



11 June 2018

Dear Sir/Madam

A meeting of the Alcohol and Entertainments Licensing Committee will be held on Tuesday 19 June 2018 in the New Council Chamber, Town Hall, Beeston at 10.00am.

Should you require advice on declaring an interest in any item on the agenda, please contact the Monitoring Officer at your earliest convenience.

Yours faithfully

Chief Executive

To Councillors:	E H Atherton	W J Longdon (Vice Chair)
	D A Burnett BEM (Chair)	R D MacRae
	T A Cullen	M E Plackett
	M J Crow	K E Rigby
	R H Darby	P D Simpson
	P Lally	A G W A Stockwell

AGENDA

1. APOLOGIES FOR ABSENCE

2. DECLARATIONS OF INTEREST

Members are requested to declare the existence and nature of any disclosable pecuniary interest and/or other interest in any item on the agenda.

3. MINUTES

PAGE 1

The Committee is asked to confirm as a correct record the minutes of the meeting held on 28 November 2017.

4. REVIEW OF STATEMENT OF LICENSING POLICY PAGES 2 - 13

To recommend approval of the Council's draft revised licensing statement for statutory consultation. A copy of the statement is circulated separately with this agenda.

5. REVIEW OF STATEMENT OF GAMBLING PRINCIPLES PAGES 14 - 22

To see approval of the Council's draft revised statement for statutory consultation. A copy of the statement is circulated separately with this agenda.

ALCOHOL AND ENTERTAINMENTS LICENSING COMMITTEE

28 NOVEMBER 2017

Present: Councillor D A Burnett BEM, Chair

Councillors: E H Atherton M E Plackett
W J Longdon K E Rigby
R MacRae P D Simpson

Apologies for absence were received from Councillors T A Cullen and M J Crow.

1. **DECLARATIONS OF INTEREST**

There were no declarations of interest.

2. **MINUTES**

The minutes of the meeting held on 17 September 2017 were confirmed and signed.

3. **GOVERNMENT RESPONSE TO THE HOUSE OF LORDS LICENSING ACT 2003 REVIEW**

The Committee received a presentation on the Government Response to the House of Lords Licensing Act 2003 Review. The Committee noted the updated responsibilities in regards to alcohol, entertainment and gambling practises within the Borough following the presentation.

Report of the Chief Executive

REVIEW OF STATEMENT OF LICENSING POLICY1. Purpose of report

To recommend approval of the Council's draft revised licensing statement for statutory consultation.

2. Detail

Section 5 of the Licensing Act 2003 (The Act) requires a licensing authority to prepare and publish a statement of its licensing policy every five years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the Act. A number of legislative changes have taken place since the last review of Broxtowe's policy in 2013 and the Home Office revised Section 182 statutory guidance has also made a number of amendments in respect of the Licensing Act 2003. The Authority must now review its existing policy and adopt and publish a new statement to reflect these changes by 7 January 2019

The Act obliges the licensing authority to consult widely on any revision of its licensing statement. There are a number of statutory consultees outlined in the Act and a number of other interested parties and trade bodies have also been identified. A copy of the approved draft will be circulated to all of those so identified. Consultation is planned to commence on 22 June 2018 for a period of 8 weeks.

Members will also be aware that senior members and officers of all Nottinghamshire licensing authorities have been meeting to secure a co-ordinated approach to the new legislation. Considerable work has been undertaken by inter-authority groups to produce core documents common to the districts which reflect the statutory guidance. The draft revised licensing statement reflects the co-operation between the Nottinghamshire authorities.

A copy of Broxtowe's draft licensing statement is circulated separately with the agenda and will be placed in the Members' Room, on the intranet and on the Council's website as part of the consultation process. Appendix 1 shows a proposed timescale for consideration of the document and its adoption in time for the revised policy to be implemented. An Equality Impact Assessment is attached at appendix 2

Recommendation

The Committee is asked to RESOLVE that the draft Statement of Licensing Policy be approved for the purposes of statutory consultation.

Background papers

Nil

APPENDIX 1

TIMESCALE FOR ADOPTION OF REVISED STATEMENT OF LICENSING POLICY

Draft policy presented to Alcohol and Entertainment Committee for approval	19 June 2018
8 week consultation commences	22 June 2018
8 Week consultation finishes	17 August 2018
Consideration of consultation responses and amendment of draft policy as necessary.	17 August 2018
Revised policy presented to Alcohol and Entertainment Committee for approval	11 September 2018
Adoption of policy by Council	19 December 2018
Publish Statement of Licensing Policy	7 January 2019

APPENDIX 2**Equality Impact Assessment**

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and equality. The majority of the Act came into force on 1 October 2010.

Public bodies are required in it to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited under the Act
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- foster good relations between people who share a protected characteristic and people who do not share it.

The public sector Equality Duty came into force on 5 April 2011. The duty ensures that all public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. It ensures that public bodies consider the needs of all individuals in their day to day work – in shaping policy, delivering services and in relation to their own employees.

The Equality Duty encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

The new equality duty replaces the three previous public sector equality duties, for race, disability and gender. The new equality duty covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – including lack of belief
- sex
- sexual orientation.

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

Having due regard means consciously thinking about the three aims of the equality duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies, including how they act as

employers, how they develop, evaluate and review policies, how they design, deliver and evaluate services, and how they commission and procure from others.

Having due regard to the need to advance equality of opportunity involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics
- meet the needs of people with protected characteristics, and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

Complying with the equality duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic.

The Equality Duty also explicitly recognises that disabled people's needs may be different from those of non-disabled people. Public bodies should therefore take account of disabled people's impairments when making decisions about policies or services. This might mean making reasonable adjustments or treating disabled people better than non-disabled people in order to meet their needs.

There is no explicit requirement to refer to the Equality Duty in recording the process of consideration but it is good practice to do so. Keeping a record of how decisions were reached will help public bodies demonstrate that they considered the aims of the Equality Duty. Keeping a record of how decisions were reached will help public bodies show how they considered the Equality Duty. Producing an Equality Impact Assessment after a decision has been reached will not achieve compliance with the Equality Duty.

It is recommended that assessments are carried out in respect of new or revised policies and that a copy of the assessment is included as an appendix to the report provided to the decision makers at the relevant Cabinet, Committee or Scrutiny meeting.

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary.

Public bodies should take a proportionate approach when complying with the Equality Duty. In practice, this means giving greater consideration to the Equality Duty where a policy or function has the potential to have a discriminatory effect or impact on equality of opportunity, and less consideration where the potential effect on equality is slight. The Equality Duty requires public bodies to think about people's different needs and how these can be met.

EQUALITY IMPACT ASSESSMENT (EIA)

Directorate:	Chief Executive's	Lead officer responsible for EIA	D Gell
Name of the policy or function to be assessed:		Statement of Licensing Policy 2019-2014	
Names of the officers undertaking the assessment:		John Miley	
Is this a new or an existing policy or function?		Existing	

1. What are the aims and objectives of the policy or function?

This Statement of Licensing Policy aims to establish sensible controls and appropriate guidance to encourage and further the efforts that are being made by the Council and its partners together with the licensed trade to help the Authority deal with issues that may arise from licensable activities.

1. The sale by retail of alcohol
2. The supply of alcohol by or on behalf of a club to a member
3. The provision of regulated entertainment
4. The provision of late night refreshment

This will be achieved by:

- Establishing and building upon best practice within the industry;
- Recognising and facilitating the role of partners and stakeholders;
- Encouraging self-regulation by licensees and managers;
- Providing a clear basis for the determination of licence applications; and
- Supporting related policies and strategies of the Borough Council.
- An inspection and enforcement regime targeted at premises that present a high risk.

The Licensing Authority must carry out its functions under the Licensing Act 2003 with a view to supporting the four Licensing Objectives:

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

2. What outcomes do you want to achieve from the policy or function?

The policy is intended to define how applications are made and dealt with under the relevant legislation. It also sets out matters that applicants must consider when making such applications and gives clear guidance on matters to be considered by the licensing authority when determining the applications.

It will also assist in supporting the Council's objectives as set out in the Equality and Diversity Policy.

The policy will integrate with other initiatives that will:

- Reduce crime and disorder
- Encourage tourism, creating a vibrant licensed economy
- Reduce alcohol misuse
- Ensure the safety of children and vulnerable adults in the licensed economy
- Ensure a fair and consistent approach to the consideration of applications and management of those premises granted a licence.

3. Who is intended to benefit from the policy or function?

Applicants, Responsible Authorities, other stakeholders, public and the licensing authority will benefit from the policy. In particular, Councillors, ensuring that as decision makers and representatives of their residents, they understand the considerations required.

Responsible Authorities are:

- the relevant licensing authority and any other licensing authority in whose area part of the premises is situated;
- the chief officer of police;
- the local fire and rescue authority;
- the relevant enforcing authority under the Health and Safety at Work etc Act 1974;
- the local authority with responsibility for environmental health;
- the local planning authority;
- a body that represents those who are responsible for, or interested in, matters relating to the protection of children from harm;
- each local authority's Director of Public Health (DPH) in England⁴ and Local Health Boards (in Wales);
- the local weights and measures authority (trading standards); and
- Home Office Immigration Enforcement (on behalf of the Secretary of State).

4. Who are the main stakeholders in relation to the policy or function?

Operators of licensed premises, Responsible Authorities, the public and the licensing authority are all stakeholders in the policy. The Policy is statutorily reviewed every 5 years. The policy review is widely consulted upon with all stakeholders.

5. What baseline quantitative data do you have about the policy or function relating to the different equality strands?

According to research undertaken by the Joseph Rowntree Foundation, (Ethnicity and alcohol; – A review of the literature Hurcombe, Bailey & Goodman. Joseph Rowntree Foundation 2010) overall, most minority ethnic groups have higher rates of abstinence, and lower levels of frequent drinking and heavy drinking compared with the British population as a whole and to people from white backgrounds. However, there is considerable variation between and within different minority ethnic group populations in their drinking behaviours and

frequent and heavy drinking can occur in some communities. The controls provided by the reviewed policy will affect all equality strands equally

There are 364 premises licensed by the authority of which 98 are licensed for off sales only. 17 premises hold Club premises certificates. There are 58 community premises which are licensed for entertainment only (no sale of alcohol).

6. What baseline qualitative data do you have about the policy or function relating to the different equality strands?

See the research from the Joseph Rowntree Foundation referred to in 5 above.

The Licensing Authority working in partnership in particular with Nottinghamshire Police and their Licensing team follows a policy of early intervention when any issues arise. This has resulted so far, in no reviews of premises licences in the 15 years of the Licensing Act 2003.

Test purchasing for under age sales by Police and Trading Standards Officers has resulted in a limited number of fixed penalties being issued but no premises prosecuted for offences. Anecdotally there are few reports of under-age sales.

There are three Pubwatch schemes operating in the Borough supporting the aims and objectives of the policy.

Best Bar None also supports good management practice in licensed premises.

There have been no reported issues relating to any of the equality strands.

The House of Lords Select Committee on the Licensing Act 2003 in 2017 concluded that:

“We do not recommend adding as a licensing objective “compliance with the Equality Act 2010” or “securing accessibility for disabled persons”.

7. What has stakeholder consultation, if carried out, revealed about the nature of the impact?

The Statement Of Licensing Policy is reviewed and widely consulted upon every 5 years. This is a statutory function of the Licensing Authority. Consultees are identified in the Licensing Act 2003 and the consultation process includes a number of other interest parties:

- All Broxtowe Borough Councillors
- All Parish/Town Councils within the borough
- All BBC Heads of Service
- CAMRA
- Association of Convenience Stores
- Local MPs
- Alcohol Problems Advisory Service

Change Grow Live
 East Midland Ambulance Service
 Children and Adult Safeguarding Boards
 Licensing Solicitors
 Licensed Premises Operators
 Club Operators
 Nottinghamshire Police
 Association of Licensed Multiple Retailers
 Health & Safety Executive
 Nottinghamshire Police
 Clerk to the Licensing Justices
 Principal Community Safety Officer
 Nottinghamshire Fire & Rescue Service
 Association of Town Centre Managers
 Trading Standards Service
 British Beer & Pub Association
 British Institute of Innkeeping
 NHS – Nottinghamshire County
 All Broxtowe Borough Pubwatches
 Local Taxi Operators

There were no responses to the previous consultation in 2013

There will be a full consultation on the 2019-24 policy review and full use will be made of the Council’s website consultation process as well. Should any response from the current consultation indicate concerns, the matter will be reported the Alcohol and Entertainment Committee for consideration and resolution.

The policy will remain under review throughout its lifetime and may be subject to early review if required.

8. From the evidence available does the policy or function affect or have the potential to affect different equality groups in different ways?

In assessing whether the policy or function adversely affects any particular group or presents an opportunity for promoting equality, consider the questions below in relation to each equality group:

- Does the policy or function target or exclude a specific equality group or community? Does it affect some equality groups or communities differently? If yes, can this be justified?**

The Council aims to ensure that services provided are relevant to the needs of all sections of the communities. The stated policies are not expected to adversely affect any of the protected equalities groups highlighted in this assessment. The Council is aware of the negative impact of alcohol on some specific groups (children, those with mental health issues, particular ethnic groups), therefore in some cases the reviewed policy may have a positive effect.

The policy does not target or exclude any particular body. However a number of issues of vulnerability and safeguarding are addressed in the statement. 7.14 and Section 8 identify matters in relation to safeguarding of children.

Whilst licensees are able to ban persons from their premises. They are under a duty not to discriminate on grounds of equality.

The policy at para 7.30 actively encourages diversity in the licensed economy.

The policy also outlines measures and limitations in respect of “adult entertainment”

- **Is the policy or function likely to be equally accessed by all equality groups or communities? If no, can this be justified?**

The revised policy will apply equally across all groups and communities in the borough.

- **Are there barriers that might make access difficult or stop different equality groups or communities accessing the policy or function?**

There are no barriers in respect of the policy being accessed and utilised by any equality group or community. The policy is available for all to use.

- **Could the policy or function promote or contribute to equality and good relations between different groups? If so, how?**

The implementation of the Licensing Act and the Statement of Licensing Policy engendered a close working relationship with all stakeholders across the County. Safeguarding and vulnerability issues have been and continue to be dealt with by the Nottinghamshire Authorities Licensing Group (NALG). Work is ongoing in respect of Child Sexual Exploitation (CSE) and vulnerability issues at licensed premises.

- **What further evidence is needed to understand the impact on equality?**

Should any evidence arise as a result of the comprehensive consultation process or indeed become apparent during the life of the statement, it will be considered and if necessary acted upon. There are no barriers to revisiting the statement and revising if necessary throughout the five year period.

- 9. **On the basis of the analysis above what actions, if any, will you need to take in respect of each of the equality strands?**

Age:

One of the licensing objectives is protection of children from harm. NALG will continue to work in partnership with Nottinghamshire Police and the County Safeguarding Boards to address the issues of CSE and vulnerability on Licensed premises.

The statement of policy supports these initiatives.

<p>Disability:</p> <p>No adverse impact has been identified. However businesses have a duty under national legislation to make reasonable adjustments for people with disabilities. Should there be any reported incidents or issues, the licensing team will liaise with planning to assist in resolving matters.</p>
<p>Gender Reassignment:</p> <p>No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.</p>
<p>Marriage and Civil Partnership:</p> <p>No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.</p>
<p>Pregnancy and Maternity:</p> <p>No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.</p>
<p>Race:</p> <p>No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.</p>
<p>Religion and Belief:</p> <p>No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.</p>
<p>Sex:</p> <p>No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. The issue of adult entertainment is addressed in the statement. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.</p>
<p>Sexual Orientation:</p> <p>No adverse impact has been identified through previous consultations, premises visits and on-going monitoring. Should any matters arise, the licensing team will liaise with the appropriate partners to resolve matters.</p>

Head of Service:

I am satisfied with the results of this EIA. I undertake to review and monitor progress against the actions proposed in response to this impact assessment.

Signature of Head of Service: D Gell

Report of the Chief Executive

REVIEW OF THE GAMBLING ACT STATEMENT OF PRINCIPLES1. Purpose of report

To seek approval of the Council's draft revised Statement of Principles for statutory consultation.

2. Background

Section 349 of the Gambling Act 2005 (the Act) requires licensing authorities to prepare and publish a Statement of Principles that they propose to apply in exercising their functions under the Act. The Statement of Principles lasts for a maximum of three years but can be reviewed and revised by the authority at any time. The previous statutory three-year period began on 31 January 2016. Consequently the authority must review the existing and adopt and publish a new Statement of Principles by 31 January 2019.

The Act obliges the licensing authority to consult widely on the revision of its licensing statement and, to enable that to be done effectively, the Council has established a list of consultees comprised of representatives of the various groups and bodies whose views will be sought. There are also a number of statutory consultees outlined in the Act. A copy of the approved draft will be circulated to all of those so identified.

Members will also be aware that senior members and officers of all Nottinghamshire licensing authorities have been meeting to secure a co-ordinated approach to the new legislation. Considerable work has been undertaken by inter-authority groups to produce core documents common to the districts which reflect the statutory guidance. The draft revised Statement of Principles reflects the co-operation between the Nottinghamshire authorities.

A copy of Broxtowe's draft Statement of Principles is circulated separately with the agenda and a copy will be placed in the Members' Room, on the intranet and on the Council's website as part of the consultation process. Appendix 1 shows a proposed timescale for consideration of the document and its adoption in time for the revised policy to be implemented. An Equality Impact Assessment is attached at appendix 2.

Recommendation

The Committee is asked to RESOLVE that the draft of the revised Statement of Principles be approved for the purposes of statutory consultation.

Background papers

Nil

APPENDIX 1**TIMESCALE FOR ADOPTION OF REVISED STATEMENT OF PRINCIPLES**

Draft statement presented to Alcohol and Entertainment Committee for approval	19 June 2018
8 week consultation commences	22 June 2018
8 Week consultation finishes	17 August 2018
Consideration of consultation responses and amendment of draft statement as necessary.	17 August 2018
Revised Statement of Principles presented to Alcohol and Entertainment Committee for approval	11 September 2018
Adoption of Statement of Principles by Council	19 December 2018
Publish Statement of Principles and place on website	3 January 2019
Implementation	31 January 2019

APPENDIX 2

Equality Impact Assessment

The Equality Act 2010 replaces the previous anti-discrimination laws with a single Act. It simplifies the law, removing inconsistencies and making it easier for people to understand and comply with it. It also strengthens the law in important ways, to help tackle discrimination and equality. The majority of the Act came into force on 1 October 2010.

Public bodies are required in it to have due regard to the need to:

- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited under the Act
- advance equality of opportunity between people who share a protected characteristic and people who do not share it, and
- foster good relations between people who share a protected characteristic and people who do not share it.

The public sector Equality Duty came into force on 5 April 2011. The duty ensures that all public bodies play their part in making society fairer by tackling discrimination and providing equality of opportunity for all. It ensures that public bodies consider the needs of all individuals in their day to day work – in shaping policy, delivering services and in relation to their own employees.

The Equality Duty encourages public bodies to understand how different people will be affected by their activities so that policies and services are appropriate and accessible to all and meet different people's needs. By understanding the effect of their activities on different people, and how inclusive public services can support and open up people's opportunities, public bodies are better placed to deliver policies and services that are efficient and effective.

The new equality duty replaces the three previous public sector equality duties, for race, disability and gender. The new equality duty covers the following protected characteristics:

- age
- disability
- gender reassignment
- pregnancy and maternity
- race – this includes ethnic or national origins, colour or nationality
- religion or belief – including lack of belief
- sex
- sexual orientation.

It also applies to marriage and civil partnership, but only in respect of the requirement to have due regard to the need to eliminate discrimination.

Having due regard means consciously thinking about the three aims of the equality duty as part of the process of decision-making. This means that consideration of equality issues must influence the decisions reached by public bodies, including how they act as employers, how they develop, evaluate and review policies, how they design, deliver and evaluate services, and how they commission and procure from others.

Having due regard to the need to advance equality of opportunity involves considering the need to:

- remove or minimise disadvantages suffered by people due to their protected characteristics
- meet the needs of people with protected characteristics, and
- encourage people with protected characteristics to participate in public life or in other activities where their participation is low.

Fostering good relations involves tackling prejudice and promoting understanding between people who share a protected characteristic and others.

Complying with the equality duty may involve treating some people better than others, as far as this is allowed by discrimination law. For example, it may involve making use of an exception or the positive action provisions in order to provide a service in a way which is appropriate for people who share a protected characteristic.

The Equality Duty also explicitly recognises that disabled people's needs may be different from those of non-disabled people. Public bodies should therefore take account of disabled people's impairments when making decisions about policies or services. This might mean making reasonable adjustments or treating disabled people better than non-disabled people in order to meet their needs.

There is no explicit requirement to refer to the Equality Duty in recording the process of consideration but it is good practice to do so. Keeping a record of how decisions were reached will help public bodies demonstrate that they considered the aims of the Equality Duty. Keeping a record of how decisions were reached will help public bodies show how they considered the Equality Duty. Producing an Equality Impact Assessment after a decision has been reached will not achieve compliance with the Equality Duty.

It is recommended that assessments are carried out in respect of new or revised policies and that a copy of the assessment is included as an appendix to the report provided to the decision makers at the relevant Cabinet, Committee or Scrutiny meeting.

Where it is clear from initial consideration that a policy will not have any effect on equality for any of the protected characteristics, no further analysis or action is necessary.

Public bodies should take a proportionate approach when complying with the Equality Duty. In practice, this means giving greater consideration to the Equality

Duty where a policy or function has the potential to have a discriminatory effect or impact on equality of opportunity, and less consideration where the potential effect on equality is slight. The Equality Duty requires public bodies to think about people's different needs and how these can be met.

EQUALITY IMPACT ASSESSMENT (EIA)

Directorate:	Chief Executive's	Lead officer responsible for EIA	D Gell
Name of the policy or function to be assessed:	Gambling Act 2005 Statement of Principles 2019 - 2021		
Names of the officers undertaking the assessment:	John Miley		
Is this a new or an existing policy or function?	Existing		
<p>1. What are the aims and objectives of the policy or function?</p> <p>The aim of the Authority in this Statement is to address the impact of licensed premises in terms of crime and disorder arising from gambling and to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons. The Authority is committed to partnership with all stakeholders with a view to the promotion of this aim. The Authority recognises the impact that unregulated gambling may have on its community and sustainability as a viable local economy and in delivering the gambling regime will, with regard to the principles set out in this Statement, seek to support its local economy and protect vulnerable people. In doing so it will consider each application on its own merits within the context of this Statement, the legislation and guidance and codes of practice issued by the Gambling Commission.</p> <p>The authority must have regard to the licensing objectives as set out in section 1 of the Gambling Act 2005 (the Act) i.e.</p> <ul style="list-style-type: none"> • 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. <p>The licensing authority aims to permit the use of premises for gambling:</p> <ul style="list-style-type: none"> • In accordance with any relevant codes 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 Principles. 			

2. What outcomes do you want to achieve from the policy or function?

The Statement of Principles is intended to define how applications are made and dealt with under the relevant legislation. It also sets out matters that applicants must consider when making such applications and gives clear guidance on matters to be considered by the licensing authority when determining the applications. It will inform interested parties of the principles that the Licensing Authority will consider when exercising its duties under the Gambling Act 2005.

It will also assist in supporting the Council's objectives as set out in the Equality and Diversity Policy.

3. Who is intended to benefit from the policy or function?

Applicants, Responsible Authorities as defined in the Act, other stakeholders, the public and the licensing authority will benefit from the policy. In particular councillors, as decision makers and representatives of their residents will understand the considerations required.

The Responsible Authorities are:

- (a) a licensing authority in England and Wales in whose area the premises is wholly or partly situated
- (b) the Gambling Commission
- (c) the chief officer of police or chief constable for the area in which the premises is wholly or partially situated
- (d) the fire and rescue authority for the same area
- (e) in England and Wales, the local planning authority, or in Scotland, the planning authority
- (f) the relevant authority as defined in s.6 of the Fire (Scotland) Act 2005
- (g) an authority which has functions in relation to pollution to the environment or harm to human health
- (h) anybody, designated in writing by the licensing authority, as competent to advise about the protection of children from harm
- (i) HM Revenue & Customs
- (j) any other person prescribed in regulations by the Secretary of State.

4. Who are the main stakeholders in relation to the policy or function?

Operators of gambling premises, holders of gambling permits, operators of gaming machines on licensed premises, Responsible Authorities (as defined in the Gambling Act 2005), the public and the licensing authority are all stakeholders in the policy. The Statement of Principles is statutorily reviewed every 3 years. The Statement of Principles review is widely consulted upon with all stakeholders.

5. What baseline quantitative data do you have about the policy or function relating to the different equality strands?

Just under 1% of the population in the UK have been identified as ‘problem gamblers’ with a further 4% identified as being of low to moderate risk of problem gambling. While these percentages are small, this amounts to around 400,000 problem gamblers in total and a further 2 million ‘at risk’.

Certain groups are more likely to experience problems with gambling including those on lower incomes or unemployed, those from Asian/Asian British and Black British backgrounds, homeless people and prisoners. (Problem gambling in Birmingham - A Rapid Assessment Report. Carl Packman, Research and Good Practice Manager, Toynbee Hall Karen Rowlingson, Professor of Social Policy, University of Birmingham May 2018).

There are currently 10 betting shops, 7 Adult Gaming Centres and 1 Bingo Premises in Broxtowe. There have been no reported issues relating to any of the equality strands.

6. What baseline qualitative data do you have about the policy or function relating to the different equality strands?

Availability and convenience are strongly associated with problem gambling. Electronic gaming machines (EGMs) that are located outside casinos and are widely dispersed throughout the community in bars, hotels and clubs can encourage impulsive gambling and are associated with the highest rates of problem gambling worldwide. This applies across all groups and the Statement of Principles is equally relevant to all. (Research on the Social Impacts of Gambling. Dr Gerda Reith, University of Glasgow with The Scottish Centre for Social Research (ScotCen) Scottish Executive Social Research 2006).

The Licensing Authority, Nottinghamshire Police and the Nottinghamshire Authorities Licensing Group (NALG) have worked with representatives of the Gambling Commission and Nottinghamshire county NHS in developing this Statement of Principles to address the impact of licensed premises with a view to protecting children and vulnerable persons.

7. What has stakeholder consultation, if carried out, revealed about the nature of the impact?

The Statement of Gambling principles is widely consulted upon every three years. This is a statutory requirement. Consultees included:

Poppleston Allen Licensing Solicitors

Fraser Brown Solicitors

John Gaunt Solicitors

British Beer and Pub Association

Association of British Bookmakers

British Amusement Catering Trade Association.

The Bingo Association

Nottinghamshire Police (CJ) Liquor Licensing

Nottinghamshire Fire and Rescue Service

Nottinghamshire Social Services

Gamcare
 Gamblers Anonymous
 Novomatic Ltd (Luxury Leisure)
 Working Mens Club & Institute Union
 Mecca Bingo
 Equalised Club
 Stapleford Conservative Club
 Nottinghamshire Safeguarding Children Board
 Nottinghamshire Safeguarding Adults Board
 Gambling Commission

In 2015 the only response to the consultation was a trade response dealing with application matters.

In 2012 there were no responses.

There will be a full consultation on the 2019-21 statement and full use will be made of the Council's website consultation process as well. Should any response from the current consultation indicate concerns, the matter will be reported to the Alcohol and Entertainments Committee for consideration and resolution.

8. From the evidence available does the policy or function affect or have the potential to affect different equality groups in different ways?

In assessing whether the policy or function adversely affects any particular group or presents an opportunity for promoting equality, consider the questions below in relation to each equality group:

- **Does the policy or function target or exclude a specific equality group or community? Does it affect some equality groups or communities differently? If yes, can this be justified?**

The policy does not target or exclude any particular body. However a number of issues of vulnerability and safeguarding are addressed in the statement. See Para 4.15. There are a number of measures aimed at ensuring that no underage activities take place. There are also measures in place to support vulnerable people who may gamble more than they want to, gamble beyond their means or are unable to make informed decisions due to alcohol, drugs or mental impairment.

Applicants are required to submit a local risk assessment with applications to consider the above relevant matters identified in the statement and ensuring that they support the Licensing objectives.

- 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.

- **Is the policy or function likely to be equally accessed by all equality groups**

<p>or communities? If no, can this be justified?</p> <p>The revised policy will apply equally across all groups and communities in the borough.</p>
<p>• Are there barriers that might make access difficult or stop different equality groups or communities accessing the policy or function?</p> <p>There are no barriers in respect of the policy being accessed and utilised by any equality group or community. The policy is available for all to use. However safeguards are in place to support vulnerable persons and prevent under age gambling.</p>
<p>• Could the policy or function promote or contribute to equality and good relations between different groups? If so, how?</p> <p>The implementation of the Gambling Act 2005 and the Statement of Principles engendered a close working relationship with all stakeholders across the County. Safeguarding and vulnerability issues have been and continue to be dealt with by NALG.</p>
<p>• What further evidence is needed to understand the impact on equality?</p> <p>Should any evidence arise as a result of the comprehensive consultation process or indeed become apparent during the life of the statement, it will be considered and if necessary acted upon. There are no barriers to revisiting the statement and revising if necessary throughout the three year period.</p>
<p>9. On the basis of the analysis above what actions, if any, will you need to take in respect of each of the equality strands?</p>
<p>Age:</p> <p>One of the Licensing Objectives is “Protecting children and other vulnerable persons from being harmed or exploited by gambling.” We will consult with the Nottinghamshire Safeguarding Children Board and continue to liaise with them throughout the life of the statement through the Nottinghamshire Authorities Licensing Group (NALG).</p> <p>There are a number of measures in place in the statement that operators may use to protect children from harm, not only from gambling but the wider child protection issues.</p>
<p>Disability:</p> <p>No adverse impact has been identified through previous consultations, premises visits and on-going monitoring</p>

Gender Reassignment:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Marriage and Civil Partnership:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Pregnancy and Maternity:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Race:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Religion and Belief:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Sex:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Sexual Orientation:

No adverse impact has been identified through previous consultations, premises visits and on-going monitoring.

Head of Service:

I am satisfied with the results of this EIA. I undertake to review and monitor progress against the actions proposed in response to this impact assessment.

Signature of Head of Service: D Gell



Broxtowe
Borough
COUNCIL

**STATEMENT
OF
LICENSING POLICY**

Effective from January 2019

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1. INTRODUCTION

- 1.1 Broxtowe Borough Council is a Licensing Authority for the purpose of the Licensing Act 2003. Section 5 of the Act requires all licensing authorities to prepare and publish a Statement of Licensing Policy that they propose to apply in exercising their functions under the Act during the five year period to which the policy applies. The Statement of Licensing Policy can be reviewed and revised by the Authority at any time.
- 1.2 The Borough of Broxtowe is situated in the south west of Nottinghamshire and forms the western edge of the greater Nottingham conurbation with the City of Nottingham bordering much of the eastern boundary of the Borough. The administrative centre for the Council is at Beeston, situated 5 miles from the centre of Nottingham. This is also the largest of the four principal towns in the Borough, the others being Stapleford, Eastwood and Kimberley all of which have a thriving evening economy.
- 1.3 The Authority recognises that licensed premises are a major contributor to the Borough, attracting tourists and visitors and making for vibrant towns and communities. The Council also recognises the problems that can be caused if licensed activities are not properly managed and premises well run.
- 1.4 Broxtowe Borough Council believes that good management of the entertainment, alcohol and late night refreshment industries (and of the street environment within which it operates) is essential to the continued success of the Borough and to attracting the wide range of people who want to come here to work, to visit and to live. The Council will monitor the impact of licensing on the provision of regulated entertainment, and particularly live music in the area.
- 1.5 This Policy Statement seeks to establish sensible controls and appropriate guidance to encourage and further the efforts that are being made by the Council and its partners together with the licensed trade to help the Authority deal with issues that arise from licensable activities.
This will be achieved by:
- Establishing and building upon best practice within the industry;
 - Recognising and facilitating the role of partners and stakeholders;
 - Encouraging self-regulation by licensees and managers;
 - Providing a clear basis for the determination of licence applications; and
 - Supporting related policies and strategies of the Borough Council.
 - An inspection and enforcement regime targeted at premises that present a high risk.
- 1.6 The Authority is committed to working with its licensing partners and stakeholders in delivering the licensing function. This Policy Statement therefore seeks to provide information on the general approach that the Authority will take in carrying out its licensing functions.

- 1.7 In preparing and publishing this Policy Statement due regard has been given to the guidance issued by the Secretary of State under section 182 of the Act, and to good practice advice issued by approved government advisory bodies. In particular the Authority has consulted those persons and bodies as required by the guidance and given proper weight to their views. Partnership working between licensing authorities in Nottinghamshire has enhanced the production of this Policy Statement and will help ensure consistency in terms of both policy and enforcement where licensing boundaries meet.
- 1.8 This Policy Statement should not be regarded or interpreted as indicating that any requirement of law may be overridden; each application will be considered and treated on its own merits. No restrictive controls will be introduced or imposed unless they are felt to be necessary and appropriate.
- 1.9 There are certain matters which the Authority is prevented from taking into account or from dealing with in a specified way. For example the Authority is not entitled to take the issue of the “need” for further licensed premises into account when determining licence applications. On the other hand the cumulative impact of licensed premises on the promotion of the Licensing Objectives is a matter that can be properly considered by the Authority. Cumulative impact and related matters are dealt with in section 7 of this Policy Statement.
- 1.10 Nothing in this Statement of Policy prevents any one person or body applying for a variety of current permissions under the Act. Nor does it override the right of any Responsible Authority, any person or business to make representations or seek a review of a licence or certificate where provision has been made for them to do so in the Act.

2. LICENSING OBJECTIVES AND LICENSABLE ACTIVITIES

- 2.1 In exercising their functions under the Licensing Act 2003, licensing authorities must have regard to the licensing objectives as set out in section 4 of the Act. The licensing objectives are:
- (a) the prevention of crime and disorder;
 - (b) public safety;
 - (c) the prevention of public nuisance; and
 - (d) the protection of children from harm.
- 2.2 Guidance on the Licensing Objectives is available on the Government’s website at <https://www.gov.uk/alcohol-licensing>
- 2.3 Licensing law is not the primary mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual club, or business holding the licence, certificate or permission concerned. Licensing is about the management of licensed premises and activities within the terms of the Act and conditions attached to various authorisations will be focussed on matters which are within the control of the individual licence holder and others.

- 2.4 The Act only covers certain “licensable activities” namely:-
- (a) the sale by retail of alcohol
 - (b) the supply of alcohol by or on behalf of a club to a member
 - (c) the provision of “regulated entertainment” and
 - (d) the provision of late night refreshment
- 2.5 The definition of what constitutes “regulated entertainment” is complex and has been (and remains) the subject of Government deregulation. Whilst “regulated entertainment” potentially covers live or recorded music, dancing, plays, films, and certain types of sporting activity the Act itself provides various exemptions and restrictions on the types of activities which are subject to Licensing. Other legislation such as the Live Music Act 2012 has removed the ability of the Licensing Authority to regulate live music at certain times and in certain circumstances. Deregulation initiatives have added further exemptions particularly where it relates to entertainment taking place primarily between 8am and 11pm and where that entertainment takes place before an audience of a prescribed size. It cannot be assumed therefore that a licence is required for all forms of entertainment or, even if a licence is required, that the Licensing Authority will necessarily have the power to impose restrictions or conditions on such entertainment. Each activity is determined on its own circumstances and arrangements.
- 2.6 **Where an activity is licensable the promotion of the Licensing Objectives is the paramount consideration for the Authority. In the absence of valid representations from responsible authorities or other persons, all applications must be granted subject only to any prescribed mandatory conditions and such other conditions which are consistent with the operating schedule provided by the applicant. Where valid representations are received and maintained the application will normally be determined at a hearing before the Licensing Committee or one of its Panels. The Committee or Panel will then assess whether the application would result in the licensing objectives being undermined to such an extent that the application should be refused or, whether it would be possible to grant the licence subject to such conditions as are felt appropriate by the Authority. Conditions will be tailored to the size, style, characteristics and activities taking place at the premises concerned. Conditions will be focused on matters that are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being “in the vicinity” of licensed premises or places, is ultimately a matter of fact to be decided by the courts in cases of dispute. In addressing such matters consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. The imposition of standardised conditions is prohibited as being disproportionate and burdensome. It should be noted, however, that the Authority is**

permitted to establish pools of conditions from which appropriate and proportionate conditions may be drawn. Further details regarding such conditions can be obtained from the Licensing Team.

3. HOW THIS STATEMENT OF POLICY WORKS

3.1 The purpose of the Statement of Policy is to:

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

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

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

3.4 In this Statement of Policy any reference made to the imposition of conditions refers to conditions imposed in accordance with the requirements of the Act outlined in paragraph 2.6 above.

4. STRATEGIC LINKS AND OTHER REGULATORY REGIMES

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

<https://www.gov.uk/government/publications/explanatory-memorandum-revised-guidance-issued-under-s-182-of-licensing-act-2003>.

The Authority will seek to have an active involvement in the development and review of these by ensuring an appropriate exchange of dialogue between the Licensing Authority and other relevant regimes. Such involvement may result in the imposition of conditions and formulation of policies supporting the relevant strategies where appropriate.

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

to be addressed through planning processes. However there will be overlapping issues of interest e.g. disturbance, which will remain material considerations for planning purposes as well as being relevant in terms of the licensing objectives. Applicants should also ensure that they have due regard to any planning restrictions on the use of premises when applying for licence/certification to avoid any possible enforcement action.

- 4.3 The 4 statutory licensing objectives aim to reduce crime and disorder and increase public safety. Licensing policies are not currently required to address Public Health concerns however, there is strong evidence that alcohol outlet density is associated with increased alcohol-related hospital admissions and alcohol-related mortality. Alcohol contributes to more than 60 diseases and health conditions and represents 10% of the burden of disease and death in the UK, placing it in the top three lifestyle risk factors after smoking and obesity.
- 4.4 Whilst the exact relationship between alcohol and ill-health is often complex and affected by other factors such as the socioeconomic make-up of the neighbourhood, studies have found that local authorities' greater use of licensing powers leads to reductions in alcohol-related hospital admissions in England (Institute of Alcohol Studies, 2017). In light of this, this authority has reviewed Public Health indicators both at District level from the Local Alcohol Profiles for England and at sub-district level.
- 4.5 Across Broxtowe, Public health analysts have mapped a number of alcohol-related measures that are considered to have a negative impact on health and wellbeing to show how the relative levels of these measures vary across Nottinghamshire County Districts and Boroughs.
- 4.6 Measures used were selected for their relevance to licensing and public health and their availability at sub-district level and include alcohol-related hospital admissions, anti-social behaviour, crimes against the person including domestic violence, rate of persons in treatment for substance misuse, an estimate of the percentage of the population drinking at least once a day and deprivation.
- 4.7 This has identified some areas with relatively higher levels of harm and for Broxtowe this includes parts of: Eastwood, Kimberley, Awsworth, Stapleford, Chilwell, Beeston and Attenborough. Applications within these areas or surroundings should be aware of, and give consideration to, their contribution to the burden of alcohol-related harms to the health and wellbeing within the community

5. DELIVERING LICENSING SERVICES

- 5.1 The Authority will make available guidance and such resources as required by law to enable engagement with the licensing process. Such guidance and resources may be accessed through the [Broxtowe Borough Council](#) web site, Liquor Licensing Policy or by contacting the Authority direct.

- 5.2 The Licensing Authority will maintain an impartial role in service delivery and cannot act in favour of one party over another. The Licensing Authority may, in certain circumstances, act as a Responsible Authority. However this will only be done in exceptional circumstances and the Licensing Authority will not normally take over the role of other Responsible Authorities or parties.
- 5.3 Responsible Authorities are public bodies which must be fully notified of licence application and are entitled to:
- Make relevant representations
 - Request reviews
 - Make representations with regard to cumulative impacts

Details of Responsible Authorities can be found on the Council's website. List of Responsible Authorities

6. APPLICATIONS, NOTIFICATIONS AND THEIR CONSIDERATION

- 6.1 The procedure and documentation required for the various applications and notices is prescribed by the Act and Regulations. Further advice on these processes is available on the Council's web site. This section of the policy gives basic guidance on how those applications and notifications will be considered. Failure to comply with the statutory requirements may result in the application or notice being invalid. **To ensure the application is completed fully, applicants must consider the contents of this policy statement, the government guidance issued under section 182 Licensing Act 2003 and relevant guidance published by the licensing authority. Applicants are encouraged to seek advice from the licensing authority and responsible authorities before submitting an application. Failure to comply with the statutory requirements may result in an application or notice being invalid/rejected.**
- 6.2 The process of applying for new premises licences and full variations of current premises licences are dealt with in same way and involve serving the application on all responsible authorities and advertising the application in the prescribed way. If objections are received the matter will be heard by the Licensing Committee of the Council. The fee for such applications depends on the size of the premises.
- 6.3 The process of a minor variation to current premises licences are dealt with differently. Minor variations can be applied for to vary times of activities but not to increase the hours when alcohol can be sold. The process can also be used when making minor structural alterations to the premises and to add or remove conditions from the licence. These minor variations should not have a material effect on the way in which the premises are operated and there is one set fee. The granting of a minor variation is determined at officer level after consultation with those responsible authorities affected. If the application is refused the applicant can resort to the full variation process.

- 6.4 All applicants are encouraged to submit on-line applications using the gov.uk website or by following the links on the Council's website.

Representations

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

Guidance on making a representation is available from the Home Office and a preferred form is available on the Council's Liquor Licensing Policy web page for individuals or groups to make their representations.

- 6.6 Submissions of representations made via e-mail will be accepted so long as there is a clear indication of who has submitted the representation, **it is clear and legible** and details of how that person or group can be contacted.

- 6.7 For a representation to be relevant it should be positively tied or linked by a causal connection to particular premises. Representations received outside the statutory period for making such representations will be invalid and will not be taken into consideration when the application is determined. The Licensing Authority also has the power to reject a representation made by someone other than a Responsible Authority if it finds it to be vexatious or frivolous. An example could be where a representation was made solely on the basis that the application would provide competition to an existing trader or where no link was made to any of the licensing objectives.

- 6.8 **Members of the public who wish to submit a representation need to be aware that their personal details will be made available to the applicant. If this is an issue, they may contact their ward Councillor or other locally recognised body such as a resident's association about submitting a representation on their behalf. The Council is not able to accept anonymous representations.**

- 6.9 Where a representation proceeds to a hearing the Hearings Regulations allow for further information to be put forward in support of that representation. However, that material must only relate to the initial representation and must not add new grounds of objection. It is therefore vitally important that as much detail and evidence as possible is included at the time the representation is made. Representations made without supporting detail and evidence may be viewed as frivolous or vexatious and disregarded.

- 6.10 It is for the Licensing Authority to determine whether any representation by an interested party is, on its own merits, vexatious or frivolous. The Authority will determine this and make the decision on the basis of what might ordinarily be considered to be vexatious or frivolous.

- 6.11 Where representations are received the characteristics of an area and the impact that the premises may have upon that area will be a fundamental consideration in determining whether a licence should be granted and if so

what conditions should be attached to it. Conditions will be focused on matters that are within the control of individual licensees and others in possession of relevant authorisations. These matters will centre on the premises being used for licensable activities and the vicinity of those premises. What amounts to the vicinity will be a question of fact to be determined in the light of the individual circumstances of the case. Consideration will primarily be given to the direct impact of the licensed activity on those who live, work or are engaged in business or other activities in the area concerned.

- 6.12 Although the licensing authority is a responsible authority in its own right, it expects other parties such as local residents, Councillors or community groups should make representations in their own right when they are reasonably able to do so rather than rely on the licensing authority to make representations for them.
- 6.13 The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not yet a licensing objective but Public Health is a responsible authority under the Licensing Act, and the licensing authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which may inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies.

Panel/Committee Hearings

- 6.14 The Act creates a presumption that applications will be granted unless a valid representation is raised. An application will then be determined by the Licensing Committee/Panel unless the issue that led to the representation can be negotiated to an agreed conclusion between the parties.
- 6.15 The Authority considers the effective and responsible management of the premises, the instruction, training and supervision of staff and the adoption of best practice in the leisure industry (which may include participation in such schemes as Best bar None, Purple Flag or Business Improvement Districts (BIDs)), to be amongst the most important control measures for the achievement of all of the Licensing Objectives.

7. LICENSING POLICIES

POLICY 1

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

REASON: To ensure the promotion of the licensing objectives.

- 7.1 Licensing law is not the primary mechanism for the general control of the anti-social behaviour of patrons once they have left the vicinity of the licensed premises rather it is part of a holistic approach to the management of the Borough.
- 7.2 Where appropriate the Authority will seek to identify mechanisms that are available for addressing the potential impact of anti-social behaviour arising both in respect of the management and operation of licensed premises themselves and that arising once patrons leave the licensed premises. Regard will be had to the Section 182 Guidance in this respect and the following may be employed: to address such behaviour and the potential for cumulative impact

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

POLICY 2

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

- (i) **The nature of the area within which the premises are situated.**

- (ii) The precise nature, type and frequency of the proposed activities.
- (iii) Any measures proposed by the applicant in the Operating Schedule.
- (iv) The nature (principally in terms of the age and orderliness) and number of any customers likely to attend the licensed premises.
- (v) Means of access to and exit from the premises.
- (vi) The provision and availability of adequate seating and the restriction of standing areas
- vii Noise from the premises or noise arising from persons visiting the premises
- (viii) The potential cumulative impact (see below).
- (ix) Other means and resources available to mitigate any impact.
- (x) Such other matters as may be relevant to the application.

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

- 7.3 The authority wishes to encourage high quality, well managed premises. The operating schedule should describe how these high management standards will be achieved. In particular applicants will be expected to demonstrate:
- Knowledge of best practice
 - That they understand the legal requirements of operating a licensed business
 - Knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003
- 7.4 The operating schedule must include all of the information necessary to enable the licensing, responsible authorities and members of the public to assess whether the steps outlined for the promotion of the licensing objectives are sufficient. This will mean that applicants will need to complete their own risk assessments on their businesses. Where the operating schedule does not provide enough detail, there is an increased likelihood that representations will be made.
- 7.5 The authority will expect that the completed operating schedule is specific to the premises subject to the application and the licensable activities to be carried out rather than containing general or standard terms
- 7.6 Levels of noise from licensed premises, which may be acceptable at certain times of day, may not be acceptable later in the evening or at night when ambient noise levels are much lower. The main impact of customers arriving, queuing and leaving should be confined to principal pedestrian routes as far as possible. The impact of noise arising from patrons who are temporarily outside the premises (e.g. smoking), must be recognised and mitigated against.
- 7.7 Applicants should carefully consider the hours that they will wish to operate for each licensable activity and when to close their premises for the entry of customers and to require them to leave. They should consider each licensable activity separately and carefully, and reflect this in their operating schedule.

Shops, stores and supermarkets will normally be permitted to sell alcohol and or late night refreshment anytime when they are open for shopping unless there are good reasons related to the promotion of the licensing objectives for restricting these hours.

- 7.8 Applicants should consider the benefits of stopping serving alcohol before other licensable activities stop and a suitable time before the premises close and customers must leave. In noise sensitive areas operators should consider ceasing the playing of dance music and switching to quieter, slower tempo music with a less pronounced beat for a period prior to the closure of the premises.
- 7.9 Applicants should also consider making arrangements with local transport operators to provide information to customers to ensure they can access public transport and leave the vicinity of the premises quickly by the most appropriate route.
- 7.10 The Authority is mindful of the responsibilities that licence holders have for preventing anti-social behaviour on and within the vicinity of their premises. The Authority must, however, also bear in mind its statutory duty under the Crime and Disorder Act 1998 to do all it can to prevent crime and disorder in the District. Where appropriate conditions will be imposed which reflect local Crime Prevention strategies.
- 7.11 Applicants are expected to have carried out the relevant assessments under other legislation (e.g. fire precautions, health and safety at work, etc) prior to submitting their applications. These assessments should be used to identify particular issues which may need to be addressed in the operating schedule in order to ensure that the objectives will not be undermined. Suggested methods of addressing Policy 2 may be outlined in more detail in any guidance issued by the Responsible Authorities but could include the matters listed below where appropriate.
- 7.12 Examples of recommended management practice to minimise Crime and Disorder:
- Use of CCTV both within and outside the premises.
 - Metal detection and search facilities.
 - Procedures for risk assessing promotions and events such as “happy hours” and plans for minimising such risk.
 - Measures to prevent the use or supply of illegal drugs.
 - Employment of licensed door supervisors and other appropriately trained staff.
 - Participation in an appropriate Pub Watch Scheme or other such scheme aimed at achieving a safe, secure and social drinking environment e.g. bar tariffs (for all bar price lists to carry a guide of how many units of alcohol each individual drink contains) and recommendations that all licensees, managers or supervisors attend regular Pub Watch meetings or send a representative if they cannot attend.

- The licensee providing a taxi call point, waiting and concierge service for taxi marshalling at the licensed premises.
- Use of measures aimed at ensuring patrons are more relaxed and quieter when leaving the licensed premises e.g. playing quieter music and promoting non-alcoholic drinks towards the end of the event, ensuring good lighting outside the premises, staggering the closing time with regard to nearby licensed premises, etc.

7.13 Examples of recommended management practice to ensure public safety:

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

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

- Exclusion from the premises in certain circumstances.
- Implementation of a robust proof of age scheme.

Supply of Alcohol (Off Sales)

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

7.15 Examples of recommended management practice for preventing nuisance:

- Keeping doors and windows of licensed premises closed to minimise noise break out.
- Sound limiting devices, or insulation to contain sound and vibration so as to address noise break out not only from music but also, for example, from air handling equipment, generators or patrons.
- With popular premises that attract queues ensuring that the direction of any queue is away from residential accommodation.
- Proper and adequate door supervision.
- Erecting prominent notices at the exits to premises asking customers to leave quietly and not to slam car doors and repeating such requests verbally.
- Reducing the volume of music towards the end of the evening and where appropriate playing quieter, more soothing music as the evening winds down.

- Arrangements with licensed taxis or private hire vehicles to take patrons from the premises.
- In appropriate cases door supervisors or a manager patrolling nearby streets to assess for themselves whether there is a problem and how best to deal with it.
- Banning people who regularly leave in a noisy fashion and liaising with other premises on such bans.
- Where the premises have a membership scheme, including provisions in the conditions of membership concerning conduct and noise when leaving the premises.
- Adequate provisions for dealing with litter/refuse arising from the operation of premises.
- Appropriate times for and methods of dealing with bottle delivery, disposal and collection.
- The licensee providing a help line or contact number for concerned residents.

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

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

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

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

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

Outside Areas

7.20 The prohibition on smoking in enclosed public spaces has increased the demand for outside areas. Applicants are reminded that whilst they can be a valuable addition to the business, they can cause increased nuisance and disorder for residents. Operating schedules should detail how noise nuisance

and disorder will be dealt with

- 7.21 Although consumption of alcohol is not a licensable activity, if the plan does not show outside area such as beer gardens or similar, then any premises licence authorising the sale of alcohol on the premises only would not authorise the use of such areas.

Large Scale Events

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

Cumulative Impact

- 7.23 This potential impact on the promotion of the Licensing Objectives by a significant number of licensed premises concentrated in one area is called “cumulative impact”. This should not be confused with the issue of “need” which relates to the commercial demand for licensed premises and cannot be taken into account when determining licensing applications.
- 7.24 Cumulative Impact Assessments (CIA’s) were introduced in the Licensing Act 2003 by the Policing and Crime Act 2017.
- 7.25 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.
- 7.26 The CIA must include a statement saying that the licensing authority considers that the number of premises licences and/or club premises certificates in one or more parts of the area described is such that it is likely that granting further licences would be inconsistent with the authority’s duty to promote the licensing objectives. As part of the publication a licensing authority must set out the evidential basis for its opinion.

Any CIA published by the Council must be summarised in the statement of licensing Policy.

- 7.27 The absence of a CIA does not prevent any responsible authority or other person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives, However, in each case it would be incumbent on the person making the representation to provide relevant evidence of cumulative impact.

- 7.28 Having taken into account the evidence presented, the Council is satisfied that there are no areas within the Borough presently suffering from cumulative impact. Should this situation change, the Council will consider the available evidence and consult with those bodies and individuals listed in the Licensing Act 2003. If the Council is satisfied that it would be appropriate to publish a CIA, it will be published on the Council's website and a summary will be included in this statement of licensing policy.

Public Space Protection Orders

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

Encouraging diversity

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

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

Provisional Statements

- 7.31 Where it is proposed to build or alter premises which may require a premises licence then the Licensing Act permits an application for a Provisional Statement. This application is dealt with in the same way as an ordinary application but does not result in the issue of a premises licence. That is applied for when the premises are complete.
- 7.32 Where a provisional statement has been issued by the Authority and the relevant works are completed satisfactorily then any subsequent application for a premises licence must be granted and any objection which could have been raised at the Provisional Statement stage must be disregarded

Adult Entertainment

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

- 7.34 The Policing and Crime Act 2009 potentially provides an additional licensing requirement for operators who provide “sexual entertainment venues” to licence them as sex establishments under the Local Government (Miscellaneous Provisions) Act 1982. These are essentially premises which provide live entertainment or performances to a live audience which either involve nudity (such as lap or pole dancing establishments) or which are for the purpose of sexually stimulating a member of the audience. The licensing provisions are adoptive and do not necessarily apply in every Licensing Authority’s district. Broxtowe Borough Council has however adopted those provisions.
- 7.35 Where a business wishes to operate as a sexual entertainment venue it may still need to be licensed under the Licensing Act for the sale of alcohol and the provision of regulated entertainment. The provision of sexual entertainment will however be regulated solely under the terms of any sex establishment licence which may be granted under the 1982 Act. The Licensing Act licence will then continue to regulate the other licensable activities.
- 7.36 Certain forms of adult entertainment are excluded from requiring sex establishment licences under the Local Government (Miscellaneous Provisions) Act 1982, and these will still be regulated under the terms of the Licensing Act 2003.
- 7.37 The provision of adult entertainment on premises may mean that access by children will not be permitted during periods when such entertainment is taking place. Where such entertainment is to be provided under the terms of the premises licence or club premises certificate the Authority expects applicants to include arrangements for restricting children from viewing any adult entertainment in their Operating Schedule. The Authority expects licensees to ensure that any age restrictions for shows or entertainment of an adult or sexual nature are properly complied with. In addition it may be appropriate to impose age restrictions for persons working in the premises, and applicants are advised to also consider the wider crime and disorder issues which can be associated with such forms of entertainment such as issues relating to drugs and prostitution.
- 7.38 Responsible authorities are likely to continue to consider all applications involving adult entertainment very carefully with regard to the promotion of the licensing objectives within the vicinity in which the premises are located.

Licence Suspensions

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

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

Reviews

- 7.41 At any stage following the grant of a premises licence or club premises certificate a Responsible Authority or any person may ask for a review. Evidence will however be required to show that a specific concern exists relating to one or more of the licensing objectives.
- 7.42 Where a review Hearing is held the Licensing Authority has a variety of options that it may take ranging from taking no action at all, to varying conditions or suspending or revoking the licence. The Guidance reminds the Authority that the powers of review are to be used in the interests of the wider community and not that of the individual licence/certificate holder. Whilst the financial circumstances of the licence/certificate holder will be a consideration for the Licensing Authority the promotion of the licensing objectives will be the Authority's primary concern. In some circumstances e.g. the use of premises for the purchase and consumption of alcohol by minors, revocation may be considered an appropriate course of action even in the first instance.

Early Morning Restriction Orders (EMROs)

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

Personal Licences

- 7.46 In most cases the Authority is under a duty to grant a Personal Licence so long as the applicant meets the criteria prescribed in section 120 of the Act. Where an applicant for a Personal Licence has certain types of conviction (for relevant or foreign offences as defined by the act) or, has been required to pay an immigration penalty the Authority is required to notify the police, and, in the case of immigration offences and penalties, the Secretary of State. In

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

POLICY 3

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

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

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

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

REASON: Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective. Similarly granting licence to a person convicted of an immigration offence or who has paid an immigration penalty will in many cases undermine the prevention of illegal working in licensed premises which itself is a crime.

7.47 Where a Personal Licence holder is convicted of a relevant offence the Court may order that the licence be forfeit. If an applicant is convicted of a relevant offence during the application period and this only comes to light after the licence has been granted or renewed then the Authority must notify the Chief Officer of Police and if an objection notice is lodged within the relevant period a Hearing will be held to determine whether the licence should be revoked.

7.48 Where the authority is aware that a Personal Licence holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty it may suspend the licence for a period not exceeding six months or revoke the licence. Before doing so the Authority will serve a notice on the personal licence holder inviting them to make representations within 28 days regarding:

- The offence /penalty
- Any decision a court made regarding the licence at the time of the conviction

- Any other relevant information (including the holder's personal circumstances)

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

Temporary Event Notices

7.50 There are two types of types of Temporary Event Notice,

- A Standard TEN, and
- A Late TEN

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

7.51 Whilst the Council recognises that a Temporary Event Notice may be served at least ten clear working days prior to the commencement of a Permitted Temporary Activity (the event), the current Guidance issued under the Act encourages a locally established preferred period of notice. There is a case for not serving such Notices too early as this could make it difficult for a sensible assessment to be made of the implications of such an event on the Crime and Disorder and Prevention of Public Nuisance objective's. The Council considers that a reasonable period of notice for the service of a Temporary Event Notice is 28 days.

7.52 Persons serving Temporary Event Notices must also serve a copy notice on the police and the responsible authority for Environmental Health functions i.e. the Councils Environmental Health section except when the TEN is served electronically/digitally.

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

8. CHILDREN

8.1 Broxtowe Borough Council is committed to the Safeguarding of children and vulnerable adults. The Licensing Act places legal responsibilities on holders of Premises licences and Clun Premises Certificates and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.

- 8.2 The Authority in partnership with the police, the Nottinghamshire Safeguarding Board and the Community Safety Partnership works closely with licensed premises in order to build awareness across the industry as to how those that work in such establishments may better recognise the indicators of children and vulnerable adults who may be subject to, or at risk of abuse, exploitation and trafficking and the reporting mechanisms for these concerns.
- 8.3 When considering applications for new or variations to existing premises the Authority will seek to be assured that applicants have considered the safeguarding of children and vulnerable adults within the operating schedule of the application.
- 8.4 Where there are concerns over the potential for harm to children from licensable activities the Authority recognises the following body as competent to advise on matters relating to the protection of children from harm:
- The Nottinghamshire Safeguarding Children Board.
- Applications should therefore be copied to this body in its capacity as a responsible authority
- 8.5 Examples which may give rise to concerns in respect of children include those:
- Where there have been convictions for serving alcohol to minors
 - Where there is a reputation for underage drinking
 - Where there is a known association for drug taking or dealing
 - Where there is a strong element of gambling on the premises
 - Where entertainment of an adult or sexual nature is provided
- 8.6 Where premises are used for film exhibitions, the Authority will impose the mandatory condition restricting access only to persons who meet the required age limit in line with any certificate granted by the British Board of Film Classification or the Authority itself.
- 8.7 The Authority expects applicants to include any arrangements for restricting under-age children from viewing age-restricted films in their Operating Schedule. The Authority expects that licensees will ensure that any age restrictions for cinema exhibitions are properly complied with.

Policy 4

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

- (i) Limitations on the hours when children may be present.**

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

REASON: To protect children from harm.

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

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

Age verification policies

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

9. EQUALITY AND DIVERSITY

9.1 Broxtowe Borough Council is committed to promoting equal opportunities, valuing diversity and tackling social exclusion. The Council will aim to provide opportunities that meet the diverse needs of different people and groups of people by ensuring that services and employment opportunities are accessible to all. Everyone will be treated fairly and with respect. Diverse needs will be understood and valued. The Council will aim to eradicate all forms of discrimination

Further information on the Council's policy can be viewed on the website at [Broxtowe Borough Council Website](#)

9.2 Advice and guidance will be made available in English which is the most common language of customers and stakeholders. On request the Council will signpost customers to providers of guidance and information relating to translation services.

10 GENERAL ENFORCEMENT STATEMENT

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

11. MONITORING AND REVIEW OF THIS STATEMENT OF POLICY

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



Broxtowe
Borough
COUNCIL

Gambling Act 2005 Statement of Principles

2019-2021

Published xxxxxx

01



DRAFT POLICY 2019-2021

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DRAFT POLICY 2019-2021

1.0 INTRODUCTION AND SCOPE

Introduction

1.1 Section 349(1) of the Gambling Act 2005 [“the Act”] imposes a statutory requirement upon Broxtowe Borough Council as the statutory Licensing Authority [“the Authority”] to prepare a Statement of Principles [“the Statement”] and to review it every three years. However, should the need arise, the Authority may review and alter the policy within that period.

1.2 In exercising their functions under Section 153 of the Act the Authority shall aim to permit the use of premises for gambling in so far as it thinks it is:

- in accordance with any relevant code of practice issued by the Gambling Commission
- in accordance with any relevant guidance issued by the Gambling Commission
- reasonably consistent with the licensing objectives
- in accordance with the Authority’s statement of licensing principles.

In exercising 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 three objectives are as follows:

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

1.3 The aim of the Authority in this Statement is to address the impact of licensed premises in terms of crime and disorder arising from gambling and to ensure that their location and internal layout are appropriate with a view to protecting children and vulnerable persons. The Authority is committed to partnership with all stakeholders with a view to the promotion of this aim. The Authority recognises the impact that unregulated gambling may have on its community and sustainability as a viable local economy and in delivering the gambling regime will, with regard to the principles set out in this Statement, seek to support its local economy and protect vulnerable people. In doing so it will consider each application on its own merits within the context of this Statement, the legislation and guidance and codes of practice issued by the Gambling Commission.

1.4 The Authority will, in the statutory discharge of its functions, have particular regard to the principles to be applied in exercising its powers:

- under Section 157 of the Act to designate in writing a body competent to advise the Authority about the protection of children from harm
- under Section 158 of the Act to determine whether a person is an interested party in relation to a premises licence or in relation to an application for or in respect of a premises licence.

1.5 Subject to statutory provision, a review of this Statement will take place periodically and any revisions to the Statement will be made taking into account information

collated over a period of time, the outcomes of related initiatives at central and local government level and following appropriate consultation.

- 1.6 Nothing in this Statement should be regarded or interpreted as any indication that any statutory requirement of gambling or other law is to be overridden.

Declaration

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

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

Consultation

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

- in England and Wales, the chief officer of police for the Authority's area
- one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area
- one or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under this Act.

The Council has consulted various bodies and organisations upon this Statement. The consultation period ran from 22 June 2018 to 17 August 2018.

A full list of consultees is shown in appendix 1.

Local Area Profile

- 1.9 The borough of Broxtowe is situated in the south west of Nottinghamshire and forms the western edge of the Greater Nottingham conurbation with the City of Nottingham bordering much of the eastern boundary of the borough. To the west lie the Derbyshire boroughs of Erewash and Amber Valley.

Broxtowe is compact, covering an area of only 8,028 hectares of which two thirds is green belt, and has a population of 109,487 (2011 census). This figure represents 14% of the total population of the county of Nottinghamshire. The administrative centre for the Council is at Beeston, situated 5 miles from the centre of Nottingham. This is also the largest of the four principal towns in the borough, the others being Stapleford, Eastwood and Kimberley, all of which have a thriving evening economy.

In 2011, 15.81% of the borough's population was aged 0 – 14. This was very low by national standards. 12.04% of the population was aged 15 – 24. This was comparable with Nottinghamshire (11.76%), but lower than the East Midlands (13.31%) and England (13.08%).

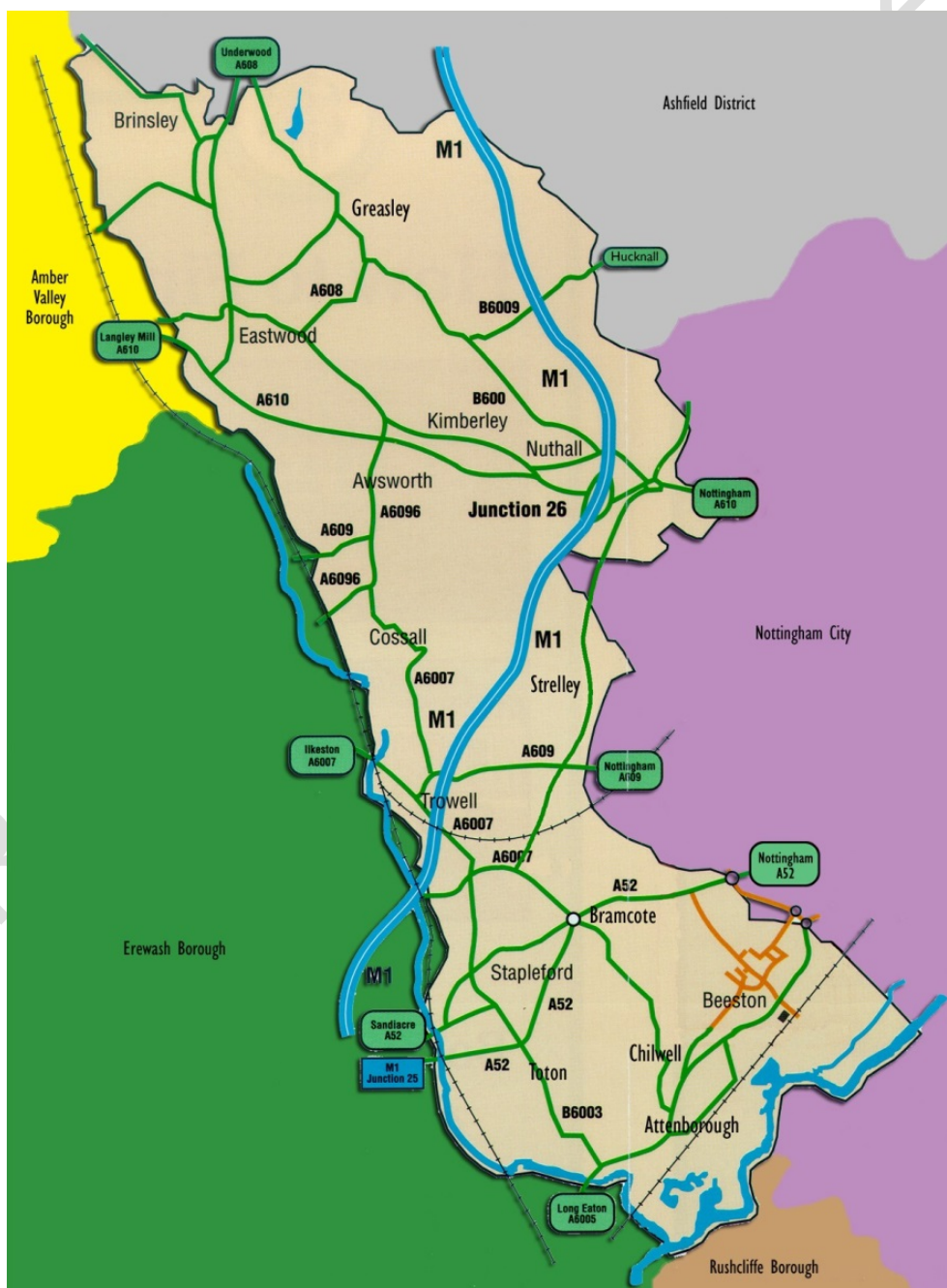
The percentage of the borough's population in the 25 – 44 age group (26.21%), is slightly lower than that for England (27.53%).

At the time of the Census, 27.59% of the borough's population was aged 45 – 64, similar to the county figure of 27.87%, but higher than that for the East Midlands (26.48%) and England (25.37%).

Finally, the percentage of the borough's population aged 65 and over was 18.35% at the time of the Census, higher than that for England (16.34%).

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

1.10



Authorised activities

1.11 The Act gives licensing authorities a number of important regulatory functions in relation to gambling. Their main functions are to:

- licence premises for gambling activities
- issue provisional statements for premises
- consider notices given for the temporary use of premises for gambling
- grant permits for gaming and gaming machines in clubs and miners' welfare institutes
- regulate gaming and gaming machines in alcohol licensed premises
- grant permits to Family Entertainment Centres for the use of certain lower stake gaming machines
- grant permits for prize gaming
- consider occasional use notices for betting at tracks
- register small societies' lotteries.

N.B. Spread betting is regulated by the Financial Services Authority.

- Remote gambling, Operator Licences and Personal Licences are dealt with by the Gambling Commission
- The National Lottery is now regulated by the Gambling Commission
- Spread betting is now regulated by the Financial Services Authority.

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

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

Relationship with other legislation

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

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

"Demand" for gaming premises

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

Rights of applicants and third parties

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

Data sharing and data security

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

Equality and Diversity

- 1.18 Broxtowe Borough Council is committed to promoting equal opportunities, valuing diversity and tackling social exclusion. The Council will aim to provide opportunities that meet the diverse needs of different people and groups of people by ensuring that services and employment opportunities are accessible to all. Everyone will be treated fairly and with respect. Diverse needs will be understood and valued. The Council will aim to eradicate all forms of discrimination.

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

2.0 LOCAL RISK ASSESSMENTS

- 2.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks. Local risk assessment apply to all non-remote casino, adult gaming centre, bingo, family entertainment centre, betting and remote betting intermediary (trading room only) licences, except non-remote general betting (limited) and betting intermediary licences.
- 2.2 Licensees are required to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement.
- 2.3 Licensees must review, and update as necessary:
- a) to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of licensing policy;
 - b) when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
 - c) when applying for a variation of a premises licence;
 - d) and in any case, undertake a local risk assessment when applying for a new premises

- 2.4 The social responsibility provision is supplemented by an ordinary code provision that requires licensees should share their risk assessment with licensing authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the licensing authority such as when they are inspecting a premises.
- 2.5 Where concerns do exist, perhaps prompted by new or existing risks, a licensing authority may request that the licensee share a copy of its own risk assessment which will set out the measures the licensee has in place to address specific concerns. This practice should reduce the occasions on which a premises review and the imposition of license conditions is required.
- 2.6 A copy of the local risk assessment must be retained at the premises.
- 2.7 The licensing authority has an expectation that all local risk assessments will take into account the local area profile of the area.
- 2.8 The 3 statutory licensing objectives for gambling include protecting children and other vulnerable persons from harm and exploitation. Licensing policies are not currently required to address Public Health concerns and Public Health is not a responsible authority, as in the case of alcohol, however the Gambling Commission has recognised the benefits of a Public Health whole population approach (February 2018). The Commission has identified specific groups of people who are particularly at risk:
- ethnic groups
 - youth
 - low IQ
 - substance abuse/misuse
 - poor mental health.

It is estimated that there are over 370,000 problem gamblers in England. There are no local level estimates available. Gambling harm includes poor physical and mental ill-health and is associated with substance misuse problems especially alcohol and with smoking. It also contributes to debt problems, relationship breakdown and criminality.

Further information on the Gambling Commissions position on Gambling as a public health issue is available on the Commissions website at the following link.

[Gambling related harm as a Public Health issue](#)

There is less evidence available to support gambling SOLPs at a local level.

Nationally there is a significant amount of gambling that takes place on the internet which reduces barriers to where people can gamble. Problem gambling is linked with areas of socio-economic deprivation, so identifying areas with potentially higher levels of gambling harm can therefore be informed by the alcohol licensing maps.

3. MAKING REPRESENTATIONS

Who can make a representation?

- 3.1 The Gambling Act allows “responsible authorities” (identified in section 157 of the Act) and “interested parties” to make representations to applications relating to **premises licences and provisional statements**. In the case of reviews, that right is also given

to the licensee. With regard to other forms of notification and permit, the right to object is restricted to specified bodies. The following section therefore only relates to representations in respect of **premises licences and provisional statements**.

3.2 Premises licences are only necessary for the types of gambling listed below and interested parties may therefore only make representations in respect of:

- casino premises
- bingo premises
- betting premises (including tracks)
- adult gaming centres
- licensed family entertainment centres.

Interested parties

3.3 Interested parties are defined as persons who, **in the licensing Authority's opinion:**

- live sufficiently close to the premises to be likely to be affected by the authorised activities
- have business interests that might be affected by the authorised activities, or
- represent either of the above. This could include, e.g. democratically elected persons such as Councillors or Members of Parliament.

Policy One

3.4 **In determining if someone lives sufficiently close to the premises to be likely to be affected by the authorised activities or have business interests that are likely to be affected, the Authority may take any or all of the following into account:**

- **the proximity of their home or business to the application premises**
- **the nature of their residency (e.g. private resident, resident in home for the vulnerable etc)**
- **the nature of the business making the representation**
- **the nature of the authorised activities to be conducted on the application premises**
- **the size and capacity of the application premises**
- **the likely catchment area for the application premises**
- **the routes likely to be taken to and from the application premises**
- **the character of the area**
- **the density of the built up area**
- **the topography of the area**
- **local area profile**
- **mitigating measures contained within the applicants risk assessment.**

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

3.5 The Authority will interpret the phrase "business interest" widely and not merely confine the phrase to meaning those engaged in trade and commerce. It may therefore include charities, churches, medical practices, schools and other establishments and institutions.

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

Form and content of representation

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

Policy Two

- 3.13 A representation should indicate the following:**

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

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

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

Irrelevant considerations

- 3.17 Whilst not intended to provide an exhaustive list, the following matters cannot be taken into account and representations relating to them are likely to be discounted:
- need and demand for the relevant premises
 - issues relating to nuisance
 - traffic congestion and parking
 - likelihood of the premises receiving planning permission or building regulation approval.

- Moral grounds

3.18 Any person seeking to operate gambling premises must first have applied for or obtained an operating licence from the Gambling Commission. The Commission will therefore have made a judgement as to the applicant's suitability to operate the proposed form of gambling and therefore this issue is not relevant to the subsequent assessment of the premises licence application. The only exception is in relation to track premises licences. In this case an operator's licence is not required and the suitability of the applicant may, in appropriate cases, be taken into consideration.

Reviews

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

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

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

3.22 In relation to a class of premises, the Authority may review the use made of premises and, in particular, the arrangements that premises licence holders may have made to comply with licence conditions. In relation to these general reviews, the Authority would most likely be acting as a result of specific concerns or complaints about particular types of premises which would cause it to want, for example, to look at the default conditions that apply to that category of licence. In relation to particular premises, the Authority may review any matter connected to the use made of the premises if it has reason to suspect that licence conditions are not being observed, or for any other reason (such as a complaint from a third party) which gives it cause to believe that a review may be appropriate.

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

4. LICENSING OBJECTIVES

Preventing gambling from being a source of Crime and Disorder

4.1 The Gambling Commission will play a leading role in preventing gambling from becoming a source of crime and will maintain rigorous licensing procedures that aim to prevent inappropriate people from providing facilities for gambling.

- 4.2 The Authority places considerable importance on the prevention of crime and disorder and will fulfil its duty under section 17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in its area. A high standard of control is therefore expected to be exercised over licensed premises.
- 4.3 The Authority will, when determining applications, consider whether the granting of a premises licence will result in an increase in crime and disorder. In considering licence applications, the Authority will particularly take into account the following:
- the design and layout of the premises
 - the training given to staff in crime prevention measures appropriate to those premises
 - physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
 - where premises are subject to age restrictions, the procedures in place to conduct age verification checks
 - the likelihood of any violence, public order or policing problem if the licence is granted.
- 4.4 Where an application is received in relation to premises in an area noted for particular problems with organised crime, part of this determination will include consultation with the police and other relevant authorities. The Authority may then consider whether specific controls, such as a requirement for the provision of door supervisors, need to be applied in order to prevent those premises being a source of crime.
- 4.5 As far as disorder is concerned, there are already powers in existing anti-social behaviour and other legislation to deal with measures designed to prevent nuisance, whether it arises as a result of noise from a building or from general disturbance once people have left a building. The Authority does not therefore intend to use the Act to deal with general nuisance issues, for example parking problems, which can easily be dealt with using alternative powers. The Authority has no jurisdiction under the Act to deal with general nuisance issues.
- 4.6 In accordance with the Guidance, the Authority will only seek to address issues of disorder under the Act if the disorder amounts to activity which is more serious and disruptive than mere nuisance. A disturbance could be serious enough to constitute disorder if police assistance were required to deal with it. Another factor the Authority is likely to take into account is how threatening the behaviour was to those who could see or hear it and whether those people live sufficiently close to be affected or have business interests that might be affected.
- 4.7 The Authority will consult with the police and other relevant authorities when making decisions in this regard and will give due weight to any comments made by the police or other relevant authorities.

Policy Three

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

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

Ensuring gambling is conducted in a Fair and Open Way

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

Protection of children and other vulnerable persons

Access to licensed premises

- 4.12 The access of children and young persons to those gambling premises which are adult only environments will not be permitted.
- 4.13 The Authority will seek to limit the advertising for premises so that gambling products are not aimed at children or advertised in such a way that makes them particularly attractive to children.

- 4.14 The Authority will consult with the Nottinghamshire Safeguarding Children Board and the Nottinghamshire Safeguarding Adults Board on any application that indicates there may be concerns over access for children or vulnerable persons.
- 4.15 Broxtowe Borough Council expects operators of gambling premises to have in place policies and measures to ensure children and other vulnerable people are protected from being harmed or exploited by gambling. Harm in this context is not limited to harm from gambling but includes wider child protection considerations, including the risk of child sexual exploitation.

The efficiency of such policies and procedures will be considered on their merits, however, they may include appropriate measures/training for staff as regards suspected truanting 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.

The Council will pay particular attention to measures proposed by operators to protect children from harm in Adult Gaming Centres and Family Entertainment Centres. Such measures may include, but would not be limited to, the following:

- Proof of age schemes
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Specific opening hours
- Self-barring schemes
- Notices/signage
- Measures/training for staff on how to deal with suspected truanting school children on the premises and how to recognise signs of potential child sexual exploitation
- Clear policies that outline the steps to be taken to protect children from harm
- 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.

- 4.16 The Act provides for a Code of Practice on access to casino premises by children and young persons and the Authority will work closely with the police to ensure the appropriate enforcement of the law in these types of premises.

Vulnerable persons

- 4.17 The Authority does not seek to prohibit particular groups of adults from gambling in the same way that it seeks to prohibit children. The Act does not define “vulnerable persons” but it will assume for regulatory purposes that “vulnerable persons” include:
- people who gamble more than they want to
 - people who gamble beyond their means
 - people who may not be able to make an informed or balanced decision about gambling due to a mental impairment, alcohol or drugs.
- 4.18 The Authority encourages applicants to offer controls that limit access by customers to gambling or further access to alcohol where the customer shows signs of inebriation.

- 4.19 Where the legislation allows, the Authority will look particularly closely at applications that are made for premises close to sensitive areas or developments, for example:
- Residential areas
 - Schools and other educational establishments
 - Residential hostels for vulnerable adults
 - Premises licensed for alcohol or gambling.

5. PREMISES LICENCES

General Principles

- 5.1 In the Act, “premises” is defined as including “any place”. Section 152 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 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 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 ensure that mandatory conditions relating to access between premises are observed.

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

- 5.2 The procedure for obtaining Premises Licences is set by regulations. Should a licence be granted it will be made subject to mandatory and/or default conditions set by the Secretary of State. The Authority may choose to exclude default conditions if it thinks it appropriate and may also impose other specific conditions which are appropriate to the application where there is a specific evidenced risk
- 5.3 The Gambling Commission plays a leading role in preventing gambling from being a source of crime and will maintain rigorous licensing procedures that aim to prevent criminals from providing facilities for gambling. With the exception of applicants for track premises, anyone applying to the Authority for a premises licence will have to hold an operating licence from the Commission before a premises licence can be issued. The Authority will not generally therefore be concerned with the suitability of an applicant. Where concerns arise about a person’s suitability, the Authority will bring those concerns to the attention of the Commission.
- 5.4 The Authority will however be concerned with issues such as the impact of the licensed premises in terms of crime and disorder and matters such as the location of the premises and their internal layout in terms of protecting children and vulnerable persons. Such issues are discussed in more detail in the paragraphs below relating to the specific types of gambling premises. See local risk assessments at section 2.

Betting Premises and Tracks

- 5.5 Betting premises relates to those premises operating off-course betting that is other than at a track.
- 5.6 Tracks are sites where races or other sporting events take place. Betting operators may operate self contained betting premises within track premises, although they would normally only open on event days. There may be several licensed premises at any track.
- 5.7 Permitted activities include:
- off-course betting
 - on-course betting for tracks
 - betting by way of betting machines
 - gaming machines as stipulated by regulations.
- 5.8 Factors for consideration when determining the application will be:
- location, particularly in relation to vulnerable persons
 - suitability of the premises
 - size of premises in relation to the number of betting machines
 - the ability of staff to monitor the use or abuse of such machines
 - the provision for licence holders to ensure appropriate age limits are adhered to.
- 5.9 This is not an exhaustive list and each application will be judged on its merits. Any effective measures to support the licensing objectives will be taken into account.
- 5.10 Mandatory or default conditions may be attached by regulations issued by the Secretary of State. Conditions may be applied by the Authority in support of the licensing objectives if it is felt necessary and appropriate to the application and where there is a specific evidenced risk.
- 5.11 The Authority shall require an appropriately defined plan of the premises to accompany each application.

General Matters Relevant to Tracks

- 5.12 The Authority has a number of premises that may apply for a premises licence to operate as a 'Track' for the purposes of the Gambling Act.
- 5.13 Tracks may be subject to one or more premises licences provided each licence relates to a specified area of the track. The Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) in the determination of premises licence applications for tracks and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 5.14 Track operators are not required to hold an operator's licence granted by the Gambling Commission unless they are operating gambling activities themselves. Therefore, premises licences for tracks issued by the Authority are likely to contain

requirements for premises licence holders relevant to their responsibilities in relation to the proper conduct of betting. The Authority recognises that Track operators will have an important role to play in the regulation of gambling activities expect that they will take proactive action appropriate to that role. For example, in ensuring that betting areas are properly administered and supervised.

- 5.15 The Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult-only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 5.16 Applicants are encouraged to offer their own measures to meet the licensing objectives; however, appropriate measures/licence conditions imposed by the Authority may cover issues such as:
- proof of age schemes
 - CCTV
 - supervision of entrances / machine areas
 - physical separation of areas
 - location of entrances
 - notices / signage
 - specific opening hours
 - self-barring schemes
 - provision of information leaflets / helpline numbers for organisations such as GamCare.

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

Gaming Machines used on Tracks

- 5.17 Guidance from the Gambling Commission addresses where such machines may be located on tracks and any special considerations that should apply in relation, for example, to supervision of the machines and preventing children from playing them. The Authority notes the Commission's Guidance that licensing authorities therefore need to consider the location of gaming machines at tracks, and applications for track premises licences will need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

Betting Premises in Relation to Tracks

- 5.18 A Track may hold a betting premises licence allowing betting to take place within defined areas. There may also be a number of subsidiary licences authorising other gambling activities to take place including off-course betting. Unlike betting offices (bookmakers), a betting premises licence in respect of a track does not give an automatic entitlement to use gaming machines. Pool betting may also take place on certain types of tracks and the appropriate operating licence to enable this will be

required before a premises licence authorising this activity may be determined by the Authority.

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

Betting Machines on Tracks

- 5.20 The Authority will take into account the size of the premises and the ability of staff to monitor the use of these machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for Track Betting Premises Licences.
- 5.21 When considering whether to exercise its power to restrict the number of betting machines at a track, the Council will consider the circumstances of each individual application and, among other things will consider the potential space for the number of machines requested, the ability of track staff to supervise the machines, especially if they are scattered around the site, and the ability of the track operator to prevent children and young persons and vulnerable people betting on the machines.

Condition on Rules Being Displayed on Tracks

- 5.22 The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office." The Authority encourages applicants to demonstrate in their application and in the conduct of their activity that they will comply with this.

Applications and Plans for Tracks

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

The Council appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is

not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that the Council can be satisfied that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan. It would be helpful to the Authority and the Responsible Authorities if the plans were marked using a colour-coded scheme or, at a minimum, by use of a key to denote the use of those areas shown.

Adult Gaming Centres (AGCs)

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

Club Gaming Permits and Club Machine Permits

- 5.29 Club gaming permits authorise qualifying clubs to provide gaming machines as well as equal chance gaming and games of chance as prescribed in regulations.
- 5.30 Club machine permits allow the provision of higher category gaming machines.
- 5.31 Commercial clubs may in some circumstances operate with club machine permits but not club gaming permits.
- 5.32 The Authority may only refuse an application on the following grounds:
- (a) the applicant does not fulfill the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied
 - (b) the applicant's premises are used wholly or mainly by children and/or young 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.

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

5.33 The Authority may grant or refuse a permit, but it may not attach conditions to a permit.

Alcohol Licensed Premises

5.34 The Act provides an automatic entitlement to provide two gaming machines of category C or D (see glossary). The premises licence holder must notify the Authority of his or her intention and pay the prescribed fee. Although the Authority has no discretion to refuse the notification, the authorisation may be removed if gaming has taken place on the premises that breaches a condition of section 282 of the Act.

5.35 The Authority may also issue “licensed premises gaming machine permits” to premises in this category on application for any additional number of category C and/or D machines. This would replace any automatic entitlement under section 282 of the Act.

5.36 The Authority must have regard to the licensing objectives and the Gambling Commission Guidance when granting these permits. Factors for consideration will include:

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

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

5.38 It is a condition of the automatic entitlement to make available two gaming machines (of category C or D) that any relevant provision of a code of practice under section 24 about the location and operation of a gaming machine is complied with. The Authority will take account of these provisions and the relevant codes of practice are available on the Gambling Commission website. www.gamblingcommission.gov.uk

Family Entertainment Centres

5.39 There are two classes of Family Entertainment Centres (FECs) dependent upon the type of gaming machines provided on the premises:

- FECs with category C and D machines require a premises licence
- unlicensed FECs provide only category D machines and are regulated through FEC gaming machine permits. An application for a permit may only be granted if the Authority is satisfied that the premises will be used as an unlicensed FEC, and

if the Police have been consulted on the application. Applicants will need to demonstrate:

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

5.40 In determining the suitability of the location, consideration will be given to the following factors:

- proximity of premises to schools and vulnerable adult centres (e.g. a centre for gambling addicts)
- proximity to residential areas where there may be a high concentration of families with children
- town centre or edge of town centre locations
- hours of operation
- proposed operational management to regulate entry by children and vulnerable persons.

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

5.42 All applicants must be 18 years of age. The Authority will require an applicant to supply appropriate premises and indemnity insurance details.

Prize Gaming Permits

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

5.44 Consideration will be given to the following factors:

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

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

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

Travelling Fairs

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

286 of the Act. A guide for those wishing to operate gambling machines at travelling fairs is available on the Commission's website.

Small Society Lotteries

- 5.48 Small society lotteries are distinguished from large society lotteries by the amount of the proceeds that they generate. A lottery is small if the total value of tickets put on sale in a single lottery is £20,000 or less and the aggregate value of the tickets put on sale in a calendar year is £250,000 or less. Other lotteries are dealt with by the Gambling Commission.
- 5.49 Small society lotteries are required to be registered with the local authority in the area where their principal office is located.

Temporary Use Notices

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

Occasional Use Notices

- 5.51 Betting on unlicensed tracks may be authorised for up to 8 days in a calendar year by the service of occasional use notices by the occupier of the track or the person responsible for the administration of the event. The Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of eight days in a calendar year is not exceeded. The Authority will need to consider whether a Notice in respect of premises can be dealt with under the definition of a "Track". It will also need to consider whether the Applicant is permitted to avail him/herself of the notice, however, there is no provision for objections to be made to this type of activity or for it to be prohibited.

Casinos

No Casino Resolution

- 5.52 The Authority has not passed a "no Casino resolution" under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Authority decide in the future to pass such a resolution, it will update this Policy Statement with details of that resolution.

Bingo

- 5.53 The holder of a bingo operating licence will be able to apply for a bingo premises licence to provide any type of bingo game including cash and prize bingo. Commercial bingo halls will also require a bingo premises licence from the Authority. If the only type of bingo to be provided is prize bingo, then this may be authorised by way of a permit.

5.54 If children are allowed to enter premises licensed for bingo, then controls must be in place to prevent them from participating in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Authority will expect to see that:

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

5.55 The Gambling Commission has issued guidance about the need for licensing authorities to take into account the suitability and layout of bingo premises. Therefore plans should make clear what is being sought for authorisation under the bingo premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence. . It would be helpful to the Authority and the Responsible Authorities if the plans were marked using a colour-coded scheme or at a minimum by use of a key to denote the use of those areas shown. The Gambling Commission has issued guidance on the division of a building into more than one premises which can be found at www.gamblingcommission.gov.uk.

5.56 A limited number of gaming machines may also be made available at bingo licensed premises.

5.57 Bingo is a class of equal chance gaming and is permitted in alcohol licensed premises and in clubs provided it remains below a certain threshold as directed by the law, otherwise it will require a bingo operating licence which will have to be obtained from the Gambling Commission.

Provisional Statements

5.58 Developers may wish to apply to the 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 to hold an operating licence in order to apply for a provisional statement.

6. INSPECTION AND ENFORCEMENT

General Statement

6.1 The Authority will have regard to its general/corporate enforcement policy, the relevant provisions of the Act, any relevant guidance and/or codes of practice when considering taking enforcement action.

6.2 It is the intention of the Authority to establish and maintain enforcement protocols with other enforcement agencies.

Inspections

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

Policy Four

6.6 The Authority will adopt a risk based assessment approach for determining the frequency of compliance inspections. The risk rating will be based broadly on the following factors:

- **location of the premises and their impact on the surrounding area**
- **enforcement history of the premises**
- **nature of the licensed or permitted operation**
- **potential to have an adverse affect on the licensing objectives**
- **management record.**
- **Local risk assesment**

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

Enforcement

- 6.7 In general the Gambling Commission will take the lead on the investigation and, where appropriate, the prosecution of illegal gambling. There may be occasions on which the Authority is better placed to take the lead, particularly where there is illegal activity on a smaller scale confined to the Authority's area.
- 6.8 Where a licensed premise is situated in more than one administrative area, then the Authority will liaise with the other authority to determine the most appropriate course of action and who will lead any investigation or prosecution.
- 6.9 Part 15 of the Act gives "authorised persons" power of investigation and section 346 enables licensing authorities to institute criminal proceedings in respect of offences described in that section. In exercising these functions the Authority will have regard to the relevant provisions of the Gambling Act 2005, national guidance, relevant codes of practice, and the enforcement policy of the Council.

The Authority will endeavour to follow the principles of better regulation. The principles require that enforcement should be:

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

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

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

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

6.13 The Authority will avoid duplication with other regulatory regimes.

DRAFT POLICY 2019/2021

Glossary of terms

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

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

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

List of Consultees

List of bodies and organisations consulted

Broxtowe Borough Council (All Members)
Awsorth Parish Council
Brinsley Parish Council
Cossall Parish Council
Eastwood Town Council
Greasley Parish Council
Kimberley Town Council
Nuthall Parish Council
Stapleford Town Council
Trowell Parish Council
Popleston Allen Licensing Solicitors
Fraser Brown Solicitors
John Gaunt
Ford & Warren
BBPA
Association of British Bookmakers
BACTA
The Bingo Association
Nottinghamshire Police (CJ) Liquor Licensing
Nottinghamshire Fire and Rescue Service
Nottinghamshire Social Services
Gamcare
Gamblers Anonymous
Novomatic Ltd (Luxury Leisure)
Working Mens Club & Institute Union
Mecca Bingo
Equalised Club
Stapleford Conservative Club
Safeguarding Children Board
Safeguarding Vulnerable Adults Board
Gambling Commission