would not be adversely affected in this way.
- g. Could fares be approved by the Council prior to implementation in the same way as for hackney carriage and private hire vehicles? The Trading Standards and Licensing Manager could see no reason not to. He thought it unlikely that any proprietor would charge in a way to make their business unsustainable.

Members were supportive of the proposed changes and additions to the policy which would provide an added attraction at Seaton Carew.

Decision

That the Taxi Licensing Policy as appended to the report be approved with the following amendments:

- i. That the minimum age for drivers of hackney carriage, private hire vehicles and horse drawn carriages be raised to 21 (provided Government legislation allows this)
- ii. That the fares to be charged by carriage drivers be approved by the Council

20. Any Other Items which the Chairman Considers are Urgent

The Chairman ruled that the following items of business should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B) (4)(b) of the Local Government Act 1972 in order that the matter could be dealt with without delay.

21. Further amendment to Private Hire and Hackney Carriage Licensing Policy

The Trading Standards and Licensing Manager referred to a previous Licensing Sub-Committee meeting at which the driver's ability to communicate effectively had been a factor. He requested members' permission to amend the current policy to state that all drivers must have a reasonable level of spoken and written English. This would be assessed through the knowledge test and interaction with Licensing officers during the process.

Decision

That the policy be amended to require all drivers to have a reasonable level of spoken and written English.

22. Future licensing report

A member referred to proposals by the Local Government Association to create a voluntary register of drivers which would allow local authorities to monitor whether applicants had previously been refused a licence by other areas and had a licence revoked. He asked that the Council's own taxi laws and associated provisions be looked at and a report brought back to the Committee in the next municipal year regarding any amendments

officers felt were necessary.

The Trading Standards and Licensing Manager was supportive of this advising that a national database giving details of drivers who had previously been refused or revoked was in the process of being set up. He also referred to an issue he had previously highlighted whereby licences issued by local authorities only applied to vehicles carrying a maximum of 8 passengers. Licences to drive more than 8 passengers were granted by the DVLA and no checks were carried out. This could allow drivers who had previously had their licence refused or revoked to get a licence to drive a minibus. The Local Government Association were pushing for this legislation to be changed.

A member referred to the use of CCTV in vehicles. The Trading Standards and Licensing Manager confirmed he was a strong advocate for the use of CCTV in vehicles as it could provide evidence against assaults or unsubstantiated complaints against either the driver or the passenger. However in order to make CCTV a policy requirement an in-vehicle system would need to include a large lockable hard drive, the cost of which was currently prohibitive

Decision

That a report on the Council's taxi laws and provisions and any amendments felt to be necessary be brought to a future meeting for member consideration.

The meeting concluded at 11.20am.

CHAIR

LICENSING SUB COMMITTEE

MINUTES AND DECISION RECORD

20th April 2018

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

Present:

Councillor: Rob Cook (In the Chair)

Councillors: Jim Lindridge and Brenda Loynes.

Officers: Ian Harrison, Trading Standards and Licensing Manager
Adrian Hurst, Environmental Health Manager (Environmental Protection)
Lesley Huitson, Technical Officer (Environmental Protection)
Rebecca Cockburn, Planning Services Volunteer
Tony Macnab, Solicitor
Jo Stubbs, Democratic Services Officer

Also Present: Fran Aggio and Craig Lynch, O'Laffertys
Peter and Pauline Robson, Appellants
Paul Rowe and Edika Ward, The Ruby Slipper

81. Apologies for Absence

None

82. Declarations of interest by Members

None

83. Application for the Review of Premises Licence – O'Lafferty's, Unit 19, Navigation Point *(Assistant Director (Environment and Neighbourhood Services))*

The Chair advised that himself and Councillor Lindridge knew the applicant, Mr Robson, very well. However both considered it to be a non-prejudicial interest and were satisfied that they could deal with the matter before them impartially.

Members were advised that Mr Robson had requested a review be held into the premises licence for Unit 19 Navigation Point. At the time the review had been submitted the premises had been called O'Lafferty's however

since then the premises had come under new ownership and was now called The Ruby Slipper. The application for review was based on the prevention of nuisance and was supported by the Council's Environmental Protection Team. Mr and Mrs Robson were both present. Mrs Robson detailed the background to their request for a review. They had moved to Navigation Point in August 2016. At that time their fifth floor flat was situated above an Italian Restaurant (Tabbarinis) and they had experienced no noise disturbance whatsoever. However in 2017 the premises had changed to O'Lafferty's, a fun bar with weekend karaoke. The result of this had been a major increase in the noise coming from the bar into the Robson's apartment, particularly on weekends and bank holidays. The music regularly continued past the official closing time of 11.45pm and they could hear discussions taking place at the back of the premises despite there being a condition that the back doors to the premises should be locked at all times. They had been forced to increase the volume on their television to drown out the noise coming from downstairs and were unable to go to bed until after the noise stopped due to the location of their bedroom. They had also felt unable to have friends over.

During O'Lafferty's tenure this state of events had continued most weekends, albeit with some respite over the winter months due to the bad weather. However in March 2018 Paul Rowe and Edika Ward had taken over the premises, renaming them The Ruby Slipper. Their opening weekend was, in Mrs Robson's words, 'horrendous'. As it was the Easter weekend they had invited friends and family over at various times and this had been majorly impacted by the loud music and amplifiers. Since then the sound had decreased slightly but it was still causing a problem. This ongoing situation was causing some stress between herself and Mr Robson as she wanted to move away whereas he did not. She was not opposed to people enjoying themselves but this was having a major impact on their lives and health.

Attention was drawn to the nuisance investigation diary sheets completed by the couple which gave details of the impact which the premises had had on them. Members noted some discrepancy on the diary sheets as to whether or not the doors were open. Mrs Robson advised that they had only stated that the doors were open on those occasions when they had checked in person. Members referred to the precise timings on the diary sheets. Mrs Robson confirmed these were correct, saying that they were so specific as the couple were waiting all night for the music to stop. Members queried whether there had been any similar complaints from the adjacent flats. The Technical Officer (Environmental Protection) confirmed that there had been complaints from a few residents, however the fact that there were not more was not a surprise as people tended not to complain in these cases for fear of retribution as complaints could not be anonymous (although they were confidential). Members queried whether the sounds outside could be people smoking. Mrs Robson advised that she believed the customers smoked at the front of the premises whereas these sounds were coming from the back. On occasion the sound was so loud that by opening their window they could hear conversations clearly.

Paul Rowe and Edika Ward, the current proprietors of the Ruby Slipper were present. Mr Ward apologised to the Robsons for any inconvenience they had suffered during their tenure, particularly on the opening weekend. This was the first time he had ever run an establishment of this kind and he had been unaware of the impact noise levels could have on nearby residents. In terms of the noise coming from the back of the premises he queried whether this could be coming from the premises next door (Vibes) as they shared that area and to his knowledge the back doors out of the Ruby Slipper were inaccessible to customers at all times and to staff after 9pm. The Chair asked that officers investigate whether or not Vibes might be responsible for the noise. Mr Ward also noted that following complaints after the opening weekend the decision had been taken not to offer karaoke in the future and consider carefully which entertainment acts to book. Mr Ward also referred to changes made to the sound system following the opening weekend which would hopefully assist in diluting the noise. Mrs Robson confirmed they had noticed a difference since the opening weekend but even so the sound tended to get louder around 11.45pm.

The Environmental Health Manager expressed his support for the Robson's application saying the premises were currently not promoting the prevention of public nuisance clause of the Licensing Act. Previously Navigation Point had been mainly restaurants and short-let tenants. However this had changed in recent years to more bars and long-term tenancies resulting in an increase of noise for residents. Noise pollution complaints on another premises were currently being investigated.

The Technical Officer gave a brief summary of the action taken so far in respect of this premises. During its tenure as O'Laffertys investigations into excessive noise had started on 2 separate occasions. The manager at that time, Craig Lynch, had been informed verbally and in writing however due to a lack of prior notification officers had been unable to serve formal notification on the new owners. However Mr Ward had been informed in person by the Technical Officer. Following the opening weekend and the information given by Mr and Mrs Robson officers felt they had sufficient evidence to serve a statutory nuisance notice on the current licence holder, the designated premises supervisor, Mr Rowe, Mr Ward and Mr Lynch. Since this notice had been served several other residents had come forward although none were prepared to make a formal complaint.

The Environmental Health Manager gave a brief explanation of the ways in which sound might travel through a building of this kind as follows:

- Airborne transmission whereby sound might travel through open doorways and windows – this could be solved by erecting a screen or barrier;
- Flanking transmission whereby sound might flank round elements of the structure such as gaps in the floor, window cavities, stairwells and lift shafts and

- Vibration through the structure caused by speakers being placed on the wall or floors. In this case the sound could reappear at any point in the structure provided it resonated at the same frequency. Essentially the walls would operate like a loudspeaker

In this case The Environmental Health Manager believed the main issue causing the disturbance to the Robsons was flanking through the lift shafts and resonance. Members queried whether insulation could be used on either property to help alleviate matters. The Environmental Health Manager explained that this would only help with airborne noise which in his opinion was a minor issue. The best way to deal with it was at the source of the noise. He suggested that the doors and windows of the premises be shut and the speakers be set at a reasonable level and set on vibration mounts. A member referred to a recent occurrence whereby loud music had been heard coming from the premises in the early hours of the morning outside of their official opening hours. The Technical Officer explained that the music system had turned itself on during its update. However the fact the Robsons had not been disturbed by this proved it was a problem with flanking transmission. Mr Ward advised that steps had been taken to ensure this did not happen again. In terms of the flanking issue Mr Ward indicated that there was a void above the false ceiling and gaps above the toilets which could be the reason for the problem.

The Chair queried whether a noise abatement notice applied to the property or the person it was served on and asked what would happen if a new owner took over. The Environmental Health Manager advised that a noise abatement notice only applied to individual companies, owners or occupiers and would be served on an individual. If the premises changed hands the notice became null and void. Therefore only those notices served on Mr Rowe and Mr Ward remained active. Mr Rowe commented that the evidence had been collected before himself and Mr Ward had any involvement with the premises and they had received no prior warning. The Technical Officer noted that her department had not been informed that the premises were changing hands and had found out quite by chance. However Mr Ward had been informed verbally by the Technical Manager.

Mr Lynch, who had managed the premises during its tenure as O'Laffertys, gave details of the steps he had taken to try to mitigate the problems experienced by the Robsons. These included closing the doors at 10pm, relocating the karaoke machine, changing the speakers and reducing the volume levels. He expressed sympathy for the Robsons and had wished to meet with them in order to come up with a solution but had been told not to approach them. He had asked whether sound equipment could be installed in other apartments in that building in order to test sound levels but was told that the equipment was not available.

Mr Ward apologised to the Robsons for any stress and inconvenience they had experienced as a result of the Ruby Slipper. He explained that this was the first licensed premises he had ever run and he had therefore been

unaware of what an issue noise pollution could be. Had he known what the rules were he would have followed them to the letter. As a result of this review himself and Mr Rowe had instigated a number of changes which would hopefully help alleviate any problems. These included bringing last orders forward to 11.30pm, removing the floor speakers, installing signage reminding patrons leaving to respect nearby residents and keeping the front patio doors closed after 8pm.

A member queried what impact closing the rear doors would have on the business. Mr Ward advised that these doors were only used for deliveries during the day and were closed to customers. Members queried the kind of entertainment which would be offered. Mr Ward advised that they planned to have a drag queen or similar entertainer as a host with the possibility of a cabaret act depending on how loud they were. Members referred to the potential financial impact which would result from improving the flanking issues and asked whose responsibility this would be. The Environmental Health Manager indicated that this would be the responsibility of the bar operator however it could be fixed through use of a volume limiter and anti-vibration mounds. Modern volume limiters could be set to reduce the volume when it reaches a pre-set level rather than cut the power completely. A member queried whether there were chairs and tables at the front of the premises. The Environmental Health Manager advised that there had been during O'Lafferty's tenure however this had never been part of the licence and would require planning permission for them to be reinstated.

The Chair commented that Mr Ward should not have been alone on their opening weekend. He also referred to the music going on past their official closing time, saying this had to stop. He suggested that Mr Rowe and Mr Ward engage in discussions with the Council's Environmental Health Department to find a compromise for all parties. Members did not want to stop them making a success of their business but they did not want the Robsons to be impacted further.

Members discussed the review application in closed session. They considered that the best way of resolving the noise problem was to modify the conditions of the licence in such a way that would best prevent noise nuisance from the premise. This could be done through a single condition as follows :

'The licence holder shall comply with all requirements required by Hartlepool Borough Council's Environmental Health Department with regard to the prevention of noise nuisance. These requirements shall be determined following consultation between all interested parties'

By not stipulating the name of the licence holder it would apply no matter who held the licence for the property in the future.

Decision

- That the following condition be added to the licence for the premises:

‘The licence holder shall comply with all requirements required by Hartlepool Borough Council’s Environmental Health Department with regard to the prevention of noise nuisance. These requirements shall be determined following consultation between all interested parties.
- That condition 16 on the existing licence be removed as this would render it unnecessary.

The meeting concluded at 1:30pm

CHAIR

LICENSING COMMITTEE

13 June 2018



Report of: Interim Chief Solicitor

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 The following proposed sub committee memberships are set out for Members consideration / discussion.

Licensing Sub Committees for premises licences: -

1. Paul Beck (Chair), Allan Barclay, Tim Fleming
2. Rob Cook (Chair), Paddy Brown, George Morris
3. Dave Hunter (Chair), Ged Hall, Tony Richardson
4. Chair of Licensing Committee / Vacancy (Chair), Bob Buchan, Lesley Hamilton

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

1. George Morris (Chair), Paddy Brown, Bob Buchan, Rob Cook
2. Ged Hall (Chair), Lesley Hamilton, Dave Hunter, Tony Richardson
3. Allan Barclay (Chair), Paul Beck, Tim Fleming, Chair of Licensing Committee / Vacancy

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 as a statutory requirement .

6. BACKGROUND PAPERS

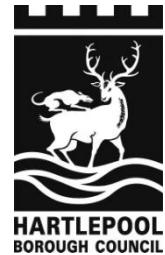
Licensing Act Committee Minutes 7 January 2005
Licensing Act Committee Minutes 27 July 2005
Licensing Committee Minutes 15 March 2006
Licensing Committee Minutes 2 July 2008
Licensing Committee Minutes 29 July 2009
Extraordinary Council Minutes 6 March 2013
Licensing Committee Minutes 23 July 2014
Licensing Committee Minutes 13 June 2015
Licensing Committee Minutes 13 July 2016
Licensing Committee Minutes 26 July 2017

7. CONTACT OFFICER

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LICENSING COMMITTEE

13th June 2018



Report of: Assistant Director (Environment & Neighbourhood Services)

Subject: GAMBLING ACT – STATEMENT OF LICENSING PRINCIPLES

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.
- 2.4 Hartlepool's current statement of licensing principles was published in January 2016 and, as such, a new policy must be published no later than January 2019.
- 2.5 Subject to Committee's agreement it is proposed that the current policy, with a small number of amendments, be retained as a basis for consultation and a further report be brought back to Committee in October 2018. A formal recommendation for adoption of the statement of licensing principles can then be made by the Committee, to full Council, at its meeting in December 2018.

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

3. PROPOSALS

- 3.1 The draft statement of licensing principles once again retains a 'No Casino Resolution' which states that the Council will not consider any application for a casino in Hartlepool.
- 3.2 The draft statement also contains, for the first time, additional requirements for licence holders that create an obligation to consider the geographical area in which they carry out their gambling business and undertake risk assessments to ensure that gambling activities do not result in unnecessary or unavoidable harm.
- 3.3 Paragraphs 9.44 – 9.50 of the draft statement refer to 'Local Risk Assessments' and Appendix 1 of the draft statement directs licence holders and applicants to sources of information and data regarding relevant information about Hartlepool to assist with the undertaking of risk assessments.

4. RISK IMPLICATIONS

- 4.1 There are no risks associated with this report.

5. FINANCIAL CONSIDERATIONS

- 5.1 There are no financial considerations associated with this report.

6. LEGAL CONSIDERATIONS

- 6.1 It is a legal obligation for Hartlepool Borough Council to publish a statement of licensing principles every three years and, as such, a new statement must be published no later than January 2019.

7. RECOMMENDATIONS

- 7.1 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.
- 7.2 That Members approve the commencement of consultation on the draft statement of licensing principles as contained in Appendix 1.

8. REASONS FOR RECOMMENDATIONS

- 8.1 It is a legal obligation for Hartlepool Borough Council to publish a statement of licensing principles every three years and, as such, a new statement must be published no later than January 2019.

9. BACKGROUND PAPERS

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

10. CONTACT OFFICER

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STATEMENT OF PRINCIPLES
Gambling Act 2005
(Published 3rd January 2019)



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

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015 (and updated September 2016).

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 detailed in Appendix 3.
- 2.5 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;

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- 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 XXXXXXXX and we took into consideration 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 XXXXXXXX and was published via our website on XXXXXXXX. 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

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.

2.10 Gambling Prevalence Survey 2010

Overall, 73% of the adult population (aged 16 and over) participated in some form of gambling in the previous year. This equates to around 35.5 million adults. The most popular gambling activity was the National Lottery. In 2010, 59% of adults had bought tickets for the National Lottery Draw, a slight increase from the rates observed in 2007 (57%) but lower than rates observed in 1999 (65%).

2.11 Excluding those who had only gambled on the National Lottery Draw, 56% of adults participated in some other form of gambling in the past year. This highlights a significant increase in past year participation on other gambling activities, such as an increase in betting on other events i.e., events other than horse races or dog races with a bookmaker (3% in 1999, 9% in 2010), buying scratch cards (20% in 2007, 24% in 2010), buying other lotteries tickets (8% in 1999, 25% in 2010), gambling online on poker, bingo, casino and slot machine style games (3% in 2007, 5% in 2010) and gambling on fixed odds betting terminals (3% in 2007, 4% in 2010).

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- 2.12 Two measures of problem gambling showed rates of problem gambling in the general population of 0.6% and 0.5%. A significant association was found between problem gambling and being male with regular parental gambling. It was also associated with poor health, being single and being Asian/British Asian. The highest prevalence of problem gambling was found among those who participated in spread betting (14.7%), Fixed Odds Betting Terminals (FOBTs) (11.2%) and betting exchanges (9.8%). Of these, only FOBTs are regulated under 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.

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:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities
- has business interests that might be affected by the authorised activities
- represents persons in either of these two groups.

- 5.2 There are a number of factors that the Council may take into account when determining whether a person lives 'sufficiently close to the premises'. These include: -

- the size of the premises
- the nature of the premises
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment

4.2 Appendix 1

- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises.
- 5.3 Relevant factors will depend on the particular application. For example the Council may consider that living sufficiently close to premises to likely be affected could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems and (c) a residential hostel for vulnerable adults.
- 5.4 For those with business interests, the licensing authority should be satisfied that the relevant business is likely to be genuinely affected. Factors that are likely to be relevant include:
- the size of the premises
 - the 'catchment' area of the premises, that is, how far people travel to visit the premises
 - whether the person making the representation has business interests in that catchment area that might be affected.
- 5.5 In addition to the above, 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

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- 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
 - 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*

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- 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') and also that unmet demand is not a criterion for a licensing authority.

9.5 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. 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.

9.6 **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.

9.7 The Gambling Commission states in the fifth 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

4.2 Appendix 1

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.”

9.8 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.

9.9 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?

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

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

9.12 **Casinos**

- The principal access entrance to the premises must be from a street
- 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

9.13 **Adult Gaming Centre**

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

9.14 **Betting Shops**

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- Access must be from a street 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.

9.15 Tracks

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

9.16 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

9.17 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.

9.18 Premises “ready for gambling”

9.19 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.

9.20 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.

9.21 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.

9.22 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.

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9.23 More detailed examples of the circumstances in which such a licence may be granted can be found in the Gambling Commission's Guidance to Licensing Authorities.

9.24 **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.

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

7.58 – In determining applications, the licensing authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal. Licensing authorities should bear in mind that a premises licence, once it comes into effect, authorises premises to be used for gambling. Accordingly, 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. Equally, licences should only be issued where they are expected to be used for the gambling activity named on the licence. This is why the Act allows a potential operator to apply for a provisional statement if construction of the premises is not yet complete, or they need alteration, or he does not yet have a right to occupy them. [Part 11](#) of this guidance gives more information about provisional statements.

9.26 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:

7.65 - 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.

9.27 **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.

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- 9.28 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.
- 9.29 **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.
- 9.30 **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.
- 9.31 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.**
- 9.32 **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.
- 9.33 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.
- 9.34 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 gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." This licensing authority will consider this licensing objective on a case by case basis.
- 9.35 **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;

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- fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 9.36 Decisions on 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.
- 9.37 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.
- 9.38 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.
- 9.39 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 9.40 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.
- 9.41 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.

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- 9.42 **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.
- 9.43 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).
- 9.44 **Local Risk Assessments**
- 9.45 Since 6 April 2016, the Gambling Commission's 'Licence Conditions Code of Practice' (LCCP) has required all existing licensees that provide gambling facilities at their premises, to assess the local risks to the licensing objectives and have policies, procedures and control measures to reduce those risks. Licensees must take into account any relevant matters identified in the licensing authorities (gambling) Statement of Policy when making their risk assessments.
- 9.46 In making risk assessments, licensees must take into account relevant matters identified in this policy.
- 9.47 The LCCP also states that licensees must review (and update as necessary) their local risk assessments:
- To take account of significant changes in local circumstances, including those identified in this policy;
 - When there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - When applying for a variation of a premise licence; and
 - In any case, undertake a local risk assessment when applying for a new premise licence.
- 9.48 The licensing authority will expect the local risk assessment to consider as a minimum:
- Whether the premise is in an area with high levels of crime and/or disorder
 - Whether the premise is in an area of high deprivation
 - The demographics of the area in respect of vulnerable groups of people including those with gambling dependencies, where this information is available
 - Location of services and amenities for children in the area such as schools, playgrounds, leisure facilities and other areas where children may gather.
- 9.49 The risk assessment may also include:
- Procedures in place to ensure staff are adequately trained in how to monitor and deal with customers suspected of excessive gambling (including brief intervention training for staff), vulnerable persons or children and also details and regularity of training given
 - Details of supervisory and management procedures in place including number of staff available and their designated duties and responsibilities

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- Details of any consideration given to the need for CCTV in the premise and if installed how the system will be operated and monitored and what coverage it is designed to give in the premise.
- Details of the signage and documents relating to games rules, gambling care providers and other relevant information including a consideration of whether information needs to be provided in another language that may be prevalent in the locality.

9.50 Such information may be used to inform the decision the Authority makes about whether to grant a licence, to grant a licence with special conditions or to refuse the application. The policy does not prevent an application made and each application will be decided on its merits with the onus being on the applicant to show how the concerns.

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

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- 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 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted: -

18.5 Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises.

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.

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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.

4.2 Appendix 1

- 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

- 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 Gambling Commission Guidance 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 applicants 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.
- 18.3 It should be noted that a licensing authority cannot attach conditions to this type of permit.
- 18.4 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.

19. (Alcohol) Licensed premises gaming machine permits - 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

4.2 Appendix 1

- 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 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 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.
- 20.2 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 to 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 for 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.

END

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
Web Site: www.hartlepool.gov.uk/licensing

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Appendix 1

Local Area Profile

The Gambling Commission recommends that licensing authorities provide a 'local area profile' to assist gambling operators to understand the risks, or potential risks, associated with particular geographical areas.

As an area profile can change with time, Hartlepool Borough Council refers licence holders, or potential applicants, to the following sources of information about Hartlepool: -

Tees Valley Combined Authority - <https://teesvalley-ca.gov.uk/partners-portal/instant-atlas/>.

Government website – Indices of deprivation 2015 -
<https://www.gov.uk/government/statistics/english-indices-of-deprivation-2015>

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Appendix 2

SUMMARY OF LICENSING AUTHORITY DELEGATIONS PERMITTED UNDER THE GAMBLING ACT

Matter to be dealt with	Full Council	Sub-Committee of Licensing Committee	Officers
Final approval of three year Statement of licensing principles	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	

CONSULTATION

The following individuals/agencies and organisations were consulted about this Statement of Licensing Principles between June and August 2018: -

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
Combined Authority
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