

Committee: Licensing Committee
Date: Monday 17 December 2012
Time: 4.00 pm
Venue: Bodicote House, Bodicote, Banbury, Oxfordshire
OX15 4AA

Membership

Councillor Fred Blackwell (Chairman)
Councillor Michael Gibbard
Councillor Tony Ilott
Councillor P A O'Sullivan
Councillor Alaric Rose
Councillor Douglas Webb

Councillor Mrs Diana Edwards (Vice-Chairman)
Councillor Timothy Hallchurch MBE
Councillor Kieron Mallon
Councillor G A Reynolds
Councillor Rose Stratford

AGENDA

1. **Apologies for Absence and Notification of Substitute Members**

2. **Declarations of Interest**

Members are asked to declare any interests and the nature of that interest which they may have in any of the items under consideration at this meeting.

3. **Petitions and Requests to Address the Meeting**

The Chairman to report on any requests to submit petitions or to address the meeting.

4. **Urgent Business**

The Chairman to advise whether they have agreed to any item of urgent business being admitted to the agenda.

5. **Minutes** (Pages 1 - 4)

To confirm as a correct record the Minutes of the meeting of the Committee held on 8 November 2012.

6. **Minutes of meeting Tuesday 24 July 2012 of Licensing Sub Committee** (Pages 5 - 6)

To note the minutes of the Licensing Sub Committee meeting held on 24 July 2012.

7. **Minutes of meeting Tuesday 21 August 2012 of Licensing Sub Committee** (Pages 7 - 10)

To note the minutes of the Licensing Sub Committee meeting held on 21 August 2012.

8. **Minutes of meeting Monday 10 September 2012 of Licensing Sub Committee** (Pages 11 - 14)

To note the minutes of the Licensing Sub Committee meeting held on 10 September 2012.

9. **Minutes of meeting Monday 19 November 2012 of Licensing Sub Committee** (Pages 15 - 16)

To note the minutes of the Licensing Committee meeting held on 19 November 2012.

10. **Hackney Carriage Licensing** (Pages 17 - 32)

Report of Head of Public Protection & Development Management.

Summary

To seek the Licensing Committees approval to vary the Hackney Carriage fare tariff as a result of notice of variation having been given and consider the responses received during the notice period.

Recommendation

The meeting is recommended:

- (1) To consider the responses received during the notice of variation period
- (2) To vary the current fare tariff to either the proposed tariff detailed in Appendix 1 or to approve the variation to the fare tariff with amendments as a result of the responses received during the notice of variation period and instruct the Licensing Officer to implement the variation within two months of the original implementation date

11. Gambling Act 2005 - Revised Statement of Licensing Principles
(Pages 33 - 78)

Report of Head of Public Protection & Development Management.

Summary

To seek final approval of the revised Statement of Licensing Principles.

Recommendations

The meeting is recommended:

- (1) To accept the amendments to the Statement of Licensing Principles as presented and adopt the revised Statement of Licensing Principles for publication.

12. Licensing Act 2003 (Pages 79 - 102)

Report of Head of Public Protection & Development Management

Summary

To advise the Licensing Committee of changes made to the Licensing Act 2003 with regard to Early Morning Restriction Orders and Late Night Levies.

Recommendation

The meeting is recommended to:

- (1) Note the report.

Councillors are requested to collect any post from their pigeon hole in the Members Room at the end of the meeting.

Information about this Agenda

Apologies for Absence

Apologies for absence should be notified to democracy@cherwellandsouthnorthants.gov.uk or 01295 221601 prior to the start of the meeting.

Declarations of Interest

Members are asked to declare interests at item 2 on the agenda or if arriving after the start of the meeting, at the start of the relevant agenda item.

Local Government and Finance Act 1992 – Budget Setting, Contracts & Supplementary Estimates

Members are reminded that any member who is two months in arrears with Council Tax must declare the fact and may speak but not vote on any decision which involves budget setting, extending or agreeing contracts or incurring expenditure not provided for in the agreed budget for a given year and could affect calculations on the level of Council Tax.

Evacuation Procedure

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the car park as directed by Democratic Services staff and await further instructions.

Access to Meetings

If you have any special requirements (such as a large print version of these papers or special access facilities) please contact the officer named below, giving as much notice as possible before the meeting.

Mobile Phones

Please ensure that any device is switched to silent operation or switched off.

Queries Regarding this Agenda

Please contact Louise Aston, Democratic and Elections
louise.aston@cherwellandsouthnorthants.gov.uk, 01295 221601

Sue Smith
Chief Executive

Published on Friday 7 December 2012

Agenda Item 5

Cherwell District Council

Licensing Committee

Minutes of a meeting of the Licensing Committee held at Bodicote House, Bodicote, Banbury, Oxfordshire OX15 4AA, on 8 November 2012 at 2.30 pm

Present: Councillor Fred Blackwell (Chairman)
Councillor Mrs Diana Edwards (Vice-Chairman)

Councillor Timothy Hallchurch MBE
Councillor Kieron Mallon
Councillor P A O'Sullivan
Councillor G A Reynolds
Councillor Rose Stratford
Councillor Douglas Webb

Apologies for absence: Councillor Michael Gibbard
Councillor Alaric Rose

Officers: Natasha Barnes, Licensing & Vehicle Parks Manager
Claire Bold, Licensing Team Leader
Louise Aston, Team Leader, Democratic and Elections

3 **Declarations of Interest**

There were no declarations of interest.

4 **Petitions and Requests to Address the Meeting**

There were no petitions or requests to address the meeting.

5 **Urgent Business**

There was no urgent business.

6 **Minutes**

The Minutes of the meetings of the Committee held on 4 March 2011, 18 May 2011 and 16 May 2012 were agreed as correct records and signed by the Chairman.

7 **Minutes of meeting Thursday 3 November, 2011 of Licensing Sub Committee**

Resolved

That the Minutes of the meeting of the Licensing Sub-Committee held on 3 November 2011 be noted.

8 **Minutes of meeting Thursday 1 December, 2011 of Licensing Sub Committee**

Resolved

That the Minutes of the meeting of the Licensing Sub-Committee held on 1 December 2011 be noted.

9 **Minutes of meeting Tuesday 24 January, 2012 of Licensing Sub Committee**

Resolved

That the Minutes of the meeting of the Licensing Sub-Committee held on 24 January 2012 be noted.

10 **Minutes of meeting Thursday 23 February, 2012 of Licensing Sub Committee**

Resolved

That the Minutes of the meeting of the Licensing Sub-Committee held on 23 February 2012 be noted.

11 **Minutes of meeting Thursday 8 March, 2012 of Licensing Sub Committee**

Resolved

That the Minutes of the meeting of the Licensing Sub-Committee held on 8 March 2012 be noted.

12 **Licensing Committee: Taxi Tariffs**

The Committee considered a report of the Head of Public Protection and Development Management which sought the Committee's approval to vary the Hackney Carriage fare tariff and to give notice of the proposed variation in accordance with Section 65 (2) (a) of the Local Government (Miscellaneous Provisions) Act 1976.

The Committee was advised that a proposal had been put forward by North Oxon Hackney Carriage Association (NOHA) along with an alternative proposal during the preliminary consultation. In considering the report, the Licensing Committee put forward a further alternative proposal:

- Increase Tariff 1 to £2.50 per mile, and 12p per 16th of a mile.
- Increase Tariff 2 and 4 to £2.50 per mile as requested by NOHA.
- Leave Christmas tariff as currently Cherwell is the most expensive in the area.

The Committee commented that it was important to take the current economic climate be taken into account as this had an impact on the Hackney Carriage trade, due to the public being able to afford the proposed increase.

The Committee requested the Licensing Officer to give notice of variation on the above proposal.

Resolved

- (1) That the current fare tariff be varied as follows:
 - Increase Tariff 1 to £2.50 per mile, and 12p per 16th of a mile.
 - Increase Tariff 2 and 4 to £2.50 per mile
 - No change to Christmas tariff
- (2) That the Licensing Officer be instructed to give notice of the variation in accordance with Section 65 (2) (a) of the Local Government (Miscellaneous Provisions) Act 1976.
- (3) That, in the event of any objections to the notice of variation, the Licensing Officer be instructed to bring such objections back to a meeting of the Committee for consideration prior to publication of the new fare tariff.

The meeting ended at 3.00 pm

Chairman:

Date:

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Cherwell District Council

Licensing Sub Committee

Minutes of a meeting of the Licensing Sub Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 24 July 2012 at 10.00 am.

1. **Constitution of the Sub Committee**

The Membership of the Licensing Sub-Committee for this meeting was Councillors Blackwell, Reynolds and Rose.

2. **Declarations of Interest**

There were no declarations of interest.

3. **Exclusion of the Press and Public**

Resolved

That the press and public be excluded as the following item had been marked as confidential and the exclusion of the press and public is compulsory in law.

4. **Personal Licence Determination Hearing**

The Head of Public Protection and Development Management submitted a report which provided an outline of an application for the grant of a Personal Licence and detail the representations received from Thames Valley Police that have resulted in the need for a hearing to determine the application.

After considering all the representations made at the hearing the Sub-Committee decided that the meeting should be adjourned to allow for the submission of additional information by the applicant.

Recommendations

- (1) That the meeting be adjourned to 10am on 16 August 2012 to allow the applicant to submit additional information to support the application for the grant of a Personal Licence.

5. **Adjournment of Meeting**

The meeting adjourned at 10.30am

6. **Reconvening of Meeting**

The meeting reconvened at 10am on 16 August 2012.

7. **Personal Licence Determination Hearing**

The Vehicle and Parks Manager advised the Licensing Sub-Committee that the applicant had withdrawn their application for a personal licence.

The meeting ended at 10.05 am

Cherwell District Council

Licensing Sub Committee

Minutes of a meeting of the Licensing Sub Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 21 August 2012 at 10.00 am.

1. Constitution of the Sub Committee

The Membership of the Licensing Sub-Committee for this meeting was Councillors Blackwell, Ilott and Reynolds.

2. Declarations of Interest

There were no declarations of interest.

3. Premise Licence Determination Hearing

Public Protection & Development Management

Andy Preston – Head of Public Protection & Development Management

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DISTRICT COUNCIL
NORTH OXFORDSHIRE

*Bodicote House
Bodicote
Banbury
Oxfordshire
OX15 4AA*

www.cherwell.gov.uk

Please ask for: Licensing

Direct Dial: 01295 753744

Email: licensing@cherwell-dc.gov.uk

Our Ref: PRM0027/variation_hearing

22 August 2012

Dear Sir/Madam,

NOTICE OF DETERMINATION – LICENSING ACT 2003

Premises: Weston Manor Hotel, Weston-on-the-Green

I refer to the hearing of the Licensing Sub-Committee on **21 August 2012** at which the Sub-Committee considered an application in respect of the above premises for

the variation of a premises licence under the Licensing Act 2003. The decision contained in this letter is a decision of the Licensing Authority.

After considering all the representations made at the hearing the Sub-Committee decided as follows:

The application is APPROVED subject to the following variation and conditions:-

With regard to the proposed hours of operation for licensable activities under Parts A, E, F, G, H, I, J, and K of the operating schedule:

- **For indoor activities (excluding the use of a marquee or similar structure), the hours as requested are approved.**
- **For outdoor activities the hours granted are as follows:**

Monday to Saturday 11:00hrs (AM) to 22:00hrs (PM) and Sundays 12:00hrs (PM) to 21:00hrs (PM).

- **For activities within a marquee or similar structure (notwithstanding that it is classed as an indoor venue), the hours will be the same as for outdoor activities, namely:**

Monday to Saturday 11:00hrs (AM) to 22:00hrs (PM) and Sundays 12:00hrs (PM) to 21:00hrs (PM).

Parts L and M of the applications operating schedule regarding the provision of late night refreshments and supply of alcohol is approved as applied for.

The above APPROVAL is subject to the following conditions:

- 1) A Noise Consultant who is a member of the Institute of Acoustics and who is agreed with the Officer who has delegated authority to act as the Responsible Authority in respect of the public nuisance objective, shall be engaged to prepare an independent report with regards to the levels of noise created by the premises during the licensable activities granted by this application.**
- 2) Sound limiting devices shall be installed and calibrated subject to the limits identified as appropriate by the above report and subject to the approval of the Officer who has delegated authority to act as the Responsible Authority in respect of the public nuisance objective.**
- 3) Each subsequent Premises Licence Holder shall instruct a Noise Consultant (who shall be a member of the Institute of Acoustics and who is agreed with the Officer who has delegated authority to act as the Responsible Authority in respect of the public nuisance objective) to prepare an independent report and thereafter, if necessary, recalibrate the device installed above.**
- 4) Sound limitation clauses shall be incorporated within all contracts with performers or people engaged in the licensable activities granted by this application**
- 5) All doors and windows that are part of the premises being used for any licensable activity shall remain closed during such activities except for essential access and egress.**

6) A person shall be appointed to receive, log and monitor complaints and respond to complainants.

You have a right of appeal against this decision to the Magistrates' Court within 21 days of the date of this letter. The relevant Magistrates Court for the area is:-

Banbury Magistrates Court,
The Courthouse,
Warwick Road,
Banbury,
Oxon,
OX16 2AW

Tel: 01865 448020
Email: TV-OxfordMCEng@hmcts.gsi.gov.uk

Finally, if you have any queries regarding this notice, please contact a member of the Licensing Unit on 01295 753744.

Yours faithfully



Natasha Barnes
Licensing & Vehicle Parks Manager

Copies to Relevant Agent/Solicitor of the Applicant (if any)
 Relevant Responsible Authorities (if any)
 Relevant Interested Parties (if any)

The meeting ended at 3.00 pm

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Agenda Item 8

Cherwell District Council

Licensing Sub Committee

Minutes of a meeting of the Licensing Sub Committee held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 10 September 2012 at 10.00 am.

1. Constitution of the Sub Committee

The Membership of the Licensing Sub-Committee for this meeting was Councillors Blackwell, Ilott and Rose.

2. Declarations of Interests and Conflicts

There were no declarations of interest.

3. Review of Premises Licence

Public Protection & Development Management

Andy Preston – Head of Public Protection & Development Management

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DISTRICT COUNCIL
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*Bodicote House
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Banbury
Oxfordshire
OX15 4AA*

www.cherwell.gov.uk

Please ask for: Licensing

Direct Dial: 01295 753744

Email: licensing@cherwell-dc.gov.uk

Our Ref: PRM0318

11 September 2012

Dear Sir/Madam,

NOTICE OF DETERMINATION – LICENSING ACT 2003

Review of Premises Licence: G's, Deans Court, Bicester

I refer to the hearing of the Licensing Sub-Committee yesterday at which the Sub-Committee considered an application in respect of the above named premises for the review of the premises licence under the Licensing Act 2003. The decision contained in this letter is a decision of the Licensing Authority.

After considering all the representations made at the hearing the determination of the Licensing Sub-Committee was as follows;

The Licensing Sub-Committee resolved to revoke the licence of G's Wine Bar.

They took into consideration the representations made by both Thames Valley Police and the Premises Holder and considered all options available to them.

They noted that only a sample of the door staff log was included in the committee pack, but were grateful for the production of the full document and considered this while retiring (to the extent available in the time.)

They noted the criticisms raised with regard to the incident log and the possibility that some incidents may have been attributed incorrectly to G's wine bar. They also noted however, that by the Premise Holder's own admission, G's wine bar is one of the last premises that people visit, acting as a night cap for many clubbers. To this extent therefore the committee considered that either people are presenting themselves intoxicated and being granted entry, or are being served too much once in.

The committee also considered that while measures are taken on police advice, repeated requests are required before action is taken.

The committee also noted that a senior member of the police force was in attendance at the committee and took this as an indication of how serious the police consider this matter to be.

The committee appreciated that not all incidents could be discussed in detail and noted that some were disputed by the Premises Holder. The incident regarding the 16 year girl was discussed in some detail though. Taking this example, the Premises Holder advised that he reported this incident to the police and yet it was still recorded as a negative result. The Committee considered that reporting this incident was nothing more than would be expected of a responsible DPS. They further considered that the negative recording in the incident report was in relation to the response to the ABH, and noted that the UV pen was not used to stop entry in the first place.

The Committee noted that there were recent occurrences where there was not enough door staff present, where the premises holder was not responding to his radio, and where underage people were served.

The Committee did not accept that TVP have treated the premises any different to how they treat all other premises in the area. They had simply responded to a disproportionate volume of incidents that had been linked to the premises.

You have a right of appeal against this decision to the Magistrates' Court within 21 days of the date of this letter. The relevant Magistrates Court for the area is;

Northern Oxfordshire Magistrates Court
The Courthouse, Warwick Road
Banbury, Oxon
OX16 2AW

Tel: 01295 452000

Fax: 01295 452050

Finally, if you have any queries regarding this notice, please contact a member of the Licensing Team on 01295 753744.



Natasha Barnes
Licensing & Vehicle Parks Manager

The meeting ended at 12.45 pm

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Cherwell District Council

Licensing Sub Committee

Minutes of a meeting of the Licensing Sub Committee held at John Paul II Centre, Henley House, The Causeway, Bicester OX26 6AW, on 19 November 2012 at 10.00 am.

1. Constitution of the Sub Committee

The Membership of the Licensing Sub-Committee for this meeting was Councillors Blackwell, Hallchurch and Reynolds.

2. Declarations of Interest

There were no declarations of interest.

3. Premise Licence Determination Hearing

Public Protection & Development Management

Andy Preston – Head of Public Protection & Development Management

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DISTRICT COUNCIL
NORTH OXFORDSHIRE

*Bodicote House
Bodicote
Banbury
Oxfordshire
OX15 4AA*

www.cherwell.gov.uk

Please ask for: Licensing

Direct Dial: 01295 753744

Email: licensing@cherwell-dc.gov.uk

Our Ref: PRM0631

20 November 2012

Dear Sir/Madam,

NOTICE OF DETERMINATION – LICENSING ACT 2003

Premises: Vue Cinema, Bure Place, Bicester

I refer to the hearing of the Licensing Sub-Committee on **19 November 2012** at which the Sub-Committee considered an application in respect of the above

premises for the grant of a premises licence under the Licensing Act 2003. The decision contained in this letter is a decision of the Licensing Authority.

After considering all the representations made at the hearing the Sub-Committee decided as follows:

The Committee approve the application for the grant of a premises licence as submitted, subject to late night refreshment being indoor only and subject to the following conditions:

	Alcohol will only be sold to patrons of the cinema holding a valid ticket for the screening of a film who will be permitted to purchase alcohol for consumption during that screening.
	Patrons of the cinema can only purchase a maximum of 2 alcoholic drinks with a valid ticket.
CD19	Drinks shall be served in non-glassware drinking vessels (e.g. plastic, polystyrene, waxed paper).
PN16	<i>Prominent, clear notices shall be displayed at [all exits / in the beer garden] requesting customers to respect the needs of local residents and leave the premises and the area quietly.</i>
PN38	<i>An adequate number of waste receptacles for use by patrons shall be provided in positions agreed with the licensing authority. The receptacles shall be emptied and the collected refuse disposed of at a frequency to be agreed with the licensing authority.</i>

You have a right of appeal against this decision to the Magistrates' Court within 21 days of the date of this letter. The relevant Magistrates Court for the area is;

Banbury Magistrates Court, The Courthouse, Warwick Road, Banbury, Oxon, OX16 2AW

Tel: 01865 448020

Email: TV-OxfordMCEng@hmcts.gsi.gov.uk

Finally, if you have any queries regarding this notice, please contact a member of the Licensing Unit on 01295 753744.

Yours faithfully



Natasha Barnes
Licensing & Vehicle Parks Manager

Copies to Solicitor of the Applicant
 Applicant
 Interested Parties

The meeting ended at 12.30 pm

Licensing Committee

Hackney Carriage Licensing

17 December 2012

Report of Head of Public Protection & Development Management

PURPOSE OF REPORT

To seek the Licensing Committees approval to vary the Hackney Carriage fare tariff as a result of notice of variation having been given and consider the responses received during the notice period.

This report is public

Recommendations

The meeting is recommended:

- (1) To consider the responses received during the notice of variation period
- (2) To vary the current fare tariff to either the proposed tariff detailed in Appendix 1 or to approve the variation to the fare tariff with amendments as a result of the responses received during the notice of variation period and instruct the Licensing Officer to implement the variation within two months of the original implementation date

Executive Summary

Introduction

- 1.1 On 6 September 2012 the Licensing Team received a preliminary enquiry about the possibility of increasing the current taxi tariffs for Hackney Carriage Vehicles from the North Oxfordshire Hackney Association (NOHA).
- 1.2 On 8 November 2012, at a meeting of the Licensing Committee, the proposal from NOHA was considered along with several alternative proposals. As a result, the Licensing Committee proposed an alternative variation to the current tariffs and instructed the Licensing Officer to give notice of variation
- 1.3 Notice of variation was given in accordance with the Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 and ran from 15 November 2012 until 29 November 2012. During this period, two responses were received.

- 1.4 The Committee is requested to consider the responses and decide if the proposed tariff by the Licensing Committee should be implemented or amended with regard to the responses received

Proposals

- 1.5 The proposal for the variation to the current taxi fares is as follows:
- To increase tariff 1 base rate from £2.00 to £2.20 for the first quarter mile and for each subsequent sixteenth of a mile to be increased from 11 pence to 12 pence
 - To increase tariff 2 and 4 base rates from £2.30 to £2.50 for the first quarter mile
 - No changes are proposed to tariff 3
- 1.6 The effect of the proposal upon the current tariffs would be:
- an increase of 20 pence to the base rate for tariff 1
 - an increase of 20 pence to the base rate for tariffs 2 & 4
 - an increase of 1 pence to the sixteenth of a mile rate for tariff 1
 - the sixteenth of a mile rate for tariffs 2 & 4 remains the same
- 1.7 During the notice of variation period, two responses were received and are detailed below at paragraph 2.

Background Information

- 2.1 Under Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976, the Council has the power to fix the fares charged by Hackney Carriage Vehicles.
- 2.2 On 13 December 1978, at a meeting of its Environmental Services Committee, the Council adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 (the Act) to come into force on 1 April 1979.
- 2.3 The fares fixed by the Council are the maximum that a driver of a Hackney Carriage Vehicle may charge at any time. It is an offence under the Town Police Clauses Act 1857 to charge more than the fare shown on the meter. However, a driver may demand or agree a fare lower than that displayed on the meter.
- 2.4 The fixing of fares only applies to Hackney Carriages and can not be attributed to Private Hire Vehicles or their Operators.
- 2.5 On 6 September 2012 the Licensing Team received a preliminary enquiry about the possibility of increasing the current taxi tariffs for Hackney Carriage Vehicles from (NOHA).

- 2.6 A copy of this request can be found attached to this report as Appendix 2.
- 2.7 Details of the current tariffs in force are included in Appendix 1.
- 2.8 The current fare tariff is split into four separate tariffs.
- Tariff 1 relates to day time charges between 06:00 and 22:00 hours, Monday to Saturday inclusive
 - Tariff 2 relates to night time charges between 22:00 and 06:00 hours, Monday to Sunday inclusive
 - Tariff 3 relates to Christmas & New Year from 21:00 on 24 December to 06:00 hours on 27 December AND from 21:00 hours on 31 December to 06:00 hours on 2 January
 - Tariff 4 relates to Sunday & Public Bank Holidays from 06:00 to 22:00 hours
- 2.9 Currently, tariffs 2 and 4 are set at the same rate. There have not been any requests to make these two tariffs differ from one another.
- 2.10 Prior to giving notice of variation, the Licensing Team carried out a preliminary consultation to assess the strength of feeling amongst Hackney Carriage Vehicle Proprietors. Out of 123 Hackney Carriage Vehicle Proprietors consulted, 62 responses were received
- 2.11 Of the 62 responses, 29 of these responses were in favour of the proposal put forward by NOHA and 33 were in disagreement of the proposal
- 2.12 On the 8 November 2012, the Licensing Committee considered the proposal put forward by NOHA along with alternative proposals that had been put forward during the preliminary consultation. As a result, the Licensing Committee put forward a further alternative proposal and instructed the Licensing Officer to give notice of variation on that proposal.
- 2.13 Notice of variation was given in accordance with legislation on 15 November 2012 and ended on 29 November 2012. A copy of the notice is attached to this report at Appendix 1.
- 2.14 The notice was advertised through the local press and in Council Offices and libraries in Banbury, Bicester and Kidlington.
- 2.15 During the notice of variation, 2 responses were received.
- 2.16 The first response was received on 19 November 2012 and refers to the current increase in tariffs that Hackney Carriage Drivers are permitted to charge over the Christmas and New Year period and asked that the Licensing Committee give consideration to reducing this tariff. The full response is attached to this report at Appendix 3.
- 2.17 The second response was received on 29 November 2012 from the Bicester division of the North Oxfordshire Hackney Association, representing 21 Hackney Carriage Vehicle Drivers.

- 2.18 The respondent agreed in principle with the tariff proposals put forward by the Licensing Committee however they were concerned that there was no additional increase being tariffs 2 and 4 in respect of the charges per sixteenth of a mile.
- 2.19 The respondent requests that the Licensing Committee give consideration to increasing the additional sixteenths of a mile by 1pence to 13pence for both tariffs 2 and 4
- 2.20 The respondent did not request any changes to be made to tariff 3. The full response is attached to this report at Appendix 4.
- 2.21 In order for the Committee to make an informed decision regarding the proposed tariff, the Licensing Team has also compiled the tariffs currently in place in neighbouring districts. When considering these tariffs, it should be noted that each is set up using slightly different measurements, i.e. 1/16th of a mile or 1/9th of a mile and the overall charges may reflect this.
- 2.22 Please note, South Oxfordshire District Council does not currently set tariffs for their Hackney Carriage trade. Details of the tariffs set by West Oxfordshire District Council, Oxford City Council, Vale of White Horse District Council, Stratford upon Avon District Council and South Northamptonshire District Council can be found attached to this report at Appendix 5.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The current tariffs in place for Cherwell District Council were introduced in September 2008. Therefore, it is now over four years since any increases have been requested by the Hackney Carriage Trade.
- 3.2 When considering the proposed changes, it is requested that Committee give consideration to neighbouring authorities and the tariffs currently imposed. A copy of the current neighbouring districts tariffs is attached to this report as Appendix 5.
- 3.3 Any tariffs set by the Council are a maximum and do not prevent the Hackney Carriage Trade from charging less than the fare stated
- 3.4 The current economic climate has had an impact on the Hackney Carriage Trade through their ability to operate due to increased costs. In addition, the ability of the general public to afford the proposed increase should be considered.
- 3.5 The Private Hire Trade do not have the tariffs regulated by the Licensing Authority. It is only possible under legislation to set the tariffs for Hackney Carriage Vehicles.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

Option One To approve the variation to the fare tariff as proposed by the Licensing Committee and instruct the Licensing Officer to implement the variation

Option Two To approve the variation to the fare tariff as proposed by the Licensing Committee with amendments as a result of the responses received during the notice of variation period and instruct the Licensing Officer to implement the variation within two months of the original date

Option Three To refuse the request for variation to the fare tariff

Consultations

A Notice of variation was published in accordance with the requirements as set out in Section 65 of the Local Government (Miscellaneous Provisions) Act 1976 inviting both members of the licensed trade, businesses associated with the trade and the general public to make comment upon the proposed changes.

The notice was advertised through the local press and in Council Offices and libraries in Banbury, Bicester and Kidlington for a period of 14 days.

Implications

Financial: The actions required to implement the tariff can be contained within existing budgets for the current year.

Comments checked by Kate Drinkwater, Service Accountant 01327 322188

Legal: There is no right of appeal once fares have been set. The only appeal mechanisms in place are that of judicial review. However, fares will only be set in accordance with the relevant legislation.

Comments checked by Paul Manning, Solicitor, 01295 221691

Risk Management: There is a risk that if policy and legislation has not been correctly followed, any resulting appeal could be successful.

Comments checked by Nigel Bell, Team Leader – Planning and Litigation, 01295 221687

Wards Affected

All

Document Information

Appendix No	Title
Appendix 1	Notice of Variation giving details of proposed changes to taxi fare tariff
Appendix 2	Copy of email requesting the Licensing Team give consideration to an increase in the current Hackney carriage Vehicle Tariffs
Appendix 3	Response received by the Licensing Team on 19 November 2012
Appendix 4	Response received by the Licensing Team on 29 November 2012
Appendix 5	Copy of current tariffs set by neighbouring District Councils
Appendix 6	Flow Chart showing process involved in setting up fare tariff
Background Papers	
The notice of variation was carried out in accordance with Section 65 of the Local Government (Miscellaneous Provision) Act 1976. A copy of the process to be followed is attached as Appendix 6. Full copies of the Act can be obtained from the Licensing Team if required.	
Report Author	Claire Bold, Licensing Team Leader
Contact Information	01295 753741 claire.bold@cherwell-dc.gov.uk

Notice is hereby given that Cherwell District Council intends to vary the Hackney Carriage Vehicle Tariff Fares in accordance with Section 65 of Part II of the Local Government (Miscellaneous Provisions) Act 1976.

	Mileage	Current Fare	Proposed Fare
Tariff 1 – Day Tariff Between 0600 & 2200 hrs	If the distance does not exceed one quarter mile or 403 meters for the whole distance; or if the distance exceeds one quarter mile or 403 meters, for the first quarter mile.	£2.00	£2.20
	For each subsequent one sixteenth of a mile or 101 meters or uncompleted part thereof.	£0.11	£0.12
Tariff 2 – Night Tariff Between 2200 & 0600 hrs	If the distance does not exceed one quarter mile or 403 meters for the whole distance; or if the distance exceeds one quarter mile or 403 meters, for the first quarter mile.	£2.30	£2.50
	For each subsequent one sixteenth of a mile or 101 meters or uncompleted part thereof.	£0.12	£0.12
Tariff 3 – Christmas & New Year Tariff Between 2100 on 24 Dec & 0600 hrs on 27 Dec & 2100 hrs on 31 Dec and 0600 hrs on 2 Jan	If the distance does not exceed one quarter mile or 403 meters for the whole distance; or if the distance exceeds one quarter mile or 403 meters, for the first quarter mile.	£4.00	£4.00
	For each subsequent one sixteenth of a mile or 101 meters or uncompleted part thereof.	£0.25	£0.25
Tariff 4 Sunday & Public Bank Holidays 0600 to 2200 hrs – during the day	If the distance does not exceed one quarter mile or 403 meters for the whole distance; or if the distance exceeds one quarter mile or 403 meters, for the first quarter mile.	£2.30	£2.50
	For each subsequent one sixteenth of a mile or 101 meters or uncompleted part thereof.	£0.12	£0.12
Other Charges	Waiting time for 20 seconds	£0.10	£0.10
	Soiling charge	£50.00	£50.00

Copies of the proposed variation of fares are available for inspection:

Via the Council's website: www.cherwell.gov.uk

At one of the Council's Link Points:

- Castle Quay Shopping Centre Banbury*
- 34 Market Square, Bicester*
- Exeter Hall Kidlington*
- Bodicote House, Bodicote, Banbury

Each Link Point is open Monday to Friday from 8:45am - 5:15pm (* 10am Wednesday). The Link Points are also closed on bank holidays.

Any person who wishes to make any objections or representations relating to the above fares may do so online at www.cherwell.gov.uk/consultations, by email to licensing@cherwell-dc.gov.uk or in writing to the Licensing Team, Cherwell District Council, Bodicote House, Bodicote, Banbury, Oxon, OX15 4AA by **29 November 2012**. If no objections are made within the 14 day notice period the proposed fees will come into force on **30 November 2012**.

Andy Preston
Head of Public Protection & Development Management

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Request for change to taxi tariff

-----Original Message-----

From: Pat Lyons [mailto:patlyons613@aol.com]

Sent: 06 September 2012 16:50

To: Chris Pegler

Subject: Re: Proposed fare increase

Hi Chris, Have spoken to Khalid again and he confirms only one proposal was wanted By the majority of members. The one rate (fits all) was the preferred option. [REDACTED]

[REDACTED] If you require any other info please call or email.
Regards. Pat. L

Sent from my iPhone

On 6 Sep 2012, at 14:16, "Chris Pegler" <Chris.Pegler@Cherwell-DC.gov.uk> wrote:

> Hi Pat.

>

> Thanks for the information on the tariff changes.

> Does the proposed change reflect the whole of the associations views?

> You have proposed that the rate be the same for any day or time of the year, with no night, bank holiday, or any other tariff anomalies, is that the correct understanding of your proposed tariff changes?

>

> We have drafted a consultation letter which we aim to go out to all licence holders towards the end of next week, however we did expect your members to suggest at least a couple of tariff options for that consultation.

> Would you like to add other options into the consultation?

> If you do wish to make any changes please contact me before midday on Tues 11th September.

>

>

> Kind Regards.

>

> Chris Pegler

> Acting Licensing Inspector

> Cherwell District Council

> <mailto:chris.pegler@cherwell-dc.gov.uk>

>

>

Cont...

> -----Original Message-----

> From: Pat Lyons [mailto:patlyons613@aol.com]

> Sent: 06 September 2012 12:30

> To: Chris Pegler

> Subject: Proposed fare increase

>

> Hi Chris, I have been asked by Khalid to propose a change in meter rates from the original start of £2.00 to now start at £2.50 for the first quarter of a mile and then go up from 11 pence to 12 pence per sixteenth of a mile. This rate would apply to both day and nights and bank holidays and christmas. [REDACTED]

I'm not sure how we move forward on the rate issue so look forward to your suggestions. Thanks again for your help. Pat Lyons.

>

> Sent from my iPhone

> This e-mail (including any attachments) may be confidential and may contain legally privileged information. You should not disclose its contents to any other person. If you are not the intended recipient, please notify the sender immediately.

>

> Whilst the Council has taken every reasonable precaution to minimise the risk of computer software viruses, it cannot accept liability for any damage which you may sustain as a result of such viruses. You should carry out your own virus checks before opening the e-mail (and/or any attachments).

>

> Unless expressly stated otherwise, the contents of this e-mail represent only the views of the sender and do not impose any legal obligation upon the Council or commit the Council to any course of action.

Claire Bold

From: Stacey Walsham on behalf of Licensing
Sent: 20 November 2012 10:48
To: 'Mohdrazzaq@yahoo.co.uk'
Subject: RE: Contact Form submission from article Licence - hackney carriage drivers' on www.cherwell.gov.uk

Good Morning,

Please accept this email as acknowledgement your application has been received and has been passed onto the relevant officer.

Many thanks,

Stacey Walsham

Assistant Licensing Officer
Cherwell District Council
Direct Dial: 01295 753740
stacey.walsham@cherwell-dc.gov.uk

From: Mohdrazzaq@yahoo.co.uk [mailto:Mohdrazzaq@yahoo.co.uk]
Sent: 19 November 2012 17:46
To: Licensing
Subject: Contact Form submission from article Licence - hackney carriage drivers' on www.cherwell.gov.uk

Contact Form Submission

Article [Licence - hackney carriage drivers' \(2225\)](#)

Name: A. Razzaq
Address 1: 17 windrush
Address 2:
Town: Banbury
Postcode: Ox16 1pj
Email address: Mohdrazzaq@yahoo.co.uk

Comments: sir I agree with the fair rise but u should have agree with the single fair at Xmas period we r losing the work to phv wich u don't take any notice i thing u r being un fair to hackney drivers the phv should not have office next to the hackney rank also could tell me a certain councillor does not know the different between hackney & private hire i think he should not b a councillor thankyou

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The Licensing Team
Cherwell District Council
Bodicote House
Bodicote
Banbury
Oxfordshire
OX15 4AA

22 November 2012

Dear Sir / Madam

Notice of variation to Hackney Carriage Vehicle Tariff

Thank you for your letter dated 16 November 2012 regarding the changes to the hackney carriage fare tariffs. The Bicester taxi drivers have discussed this matter together with some of the Banbury taxi drivers. We agree with the day tariff increase however we feel there should also have been an increase to the tariff per mile at night.

The proposed tariffs in your letter do not give the night time drivers any substantial increase when this is the busiest time and involves unsociable working hours. We would like to request for a night tariff (Tariff 2) increase from 12p to 13p for each subsequent one sixteenth of a mile. This also applies to the Sunday and Public Bank Holiday tariff (Tariff 4) which has also remained at 12p per your notice with no increase. We would request an increase from 12p to 13p for this as well.

Please consider our request in your final decision. Please see overleaf for taxi drivers supporting this request. Please can all correspondence be sent to **Mr Sohan Lal, 104 Hazel Crescent, Kidlington, Oxford, OX5 1EL.**

Yours faithfully



Mohammad Azam
Senior vice chairman (Bicester) of North Oxfordshire Hackney Association



Sohan Lal
Spokesman for Bicester taxi drivers



Mohammed Ramzan
Executive Member (Bicester) of North Oxfordshire Hackney Association

HCV NO.	NAME	SIGNATURE	ADDRESS
46	SOHAN LAL	Sohan Lal	104 HAZEL CR. KIDLINGTON OXS 1EL.
22	FRANCIS BEHAL	F BEHAL	89 MAPLE AVENUE KIDLINGTON OXS 1HW
24	MICHAEL BEHAL	M. Behal	10.6 PARADISE KIDLINGTON OXS 1HW
87	SHARKEEL AHMED	Sharkeel Ahmed	60 Mdd Crescent Banbury
83	Azhar shah	A. S	69 DAVENRY RD Banbury
185	GULFRAZ	M. Gulfr	19 CONWAY Drive BAN. OXS 1HE
40	VIPAN MASIH	VIPAN MASIH	14 LUX CRESCENT KIDLINGTON
09	M. AZAM	M. Azam	6 PLANTATION H. WYCOMBE
42	MASIH FAZAL	M. Fazal	6 A Water walk Bicestel.
45	LAHORI SARBATTA		3A STRATFIELD RD KIDLINGTON OXS 1DS
36	MANOHAR LAL	M. Lal	32 STRATFIELD RD KIDLINGTON OXS 1DH.
7	AKHYZ AHMED	Akhyz	51 PARK ROAD BANBURY OX16 0JH
13.	MOHAMMED HANIF	M. Hanif	330 BRETON HILL BANBURY OX16 0EP
8	AMJAD HUSSAIN	Amjad H.	58 ROWAN AVENUE H.W
27	M. RAMZAN.	M. Ramzan	117 KIRKHOVER RD H.W.
28	RIFON MASIH.	RIFON MASIH	47 WHITE WAY KIDLINGTON.
61	AZHER IQBAL	Azher Iqbal	40 COLNE ROAD H.W
126	HAFIZ JAVID	Hafiz J.	48 EDINBURY WAY (BAN.)
00912	SHAH ALI	S. ALI	137A Chaurbanjy Rd. H.W.
81	ASHIQ MAHMUD	Ashiq M.	17. HILTON RD BANBURY
143	GARYK TALAE	Garyk Talae	26 Fairlane Ctr

CURRENT TARIFF

TARRIF 1	
DISTANCE	CURRENT FARE
PULL-OFF RATE UP TO 1/4 MILE PER 1/16 MILE THEREAFTER	£2.00 £0.11
TARIFF 1 EXAMPLE CHARGES	
1/4 MILE	£2.00
1/2 MILE	£2.44
3/4 MILE	£2.88
1 MILE	£3.32
2 MILES	£5.08
3 MILES	£6.84
4 MILES	£8.60
5 MILES	£10.36
10 MILES	£19.16
15 MILES	£27.96
20 MILES	£36.76

TARRIF 2 AND 4	
DISTANCE	CURRENT FARE
PULL-OFF RATE UP TO 1/4 MILE PER 1/16 MILE THEREAFTER	£2.30 £0.12
TARIFF 2 AND 4 EXAMPLE CHARGES	
1/4 MILE	£2.30
1/2 MILE	£2.78
3/4 MILE	£3.26
1 MILE	£3.74
2 MILES	£5.66
3 MILES	£7.58
4 MILES	£9.50
5 MILES	£11.42
10 MILES	£21.02
15 MILES	£30.62
20 MILES	£40.22

TARRIF 3	
DISTANCE	CURRENT FARE
PULL-OFF RATE UP TO 1/4 MILE PER 1/16 MILE THEREAFTER	£4.00 £0.25
TARIFF 3 EXAMPLE CHARGES	
1/4 MILE	£4.00
1/2 MILE	£5.00
3/4 MILE	£6.00
1 MILE	£7.00
2 MILES	£11.00
3 MILES	£15.00
4 MILES	£19.00
5 MILES	£23.00
10 MILES	£43.00
15 MILES	£63.00
20 MILES	£83.00

OTHER AUTHORITIES

TARRIF 1											
DISTANCE	CURRENT	OCC	+ / -	SNC	+ / -	VALE	+ / -	WODC	+ / -	SDC	+ / -
1/4 MILE	£2.00	£2.95	£0.95	£3.40	£1.40	£3.50	£1.50	£2.40	£0.40	£2.20	£0.20
1/2 MILE	£2.44	£3.45	£1.01	£3.40	£0.96	£3.50	£1.06	£2.80	£0.36	£2.40	-£0.04
3/4 MILE	£2.88	£3.95	£1.07	£3.40	£0.52	£3.70	£0.82	£3.20	£0.32	£3.00	£0.12
1 MILE	£3.32	£4.45	£1.13	£3.40	£0.08	£4.10	£0.78	£3.60	£0.28	£3.40	£0.08
2 MILES	£5.08	£5.65	£0.57	£5.00	-£0.08	£6.10	£1.02	£5.40	£0.32	£5.40	£0.32
3 MILES	£6.84	£6.95	£0.11	£6.60	-£0.24	£8.10	£1.26	£7.20	£0.36	£7.40	£0.56
4 MILES	£8.60	£8.25	-£0.35	£8.20	-£0.40	£10.10	£1.50	£9.00	£0.40	£9.40	£0.80
5 MILES	£10.36	£9.55	-£0.81	£9.80	-£0.56	£12.10	£1.74	£10.80	£0.44	£11.40	£1.04
10 MILES	£19.16	£15.95	-£3.21	£17.80	-£1.36	£22.10	£2.94	£19.80	£0.64	£21.40	£2.24
15 MILES	£27.96	£22.45	-£5.51	£25.80	-£2.16	£32.10	£4.14	£28.80	£0.84	£31.40	£3.44
20 MILES	£36.76	£28.85	-£7.91	£33.80	-£2.96	£42.10	£5.34	£37.80	£1.04	£41.40	£4.64

KEY	
OCC	OXFORD CITY COUNCIL
SNC	SOUTH NORTHANTS DISTRICT COUNCIL
VALE	VALE OF WHITE HORSE DISTRICT COUNCIL
WODC	WEST OXFORDSHIRE DISTRICT COUNCIL
SDC	STRATFORD-ON-AVON DISTRICT COUNCIL

TARRIF 2 AND 4											
DISTANCE	CURRENT	OCC	+ / -	SNC	+ / -	VALE	+ / -	WODC	+ / -	SDC	+ / -
1/4 MILE	£2.30	£3.20	£0.90	£5.10	£2.80	£4.65	£2.35	£3.60	£1.30	£3.30	£1.00
1/2 MILE	£2.78	£3.95	£1.17	£5.10	£2.32	£4.65	£1.87	£4.20	£1.42	£3.70	£0.92
3/4 MILE	£3.26	£4.65	£1.39	£5.10	£1.84	£4.95	£1.69	£4.80	£1.54	£4.30	£1.04
1 MILE	£3.74	£5.45	£1.71	£5.10	£1.36	£5.55	£1.81	£5.40	£1.66	£5.10	£1.36
2 MILES	£5.66	£7.75	£2.09	£7.50	£1.84	£8.55	£2.89	£8.10	£2.44	£7.90	£2.24
3 MILES	£7.58	£9.55	£1.97	£9.90	£2.32	£11.55	£3.97	£10.80	£3.22	£10.70	£3.12
4 MILES	£9.50	£11.50	£2.00	£12.30	£2.80	£14.55	£5.05	£13.50	£4.00	£13.50	£4.00
5 MILES	£11.42	£13.30	£1.88	£14.70	£3.28	£17.55	£6.13	£16.20	£4.78	£16.30	£4.88
10 MILES	£21.02	£22.60	£1.58	£26.70	£5.68	£32.55	£11.53	£29.70	£8.68	£30.30	£9.28
15 MILES	£30.62	£31.90	£1.28	£38.70	£8.08	£47.55	£16.93	£43.20	£12.58	£44.30	£13.68
20 MILES	£40.22	£41.20	£0.98	£50.70	£10.48	£62.55	£22.33	£56.70	£16.48	£58.30	£18.08

ADDITIONAL CHARGING STRUCTURES NOT USED BY CDC (APPLICABLE AT ALL TIMES)	
OCC	£0.20 for each passenger in excess of one
	£0.10 for each piece of luggage carried outside the passenger compartment
	£1.00 for each pedal cycle (except folding)
	£0.10 for each wheeled vehicle carried (except mobility)
£0.50 for payment by cheque or card	
WODC	£0.10 for each passenger in excess of one
	£0.10 for each piece of boot held luggage
	£1.00 for each trunk or equivalent item
£0.10 for each wheeled vehicle carried (except mobility)	
SDC	£0.20 for each passenger in excess of two
	£0.20 for each piece of boot held luggage
An additional 50% fare charged when vehicle carries five or more passengers	

TARRIF 3											
DISTANCE	CURRENT	OCC	+ / -	SNC	+ / -	VALE	+ / -	WODC	+ / -	SDC	+ / -
1/4 MILE	£4.00	£3.40	-£0.60	£6.80	£2.80	£4.65	£0.65	£4.80	£0.80	£4.40	£0.40
1/2 MILE	£5.00	£3.65	-£1.35	£6.80	£1.80	£4.65	-£0.35	£5.60	£0.60	£4.80	-£0.20
3/4 MILE	£6.00	£4.15	-£1.85	£6.80	£0.80	£4.95	-£1.05	£6.40	£0.40	£6.00	£0.00
1 MILE	£7.00	£4.65	-£2.35	£6.80	-£0.20	£5.55	-£1.45	£7.20	£0.20	£6.80	-£0.20
2 MILES	£11.00	£7.45	-£3.55	£10.00	-£1.00	£8.55	-£2.45	£10.80	-£0.20	£10.80	-£0.20
3 MILES	£15.00	£9.40	-£5.60	£13.20	-£1.80	£11.55	-£3.45	£14.40	-£0.60	£14.80	-£0.20
4 MILES	£19.00	£11.35	-£7.65	£16.40	-£2.60	£14.55	-£4.45	£18.00	-£1.00	£18.80	-£0.20
5 MILES	£23.00	£13.30	-£9.70	£19.60	-£3.40	£17.55	-£5.45	£21.60	-£1.40	£22.80	-£0.20
10 MILES	£43.00	£22.90	-£20.10	£35.60	-£7.40	£32.55	-£10.45	£39.60	-£3.40	£42.80	-£0.20
15 MILES	£63.00	£32.65	-£30.35	£51.60	-£11.40	£47.55	-£15.45	£57.60	-£5.40	£62.80	-£0.20
20 MILES	£83.00	£42.25	-£40.75	£67.60	-£15.40	£62.55	-£20.45	£75.60	-£7.40	£82.80	-£0.20

Licensing Committee

Gambling Act 2005 – Revised Statement of Licensing Principles

17 December 2012

Report of Head of Public Protection & Development Management

PURPOSE OF REPORT

To seek final approval of the revised Statement of Licensing Principles.

This report is public

Recommendations

The meeting is recommended:

- (1) To accept the amendments to the Statement of Licensing Principles as presented and adopt the revised Statement of Licensing Principles for publication.

Executive Summary

Introduction

- 1.1 The development and adoption of the Statement of Licensing Principles (the “Statement”) is a statutory requirement under the Gambling Act 2005. Once published the Licensing Authority must review the Statement before each successive period of three years and publish any revision before giving it effect.
- 1.2 The function of approving the Statement and the subsequent reviews is the responsibility of the Licensing Committee.

Proposals

- 1.3 The proposed amendments are reflected as tracked changes in the Revised Statement Consultation Document which is attached as Appendix 1.

- 1.4 The amendments reflect updates and changes to the Guidance to Licensing Authorities issued by the Gambling Commission (September 2012) as well as updating relevant information relating to the district and Cherwell District Council.

Conclusion

- 1.5 There have been no significant amendments to the Statement. The only amendments suggested reflect the changes to guidance and regulations so that the Licensing Authority can carry out its Licensing functions in accordance with the legislation. This follows best practice and guidance.

Background Information

- 2.1 The current Statement was adopted and published in 2007 after a lengthy development and consultation period. The published document was approved for a period of three years.
- 2.2 In accordance with the Gambling Act 2005, the original Statement was reviewed in 2009 and published in 2010.
- 2.3 The revised Statement was developed in liaison with the other district councils of Oxfordshire and discussion with the relevant Responsible Authorities.
- 2.4 In preparing the revised Statement, officers have had full regard to the Guidance to Licensing Authorities issued by the Gambling Commission (May 2009) and relevant Statutory Instruments
- 2.5 In accordance with the requirements of the Gambling Act 2005 the Licensing Authority consulted on the draft revisions. The consultation period ran from 27 September October 2012 until 30 November 2012. Details of the consultees are given below.

Key Issues for Consideration/Reasons for Decision and Options

- 3.1 The Committee are asked to consider that, as with the current Statement, the revised Statement has been developed in accordance with best practice and guidance as well as meeting legislative requirements.
- 3.2 A thorough consultation exercise has been carried out inviting in excess of 120 consultees to make comments regarding the revisions. A copy of the consultation letter is attached as Appendix 2.

The following options have been identified. The approach in the recommendations is believed to be the best way forward

- | | |
|---------------------|---|
| Option One | To accept the amendments to the Statement of Licensing Principles as presented and adopt the revised Statement of Licensing Principles for publication for a period of 3 years. |
| Option Two | To accept the amendments to the Statement of Licensing Principles as presented, add any further amendments suggested by the Licensing Committee and adopt the revised Statement of Licensing Principles for publication for a period of 3 years |
| Option Three | To reject the amendments to the Statement of Licensing Principles as presented and adopt the current Statement of Licensing Principles for publication for a period of 3 years |

Consultations

The Chief Officer of Police	No Comments received
One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area	No Comments received
One or more persons who appear to the Authority to represent the interests of persons who are likely to be affected by the exercise of the Authority's functions under the Gambling Act 2005	<ul style="list-style-type: none">• Oxfordshire Fire & Rescue Service responded that the only comments they wished to make were to revise their contact details in Annex 3 of the Statement.• The BIIAB acknowledged receipt of the consultation but made no further comments. Copies of both responses are attached at Appendix 3.• One comment was received through our online consultation portal. The comment referred to changes to be made of the Gambling Act 2005 legislation, rather than the Statement itself. As a result, the comments were passed to the Gambling Commission for their consideration and the respondent advised. Copies of the correspondence are attached at Appendix 4.

Implications

Financial:	<p>There are no financial effects from adopting the Statement other than the cost of communicating the revision to the relevant parties. There are financial consequences for the preparatory work of publishing the revised Statement which can be met from existing revenue budgets.</p> <p>Comments checked by Kate Drinkwater, Service Accountant 01327 322188</p>
Legal:	<p>The revised Statement of Licensing Principles has been developed in accordance with the relevant legislative requirements and a full consultation has been carried out. Approval of the revised Statement will be published in accordance with the Statutory Instrument 2006 No. 636 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006.</p> <p>Comments checked by Nigel Bell, Team Leader – Planning and Litigation, 01295 221687</p>
Risk Management:	<p>There is a risk that the Statement of Licensing Principles could be challenged at Judicial Review, this risk is mitigated however by the fact that Officers have developed the Statement in accordance with the relevant legislative requirements and a full consultation has been carried out.</p> <p>Comments checked by Nigel Bell, Team Leader – Planning and Litigation, 01295 221687</p>

Wards Affected

All

Document Information

Appendix No	Title
Appendix 1	Draft Statement of Licensing Policy
Appendix 2	Copy of letter sent to all consultees
Appendix 3	Responses from Oxfordshire Fire and Rescue and BIIAB
Appendix 4	Correspondence between Mr Gary Bell and Claire Bold
Background Papers	
<ul style="list-style-type: none">• Gambling Act 2005• Guidance to Licensing Authorities issued by the Gambling Commission, September 2012 <p>Members have been issued with copies of the Guidance and are asked to bring this to the meeting.</p>	
Report Author	Claire Bold, Licensing Team Leader
Contact Information	01295 753741 claire.bold@cherwell-dc.gov.uk



DISTRICT COUNCIL
NORTH OXFORDSHIRE

**REVISED STATEMENT OF
LICENSING PRINCIPLES
GAMBLING ACT 2005**

**(CONSULTATION DOCUMENT)
OCTOBER 2012**

**CLOSING DATE FOR RESPONSES
30 NOVEMBER 2012**

FOREWORD

This Statement of Licensing Principles ('The Statement') has four main purposes, which are:

- To confirm to elected Members of the Licensing Committee, the boundaries and powers of the Authority and the parameters within which to make decisions.
- To inform licence applicants of the parameters within which the Authority will make licensing decisions and therefore how licensed premises are likely to be able to operate within the area.
- To inform local residents and businesses of the parameters within which the Authority will make licensing decisions and therefore how their needs will be addressed.
- To support a case in a court of law if the Authority has to show how it arrived at its licensing decisions.

This Statement details the policies of Cherwell District Council in its capacity as the Licensing Authority under The Gambling Act 2005. It deals specifically with the activities that are licensable under the Act, there are however a number of exemptions relating to small scale activities.

Further information regarding the exemptions may be found through the Department for Culture Media and Sport website www.culture.gov.uk or by contacting the Licensing Team at the address below.

If you have queries about licensing issues, please contact:

Licensing Team
Cherwell District Council
Bodicote House
Bodicote
Banbury
OX15 4AA

Telephone: 01295 753744
Fax: 01295 221878
Email: licensing@cherwell-dc.gov.uk
Website: www.cherwell.gov.uk

Any queries regarding licensing policy issues should be forwarded in writing to the above address.

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1. Introduction

1.1 The Licensing Objectives

1.1.1 The Gambling Act 2005 ('the Act') gives licensing authorities various regulatory functions in relation to gambling. The main functions are:

- Licensing premises for gambling activities;
- Considering notices given for the temporary use of premises for gambling;
- Granting permits for gaming and gaming machines in clubs and miners' welfare institutes;
- Regulating gaming and gaming machines in alcohol licensed premises;
- Granting permits to family entertainment centres for the use of certain lower stake gaming machines;
- Granting permits for prize gaming;
- Considering occasional use notices for betting at tracks;
- Registering small societies' lotteries.

1.1.2 Cherwell District Council ('the Council') is a Licensing Authority for the purposes of the Act.

1.1.3 Annex 1 gives a summary of the Licensing Authority delegations permitted under the Act.

1.1.4 In exercising most of their functions under the Act, licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act. The licensing objectives are:

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

1.2 Cherwell District

1.2.1 This Statement has been formulated taking into account the character of the District and the nature of the entertainment and hospitality industry in the District.

1.2.2 The area of the District comprises three main urban centres in Banbury, Bicester and Kidlington together with a rural area which comprises some 35% of the District population, which is now in excess of 138,500.

1.2.3 Both Banbury and Bicester being market towns have long provided a focal point for entertainment for people from the immediate surrounding area. Kidlington being situated close to Oxford is affected by entertainment facilities provided there.

1.2.4 A map of Cherwell District is attached as Annex 2.

1.3 General Advice

1.3.1 The aim of the Statement is to ensure compliance with the Gambling Act 2005. namely:-

- To assist businesses so they do not breach licensing requirements
- To protect the health and welfare of the general public

1.3.2 The Council seeks to secure compliance with the law in a variety of ways. Most of the dealings with individuals and businesses are informal, providing advice and assistance over the telephone, during visits and in writing.

1.4 Consultation

1.4.1 This Statement has been produced in compliance with DCMS regulations, Gambling Commission and LACORS (the Local Authorities Coordinators of Regulatory Services) guidance. The Statement has been produced in liaison with the Oxfordshire Licensing Group. The following persons/bodies will be consulted upon this policy and any future revisions and their views will be taken into consideration when finalising the Statement:-

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

1.4.2 The Statement will remain in force for no more than 3 years, but may be reviewed at any time.

1.5 Declaration

1.5.1 This Statement has been prepared with due regard to the licensing objectives, the guidance to Licensing Authorities issued by the Gambling Commission (May 2009), and with due weight attached to any responses received from those consulted.

1.5.2 This Statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

1.6 Responsible Authorities

1.6.1 Responsible Authorities are public bodies who must be notified of an application and are entitled to make representations to the Licensing Authority in relation to applications for, and in relation to, premises licenses. The Responsible Authorities under the Gambling Act 2005 for the area of the Cherwell District are:-

- The Licensing Authority (Cherwell District Council)
- The Gambling Commission
- The Chief Officer of Police for the area the premises is wholly or partially situated in
- The local Fire Authority
- The Planning Authority (Cherwell District Council)
- The Environmental Protection Department (Cherwell District Council)
- A body designated in writing by the Licensing Authority as competent to advise about the protection of children from harm
- HM Revenue and Customs
- Any other persons prescribed in regulations by the Secretary of State

In the event that the premise is a vessel, the following body also become responsible authorities

- The Environment Agency
- The British Waterways Board
- The Maritime and Coastguard Agency

1.6.2 The contact details of all the Responsible Authorities under the Act are attached at Annex 3 and available via the Council's website at www.cherwell.gov.uk.

1.6.3 In exercising the Council's powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm, the following principles have been applied:

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

1.6.4 Having regard to the above principles, the Council has designated the Oxfordshire Safeguarding for Children Board for this purpose.

1.7 Interested Parties

1.7.1 Interested Parties can make representations about licence applications, or apply for a review of an existing licence. The Act defines Interested Parties as persons who, in the opinion of the Licensing Authority;

- (a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- (b) have business interests that might be affected by the authorised activities; or
- (c) represent persons who satisfy paragraph (a) or (b) *

1.7.2 Whether or not a person is an Interested Party is a decision that will be taken by the Council on a case-by-case basis. However, the following factors will be taken into account:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident (b) a residential school for children with truanting problems and (c) residential hostel for vulnerable adults;
- the 'catchment' area of the premises (i.e. how far people travel to visit); and whether the person making the representation has business interests in that catchment area, that might be affected.

1.7.3 This list is not exhaustive and other factors may be taken into consideration in an individual case.

1.7.4 * The Council considers the following bodies/associations fall within the category of those who represent persons living close to premises, or having business interests that might be affected by the authorised activities:-

- trade associations;
- trade unions;
- residents' and tenants' associations;
- district ward/ county division/ town/ parish councillors;
- MPs.

1.7.5 This list is not exhaustive and other bodies/associations may also be considered. In other cases, the Council may require written evidence that the person/association/body represents an Interested Party.

1.8 Exchange of Information

1.8.1 The Council regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Council's functions, and to maintaining confidence between the people/ bodies the Council deals with. The Council ensures that it treats information lawfully and correctly.

1.8.2 The Council may share information in accordance with the following provisions of the Act: -

- Sections 29 & 30 (with respect to information shared between the Council and the Gambling Commission);
- Section 350 (with respect to information shared between the Council and the other persons listed in Schedule 6 to the Act).

1.8.3 In the exercise of the above functions, consideration shall also be given to the common law duty of confidence, the law relating to defamation, the guidance issued by the Gambling Commission and to the Council's policies in relation to data protection and freedom of information.

1.8.4 The Council will adopt the principles of better regulation.

1.8.5 The Licensing Authority has a protocol on information exchange with the other four licensing authorities in Oxfordshire, Thames Valley Police, the Environmental Health Service of each district council in Oxfordshire and Oxfordshire County Council's Social and Health Care, Fire and Rescue Service and Trading Standards.

1.8.6 Any person wishing to obtain further information about their rights under the Data Protection Act 1998 or the Freedom of Information Act 2000 may view the Council's policies at www.cherwell.gov.uk or alternatively contact the Data Protection Officer, **Head of Law and Governance** on 01295 252535.

1.9 Enforcement

1.9.1 The Council will adopt a risk-based approach to the inspection of gambling premises. This will allow for the targeting of high-risk premises or those where a breach would have serious consequences. Premises that are low risk and/ or well run will be subject to a less frequent inspection regime.

1.9.2 Where necessary, appropriate enforcement (including prosecution under section 34(6) of the Act) will be carried out in a fair and consistent manner and in accordance with

- The Oxfordshire Joint Enforcement Protocol (to which the Council has signed up) (*)
- Cherwell District Council enforcement policies (*)
- Other National compliance or best practice guidance where applicable

1.9.3 (*) Copies of the above documents are available on request from the Licensing Team.

1.9.4 The Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

1.9.5 Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Council but will be notified to the Gambling Commission.

1.10 Appeals

1.10.1 Sections 206 to 209 of the Gambling Act provide a right of appeal to the Magistrates' Court against the decision of the Licensing Authority.

1.10.2 Notice of appeal must be given within 21 days of notice of the decision being received by the appellant to the Magistrates' Court.

1.11 Delegation of Licensing Functions

1.11.1 The Council has agreed a scheme of delegation that details which matters under the Act are to be dealt with by The Council, a Sub-Committee of the Licensing Committee and Officers.

1.11.2 The scheme of Licensing Authority delegations is attached as Annex 1.

2. Permits

2.1 Gaming Machine Categories

- 2.1.1 Gaming machines will be divided into categories, with different entitlements set out in the Act to use the various categories. This section requires the Secretary of State to define, in regulations, four classes of gaming machine, to be known as categories A, B, C and D.
- 2.1.2 The categorisation will refer to the particular facilities for gambling which are offered on the machine. In particular, *under subsection (4)*, the regulations can specify:
- the maximum amounts that can be paid to use the machine;
 - the value or nature of the prize delivered as a result of its use;
 - the nature of the gambling for which the prize is used; or
 - the types of premises on which it can be used.
- 2.1.3 The intention is that Category D will have the lowest levels of charge and prizes, and that these will increase in value, up to Category A, which will be a machine with no limits as to charges and prizes.
- 2.1.4 Categorisation of Gaming Machines are shown in Annex 4
- 2.1.5 Annex 5 sets out the permitted number of gaming machines at each type of premise.

2.2 Unlicensed Family Entertainment Centre Gaming Machine Permits (FECs)

- 2.2.1 Unlicensed Family Entertainment Centres will be able to offer category D machines if granted a permit by the Council. If an operator of an FEC wishes to make category C machines available in addition to category D machines, they will need to apply for an Operating Licence from the Gambling Commission and a Premises Licence from the Council.
- 2.2.2 The Council can grant or refuse an application for a permit, but cannot attach conditions.
- 2.2.3 As unlicensed family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues, particularly where there is a mixture of category C and D machines.
- 2.2.4 The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff should deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. The Council will also expect applicants to demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 to the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

2.3 (Alcohol) Licensed Premises Gaming Machine Permits

- 2.3.1 Premises licensed to sell alcohol for consumption on the premises, can automatically have 2 gaming machines, of categories C and/or D. The holder of the Premises Licence authorising the sale of alcohol will simply need to notify the Council, and pay the prescribed fee.
- 2.3.2 The Council can remove the automatic authorisation in respect of any particular premises if;
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
 - gaming has taken place on the premises that breaches a condition of section 282 of the Act this Section requires written notice and fee payable to the Licensing Authority and compliance with any relevant code of practice issued by the Gambling Commission about the location and operation of the machine.
 - the premises are mainly used for gaming; or
 - an offence under the Act has been committed on the premises.
- 2.3.3 If a premise wishes to have more than 2 machines, then the holder of the Premises Licence will need to apply for a permit. The Council shall consider that application having regard to the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.
- 2.3.4 The Council shall determine what constitutes a relevant consideration on a case-by-case basis, but weight shall be given to the third licensing objective i.e. protecting children and vulnerable persons from being harmed or being exploited by gambling. To this end, the Council will expect applicants to demonstrate that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access, may include the adult gaming machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage which effectively restrict access may also be required. With respect to the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare, which can be downloaded from www.gamcare.co.uk.
- 2.3.5 It is recognised that some alcohol-licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with under this Act.
- 2.3.6 The Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 2.3.7 The holder of a permit to must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

2.4 Prize Gaming Permits

- 2.4.1 Applicants for prize gaming permits should set out the types of gaming that he or she is intending to offer. The applicant should be able to demonstrate:
- that they understand the limits to stakes and prizes that are set out in Regulations; and
 - that the gaming offered is within the law.
 - That clear policies are in place that outline steps to be taken to protect children from harm

- 2.4.2 In making its decision on an application for this type of permit the Council does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance. Weight will be given to child protection issues, and relevant considerations are likely to include the suitability of the applicant (i.e. if the applicant has any convictions which would make them unsuitable to operate prize gaming) and the suitability of the premises. Applicants for prize gaming permits must disclose any previous relevant convictions to the Council.
- 2.4.3 The Council can grant or refuse an application for a permit, but cannot attach any conditions. However, there are 4 conditions in the Act that permit holders must comply with. These are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

2.5 Club Gaming and Club Machine Permits

- 2.5.1 Members' clubs and miners' welfare institutes (but not commercial clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set out in forthcoming regulations.
- 2.5.2 If a club does not wish to have the full range of facilities permitted by a Club Gaming Permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a Club Machine Permit, which will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 2.5.3 Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.
- 2.5.4 An application may only be refused on one or more of the following grounds:
- the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
 - the applicant's premises are used wholly or mainly by children and/or young persons;
 - an offence under the Act or a breach of a condition of a permit has been committed by the applicant while providing gaming facilities;
 - a permit held by the applicant has been cancelled in the previous ten years; or;
 - an objection has been lodged by the Gambling Commission or the Police

- 2.5.5 The Council shall have regard to the guidance issued by the Gambling Commission and (subject to that guidance), the licensing objectives.
- 2.5.6 There is a 'fast-track' procedure available for clubs which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which an authority can refuse a permit are reduced.
- 2.5.7 The grounds on which an application under the fast track procedure may be refused are:
- that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
 - that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
 - that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.
- 2.5.8 The Council can grant or refuse an application for a Club Gaming or Club Machine Permit, but cannot attach any conditions.

3. Premises Licences

3.1 Decision Making - General

3.1.1 In accordance with Section 153 of the Act, the Council 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 and
- in accordance with the authority's Statement of Licensing Principles

3.1.2 The Council will not have regard to the expected demand for the facilities which it is proposed to provide, nor the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

3.1.3 Each case will be considered on its individual merits. However, in order to assist applicants and objectors alike, this section sets out the general factors that will be taken into account by the Council when considering applications for Premises Licences.

3.2 Location

3.2.1 The location of premises may be relevant to the promotion of the licensing objectives. In particular, premises located in close proximity to the following may give rise to concern

- schools
- vulnerable adult centres
- residential areas with a high concentration of children

3.2.2 Much will depend upon the type of gambling that it is proposed will be offered on the premises. The Council will, where appropriate, consider the location on a case-by-case basis. If the proposed location does pose a risk to the promotion of the licensing objectives, the applicant will be invited to show how they propose to overcome such concerns.

3.3 Multiple Licences/ Layout of Buildings

3.3.1 Premises are defined in the Act as including 'any place', but no more than one Premises Licence can apply in relation to any one place under this Act. A single building can be subject to more than one Premises Licence, provided they are for different parts of the building and those parts can reasonably be regarded as being different premises. It should be noted that the Licensing Authority will refuse licences where the premises have been artificially sub-divided.

3.3.2 Where multiple licences are sought, and are not artificially sub-divided, for a building (or a discrete part of a building used for other non gambling purposes), specific issues will need to be considered by the Council before such application(s) can be granted. These include

- the ability of children to gain access to or observe gambling facilities (even accidentally) – entrances and exits from parts of a building covered by more than one Premises Licence should be separate and identifiable so that the separation of different premises is not compromised and that people (and in particular children) do not drift into a gambling area.
- the compatibility of the 2 or more establishments; and
- the ability of the establishments to comply with the requirements of the Act.

3.3.3 In accordance with the Gambling Commission guidance, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

3.4 Conditions

3.4.1 Conditions may be imposed upon a Premises Licence in a number of ways. These are

- (a) Mandatory – set by the Secretary of State (some set out on the face of the Act) and some to be prescribed in regulations, for all, or classes of licence;
- (b) Default – to be prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the Licensing Authority;
- (c) Specific – conditions that can be attached to an individual licence by the Licensing Authority.

3.4.2 Conditions imposed by the Council will be proportionate to the circumstances that they are seeking to address. In particular, the Council will ensure that Premises Licence conditions:

- are relevant to the need to make the proposed building suitable as a gambling facility
- are directly related to the premises and the type of licence applied for;
- are fairly and reasonably related to the scale and type of premises; and
- are reasonable in all other respects

3.4.3 Certain matters may not be the subject of conditions. These are:

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

3.4.4 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures the Licensing Authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult areas only etc. the Licensing Authority will also expect the applicant to make their own suggestions as to who they intend to address the licensing objectives.

3.4.5 The Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commissions Guidance.

3.4.6 The Licensing Authority will also ensure where category C or above machines are on offer in premises to which children are admitted:

- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
- only adults admitted to the area where these machines are located;
- access to the area where the machines are located is supervised;

- the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
- at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited by persons under 18.

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

3.5 Door Supervisors

- 3.5.1 It is not a mandatory requirement of the Act to impose a condition relating to door supervision. However, if the Council does consider it necessary to impose a condition on a Premises Licence requiring the presence of door supervisors, such persons would normally need to hold a licence from the Security Industry Authority (SIA).
- 3.5.2 This requirement does not apply to door supervisors at licensed casino or bingo premises, who are exempt from the licensing requirements of the Private Security Industry Act 2001. The Council may however impose specific requirements on door supervisors at such premises if considered appropriate in an individual case.
- 3.5.3 In all cases the Council will ensure that any requirement for door supervision will be both necessary and proportionate.

3.6 Adult Gaming Centres

- 3.6.1 Persons operating an adult gaming centre must obtain an operating licence from the **Gambling** Commission and a Premises Licence from the Council. This will allow the operator to make category B, C & D machines available to their customers.
- 3.6.2 In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.
- 3.6.3 Applicants are encouraged to consider the following steps:
- Proof of age schemes;
 - CCTV;
 - Supervision of entrances / machine areas;
 - Physical separation of areas;
 - Location of and entry to premises (so as to minimise the opportunities for children to gain access);
 - Notices / signage;
 - Training for staff on challenging persons suspected of being under-age;
 - Specific opening hours;
 - Self-barring schemes;
 - Provision of information leaflets / helpline numbers for organisations such as GamCare.
- 3.6.4 This list is not exhaustive, and is merely indicative of example measures.
- 3.6.5 Please see paragraph 3.4 for details of conditions that may be attached to Premises Licences authorising adult gaming centres.

3.7 Licensed Family Entertainment Centres

- 3.7.1 Operators of licensed Family Entertainment Centres will require an Operating Licence from the Gambling Commission, and a Premises Licence from the Council. This will allow the operator to make category C & D machines available to their customers.
- 3.7.2 Children and young persons will be able to enter licensed Family Entertainment Centres and play on the category D machines. They will not be permitted to play on category C machines, as these are permitted for over 18's only.
- 3.7.3 As Family Entertainment Centres will particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are available in licensed Family Entertainment Centres the Council will normally require 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 are admitted to the area where the machines are located;
 - access to the area where the machines are located is supervised;
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 3.7.4 Applicants are therefore encouraged to consider the following steps:
- CCTV;
 - Supervision of entrances/machine areas;
 - Physical separation of areas;
 - Location of and entry to premises (so as to minimise the opportunities for children to gain access);
 - Notices / signage;
 - Training for staff on challenging persons suspected of being under-age;
 - Specific opening hours;
 - Self-barring schemes;
 - Provision of information leaflets / helpline numbers for organisations such as GamCare;
 - Measures/training for staff on how to deal with suspected truant school children on the premises.
- 3.7.5 This list is not exhaustive, and is merely indicative of example measures.
- 3.7.6 Please see paragraph 3.4 for details of conditions that may be attached to Premises Licences authorising licensed Family Entertainment Centres.

3.8 Tracks

- 3.8.1 Tracks are sites (including racecourses and dog tracks) where sporting events take place; this will also apply to Point to Point events. Operators of tracks will require a Premises Licence from the Council, but they do not need to obtain an Operating Licence from the Gambling Commission (although they may have one).
- 3.8.2 Tracks may be subject to one or more than one Premises Licence, provided each licence relates to a specified area of the track.

- 3.8.3 It will be a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided, and any area where a gaming machine, other than a category D machine, is situated. Special dispensation from this rule is provided for dog tracks and horse racecourses, on days when racing takes place, in relation to the areas used for betting. On these days families will be entitled to attend the track or racecourse, and children enter the areas where facilities for betting are provided. This race day dispensation does not apply to the areas where gaming machines of category B & C are provided, and the Council will therefore wish to ensure that suitable measures are in place to prevent children from entering such areas.
- 3.8.4 Applicants are encouraged to consider the following steps:
- Proof of age schemes;
 - CCTV;
 - Supervision of entrances/machine areas;
 - Physical separation of areas;
 - Location of entry;
 - Notices / signage;
 - Specific opening hours;
 - Self-barring schemes;
 - Provision of information leaflets/helpline numbers for organisations such as GamCare.
- 3.8.5 This list is not exhaustive, and is merely indicative of example measures.
- 3.8.6 *Gaming machines* – holders of betting Premises Licences in respect of tracks who also hold a pool betting operating licence may make available up to 4 gaming machines (categories B2 to D) on the track. The Council will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.
- 3.8.7 *Betting machines at tracks* - the Council will apply similar considerations to those set out in paragraph 3.10 (in relation to betting machines made available at off-course betting premises) to betting machines made available at tracks.
- 3.8.8 *Condition on rules being displayed* - the Council will 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.
- 3.8.9 *Applications and plans* - the Council will require the following information from applicants for Premises Licences in respect of tracks: -
- detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”);
 - in the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities.
- 3.8.10 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.
- 3.8.11 in the rare cases where the outer perimeter of a track can not be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases, betting facilities may be better provided through occasional use

notices where the boundaries do not need to be defined in accordance with the Gambling Commissions Guidance.

3.8.12 The Licensing Authority 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 premise and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that the Licensing Authority can satisfy itself that the plan indicates the main areas where betting may 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.

3.9 Casinos

3.9.1 *No Casinos resolution* - The Council 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 Council decide in the future to pass such a resolution, it will update this Statement with details of that resolution.

3.10 Betting Premises

3.10.1 This paragraph deals with off-course betting, that is betting that takes place other than at a track (commonly known as a licensed betting office). Operators of betting premises will require an Operating Licence from the Gambling Commission and a Premises Licence from the Council.

3.10.2 The holder of a Betting Premises Licence may make available for use up to 3 gaming machines of category B, C or D.

3.10.3 The Council may, in accordance with section 181 of the Act, restrict the number of betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the Council will take into account the following: -

- the size of the premises;
- the number of counter positions available for person-to-person transactions; and
- the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people

3.10.4 Please see paragraph 3.4 for details of conditions that may be attached to Betting Premises Licences.

3.11 Bingo

- 3.11.1 Operators of premises offering bingo (cash or prize) will require a Bingo Operating Licence from the Gambling Commission, and a Premises Licence from the Council.
- 3.11.2 The holder of a Bingo Premises Licence may, in addition to bingo in all its forms, make available for use up to 4 category B gaming machines (B3 & B4) and any number of category C & D machines.
- 3.11.3 Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.
- 3.11.4 The Licensing Authority is also aware of the unusual circumstances in which the splitting of a pre-existing premise into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.
- 3.11.5 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Council will normally require 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 are admitted to the area where the machines are located;
 - access to the area where the machines are located is supervised;
 - the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
 - at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 3.11.6 Please see paragraph 3.4 for details of conditions that may be attached to bingo Premises Licences.

3.12 Travellers Fairs

- 3.12.1 It will fall to the Licensing Authority to decide whether, where category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 3.12.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 3.12.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, and that it applied to the piece of land which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with neighbouring authorities to ensure that land which crossed over boundaries is monitored so that the statutory limits are not exceeded.

3.13 Provisional Statements

- 3.13.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence.
- 3.13.2 This Licensing Authority notes the Guidance for the Gambling Commission which states that “It is a question of fact and degree whether premises are finished to a degree that they can be considered for a Premises Licence” and that “Requiring the building to be complete ensures that the Licensing Authority could, if necessary inspect it fully”.
- 3.13.3 In terms of representations about Premises Licence application, following the grant of a Provisional Statement, no further representations from relevant Responsible Authorities or Interested Parties can be taken into account unless they concern matters which could not have been addressed at the Provisional Statement stage, or they reflect a change in the applicant’s circumstances. In addition, the Licensing Authority may refuse the Premises Licence (or grant it on terms different to those attached to the Provisional Statement) only by reference to matters:
- which could not have been raised by objectors at the Provisional Licence stage; or
 - which, in the Licensing Authority’s opinion, reflect a change in the operator’s circumstances.
 - where the premise has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before
- 3.13.4 This Council has noted the Gambling Commission’s Guidance that “A Licensing Authority should not take into account irrelevant matters.... One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal”.

4 Temporary and Occasional Use Notices

4.1 Temporary Use Notices

- 4.1.1 Temporary use notices allow the use of premises for gambling where there is no Premises Licence but where a person or company holding a relevant operators licence wishes to use the premises temporarily for providing facilities for gambling.
- 4.1.2 There are a number of statutory limits in regards to temporary use notices for example the same set of premises may not be the subject of a temporary use notice for more than 21 days in any 12 month period, but may be the subject of several notices provided that the total does not exceed 21 days.
- 4.1.3 If objections are received to a temporary use notice (from the Police, Gambling Commission, HM Revenues & Custom or any other Licensing Authority in whose area the premises are situated), the Licensing Authority must hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).
- 4.1.4 If the Licensing Authority, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it must issue a counter-notice which may:
- prevent the temporary use notice from taking effect;
 - limit the activities that are permitted;
 - limit the time period of the gambling; or
 - allow the activities to take place subject to a specified condition
- 4.1.5 The Licensing Authority will apply the principles set out in paragraph 3.1 of this Statement to any consideration as to whether to issue a counter-notice.

4.2 Occasional Use Notices

- 4.2.1 The Licensing Authority has very little discretion in determining occasional use notices other than ensuring that the statutory limit of 8 days in a calendar year is not exceeded.
- 4.2.2 However, the Licensing Authority will need to consider the definition of a 'track' and whether the applicant is permitted to use such a notice.

4.3 Small Society Lotteries

4.3.1 This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

4.3.2 Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact this licensing authority on 01295 753744 to seek further advice

5 Reviews

5.1 Interested Parties or Responsible Authorities can request a review of a Premises Licence. However, it is for the Licensing Authority to decide whether to grant such an application for a review of the licence. The Licensing Authority will consider whether the request is:-

- frivolous;
- vexatious;
- certain not to cause the Licensing Authority to wish to alter, revoke or suspend the licence; or
- substantially the same as previous representations or requests for review.

5.2 The Licensing Authority will also consider whether the request is relevant to the following matters:

- in accordance with any relevant Code of Practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with this Statement.

5.3 The Licensing Authority can also initiate a review of a licence on the basis of any reason that it considers appropriate.

Annex 1 Licensing Authority Delegations

1. Administrative matters

Matter to be Delegated	Officer(s) power is to be delegated to
<p>The power to</p> <ul style="list-style-type: none"> a. determine that any representations received under Part 8 of the Act are vexatious, frivolous, or certainly will not influence the Authority's determination of an application b. reject all or part of any application for a review of a Premises Licence in accordance with Section 198 of the Act c. revoke a Premises Licence for non-payment of the annual fee (s193) d. serve notification of intended refusal of any of the following:- <ul style="list-style-type: none"> i Family Entertainment Centre Gaming Machine Permit (Sch 10 para 10) ii Prize Gaming Permits (Sch 14 para 11) iii Licensed Premises Gaming Machine Permits (Sch 13 para 6) and also, in the latter case, notice of intention to grant the application but for a smaller number of machines than specified and/or a different category of machines from that specified in the application. e. serve notification of lapse of a Family Entertainment Centre Gaming Machine Permit (Sch 10 para 14 and 15 (1)(b)) f. serve notice of intention to cancel or vary any of the following:- <ul style="list-style-type: none"> i Club Gaming permit or Club Gaming Machine permit (Sch 12 para 21) ii Licensed Premises Gaming Machine permits (Sch 13 para 16) g. create and amend the Authority's application procedures in relation to applications for the following in accordance with any relevant legislation:- <ul style="list-style-type: none"> i. Family Entertainment Centre Gaming Machine Permits (sch10 paras 5 and 7) ii. Licensed Premises gaming Machine Permits (Sch 13 para 2) iii. Prize Gaming Permits (Sch 14 paras 6 and 8) 	<ul style="list-style-type: none"> 1. Head of Service responsible for licensing functions 2. Strategic Director for licensing functions
<p>The power to set fees under any regulations made under S212 of the Gambling Act 2005, subject to the provisions of that section and such regulations. (For the first year only, thereafter power will revert to the Licensing Committee)</p>	<ul style="list-style-type: none"> Head of Service responsible for licensing functions Strategic Director for licensing functions Head of Service responsible for finance

The power to appoint authorised persons under s 304 of the Act	Head of Service responsible for licensing functions Strategic Director for licensing functions
<p>The power of the Licensing Authority</p> <ol style="list-style-type: none"> a. as a responsible authority, to make representations under Part 8 of the Act b. to propose to attach a condition to a Premises Licence in accordance with section 169(1)(a) of the Act in addition to the mandatory or default conditions c. to propose the exclusion of a default condition from a Premises Licence under S169(1)(b) of the Act d. as a responsible authority, to request a review of a Premises Licence under sections 197 or 200 of the Act e. to give a notice of objection to a temporary use notice under S221 of the Act. 	Head of Service responsible for licensing functions Strategic Director for licensing functions Chief Executive of the Council.
The Power to issue formal cautions and/or Instruct Legal Services to commence and defend proceedings under the Gambling Act 2005, its subordinate legislation, (and any legislation which may subsequently amend or replace it)	Head of Service responsible for licensing functions Strategic Director for licensing functions
The power to commence and defend proceedings both criminal and civil under The Gambling Act 2005 and its subordinate legislation, (and any legislation which may subsequently amend or replace it)	Head of Service (s) for Legal and Democratic Services.
<p>The power to administer and carry out all other functions of the Licensing Authority capable of delegation under The Gambling Act 2005 and its subordinate legislation, (and any legislation which may subsequently amend or replace it,) which is not otherwise delegated to the Authority, The Licensing Committee or its Sub Committees (“Panels”). This includes for example, (but is not limited to):-</p> <ol style="list-style-type: none"> (i) to serve and receive service of all notices, counter notices, etc required or permitted to be served under the Act (ii) to determine points of clarification required for hearings (iii) to agree that a hearing is unnecessary (iv) to adjourn hearings where all parties are in agreement (v) to determine applications where representations are withdrawn before the hearing (vi) to give effect to the decisions of the Magistrates Court on appeal 	Head of Service responsible for licensing functions Strategic Director for licensing functions

2. Determination of applications etc.

In relation to the following matters the Authority will, in the majority of cases, follow the table of delegated functions set out below. This table indicates the lowest level of the authority which will normally exercise the delegation though the Authority reserves the right, (where appropriate), for any particular matter to be dealt with at a higher level whilst having due regard to statutory requirements. For example, an Officer may choose not to exercise their delegated power and refer the matter to the Panel or the Panel itself may choose to refer the matter to the Full Council.

Matter to be dealt with	Council	Sub-committee of Licensing Committee	Officers *
Final approval of three year Statement of Licensing Principles	X		
Policy not to permit casinos	X		
Fee setting (For the first year)			X
Fee setting (From 2008 onwards)		X	
Application for Premises Licence (including applications for re-instatement under S195)		<ul style="list-style-type: none"> i Where representations have been received and not withdrawn (S154 (4)(a))and/or ii Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary 	Where no representations received or all have been withdrawn
Application for a variation to a Premises Licence		<ul style="list-style-type: none"> i Where representations have been received and not withdrawn (S154 (4)(b)) and/or ii Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary (S187(3)) 	Where no representations received or all have been withdrawn
Application for a transfer of a Premises Licence		Where representations have been received from the Commission and not withdrawn (S154 (4) (c))	Where no representations received from the Commission

Matter to be dealt with	Council	Sub-committee of Licensing Committee	Officers *
Application for a Provisional Statement		i Where representations have been received and not withdrawn (S154 (4)(d)) and/or ii Where the Licensing Authority considers that a condition should be added to the licence under S169(1)(a) or a default condition should be excluded under section 169(1)(b) unless the applicant and any persons making representations agree to this course of action and that a hearing is unnecessary	Where no representations received or all have been withdrawn
Review of a Premises Licence		X	
Application for club gaming/ club machine permits, renewals and variations		i Where objections have been made (and not withdrawn) ii Objection made and not withdrawn (Sch 12 para 28 (2)) iii Refusal of permit proposed on the grounds listed in Sch 12 paragraph 6(1)(a)-(d) , or paragraph 10(3) as applicable unless Authority and all relevant parties agree that a hearing is unnecessary (Sch 12 para 7)	Where no representations received or all have been withdrawn and all other cases.
Cancellation of club gaming/ club machine permits		X	
Applications for other permits registrations and notifications			X
Cancellation of licensed premises gaming machine permits		Where Permit holder request a hearing under paragraph 16(2) or makes representations.	X
Consideration of temporary use notice (including notices modified under S223)		All cases where an objection notice has been received unless each person who would be entitled to make representations agrees that a hearing is unnecessary and the Head of Service responsible for licensing functions or the Strategic Director for Environment and Community is satisfied that a counter notice is not required (S 222 and 232).	All other cases
Decision to give a counter notice to a temporary use notice		X	

* These powers are delegated to

3. 1. **Head of Service responsible for licensing functions**

2. **Strategic Director for licensing functions**

Annex 2 Map of Cherwell District Area



Annex 3 Responsible Authorities

The Responsible Authorities for the Cherwell District Council area under the 2005 Act, and their contact details are as follows.

Contact details may change, and other responsible authorities may be designated by regulations by the Secretary of State. For latest information, please check with the Licensing Authority (contact details inside front cover).

		Contact details for preliminary discussions or follow-up enquiries	
Responsible Authority	Address	Phone	Email and website
The Licensing Authority	The Licensing Authority Cherwell District Council Bodicote House, Bodicote BANBURY OX15 4AA	01295 221535	licensing@cherwell-dc.gov.uk www.cherwell.gov.uk
The Planning Authority	The Planning Authority Cherwell District Council Bodicote House, Bodicote BANBURY OX15 4AA	01295 252535	 www.cherwell.gov.uk
Environmental Health	Environmental Protection Cherwell District Council Bodicote House, Bodicote BANBURY OX15 4AA	01295 252535	 www.cherwell.gov.uk
Gambling Commission	Gambling Commission Victoria Square House Victoria Square Birmingham B2 4BP	0121 230 6500	 www.gamblingcommission.gov.uk
Thames Valley Police	Chief Constable Thames Valley Police Headquarters Oxford Road Kidlington OX5 2NX	01865 266109	licensingoxford@ thamesvalley.pnn.police.uk
Fire and Rescue Service	Oxfordshire County Council Oxfordshire Fire and Rescue Service Banbury Fire Station Cope Road Banbury OXON OX16 2EY	01295 277122	 fire.service@oxfordshire.gov.uk

Oxfordshire Safeguarding Children Board	Oxfordshire Safeguarding Children Board c/o Children, Young People & Families Directorate Oxfordshire County Council Macclesfield House New Road Oxford OX1 1NA		
Customs and Excise	Her Majesty's Commissioners of Customs and Excise		
If the application relates to a boat or vessel the Navigation Authority will become a Responsible Authority for such applications.			
The British Waterways Board (IF APPLICABLE)	FAO The Service Manager The Navigation Authority, British Waterways Ground Floor, Witan Gate House 500-600 Witan Gate Milton Keynes BUCKS MK9 1BW	01908 302500	
Environment Agency (IF APPLICABLE)	National Customer Contact Centre PO Box 544 Rotherham S60 1BY	08708 506 506	
Navigation Authority (IF APPLICABLE)	Maritime and Coastguard Agency Spring Place 105 Commercial Road Southampton Hants SO15 1EG	01908 302500	
Any other person prescribed for the purpose by regulations made by the Secretary of State.			

Adjacent licensing authorities

(Where premises straddle the area boundary) A Licensing Authority for the area in which the premises are partly situated is also a Responsible Authority.			
		Contact details for preliminary discussions or follow-up enquiries	
Responsible Authority	Address	Phone	Email and website

South Northamptonshire District Council	The Licensing Authority South Northamptonshire District Council Springfields Towcester Northants NN12 6AE	0845 2300226	licensing@southnorthants.gov.uk
South Oxfordshire District Council	The Licensing Authority South Oxfordshire District Council Benson Lane Crowmarsh Gifford Wallingford OX10 8HQ	01491 823421	licensing@southoxon.gov.uk
West Oxfordshire District Council	The Licensing Authority West Oxfordshire District Council Council Offices Woodgreen Witney OX28 1NB	01993 861000	licensing@westoxon.gov.uk
Vale of White Horse District Council	The Licensing Authority Vale of White Horse DC Abbey House Abbey Close Abingdon OX14 3JE	01235 520202	licensing.unit@whitehorsedc.gov.uk
Oxford City Council	The Licensing Authority Oxford City Council Ramsay House 10 St Ebbes Street Oxford OX1 1PT	01865 252565	licensing@oxford.gov.uk
Stratford-upon-Avon District Council	The Licensing Authority Stratford-on-Avon District Council Elizabeth House Church Street Stratford-upon-Avon Warwickshire CV37 6HX	01789 267575	info@stratford-dc.gov.uk
Aylesbury Vale District Council	The Licensing Authority Aylesbury Vale District Council Customer Service Centre 66 High Street Aylesbury HP20 1SD	01296 585858	custserv@aylesburyvaledc.gov.uk

Annex 4 Gaming Machines – Categorisation

Category of Machine	Maximum Stake (from July 2011)	Maximum Prize (from July 2011)
A	Unlimited: No category A gaming machines are currently permitted	
B1	£2	£4,000
B2	£100 (in multiples of £10)	£500
B3A	£1	£500
B3	£2	£500
B4	£1	£250
C	£1	£70
D – non-money prize (other than a crane grab machine or a coin pusher or penny falls machine)	30p	£8
D – non-money prize (crane grab machine)	£1	£50
D (money prize other than a coin pusher or penny falls machine)	10p	£5
D – combined money and non-money prize (other than a coin pusher or penny falls machine)	10p	£8 (of which no more than £5 may be a money prize)
D – combined money and non-money prize (coin pusher or penny falls machine)	10p	£15 (of which no more than £8 may be a money prize)

Annex 5 Gaming Machines – Summary of machine provisions by premises

Premises type	Machine category							
	A	B1	B2	B3	B4	C	D	
Large casino (machine/table ratio of 5-1 up to maximum)		Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio)						
Small casino (machine/table ratio of 2-1 up to maximum)		Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio)						
Pre-2005 Act casino (no machine/table ratio)		Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead						
Betting premises and tracks occupied by pool betting		Maximum of 4 machines categories B2 to D (except B3A machines)						
Bingo premises					Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**		No limit on category C or D machines	
Adult gaming centre					Maximum of 20% of the total number of gaming machines which are available for use on the premises categories B3 or B4**		No limit on category C or D machines	
Family entertainment centre (with Premises Licence)							No limit on category C or D machines	
Family entertainment centre (with permit)								No limit on category D machines
Clubs or miners' Welfare institute (with permits)					Maximum of 3 machines in categories B3A or B4 to D*			
Qualifying alcohol licensed premises							1 or 2 machines of category C or D automatic upon notification	
Qualifying alcohol licensed premises (with gaming machine permit)						Number of category C-D machines as specified on permit		
Travelling fair							No limit on category D machines	
	A	B1	B2	B3	B4	C	D	

* It should be noted that members' clubs and miners' welfare institutes are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement. Commercial clubs are entitled to a total of three machines in categories B4 to D.

** Adult gaming centre and bingo premises are entitled to make available a number of Category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises. Premises in existence before 13 July 2011 are entitled to make available four (adult gaming centre premises) or eight (bingo premises) category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. Adult gaming centre premises and bingo premises licences granted on or after 13 July 2011 but before 1 April 2014 are entitled to a maximum of four or eight category B gaming machines or 20% of the total number of gaming machines, whichever is the greater; from 1 April 2014 these premises will be entitled to 20% of the total number of gaming machines only. But not B3A machines.

Public Protection & Development Management

Andy Preston – Head of Public Protection & Development Management



DISTRICT COUNCIL
NORTH OXFORDSHIRE

*Bodicote House
Bodicote • Banbury
Oxfordshire • OX15 4AA
Telephone 01295 252535
Textphone 01295 221572
DX 24224 (Banbury)
<http://www.cherwell.gov.uk>*

Please ask for **Licensing**
Direct Dial **01295 753744**

Our ref
Fax **01295 221878**

Your ref
Email **licensing@cherwell-dc.gov.uk**

27 September 2012

Dear Sir/Madam

Gambling Act 2005 – Revised Statement of Licensing Principles Consultation

We are currently in the process of reviewing the Council's Statement of Licensing Principles. As part of the statutory consultation process I would welcome your views, comments and observations on the Draft Statement of Licensing Principles in respect of the Gambling Act 2005 (the Act) for Cherwell District Council.

The Act requires the Licensing Authority to determine and publish its Statement of Licensing Principles for each three year period (the dates of which are determined by the Secretary of State). The Act requires that before doing so the Licensing Authority must consult the following on the Draft Statement of Licensing Principles:

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

I wish to ensure that our consultation process is as comprehensive as possible and therefore I will also be inviting comments from a wide range of other non-statutory bodies that have an interest in licensing functions.

In the interests of the environment I have not included a paper copy of the Draft Statement of Licensing Principles. The draft document is on deposit for public inspection at all of our district offices and via the consultation portal of our website <http://consult.cherwell.gov.uk/portal>.

If you require a paper copy version of the Draft Statement of Licensing Principles please contact the Licensing Team using the above telephone or email contact details.



I would be grateful for any comments you may have before Friday 30 November 2012 when the consultation period closes. I will assume that if I don't receive any comments by the closing date you are satisfied with the Draft document as it stands. Responses can be made online using the consultation portal of our website <http://consult.cherwell.gov.uk/portal>, in writing to the above address, via email to licensing@cherwell-dc.gov.uk or by fax, for the attention of the Licensing Team, to 01295 221878.

All responses received will then be considered and the Draft Statement of Licensing Principles may be amended where appropriate. The Final Statement of Licensing Principles will then be published.

Should you have any queries regarding this matter, please do not hesitate to contact me and I will be happy to discuss the document with you.

Yours faithfully

A handwritten signature in purple ink, consisting of a stylized 'N' followed by a long horizontal line.

Natasha Barnes
Licensing and Vehicle Parks Manager

Claire Bold

From: Natasha Barnes
Sent: 19 October 2012 11:43
To: Claire Bold
Subject: FW: Gambling Act 2005 - Revised Statement of Licensing Principles Consultation - Cherwell DC
Attachments: KIDFIREHQ3245N_LDAPMAIL_15102012-122015.pdf

Natasha Barnes
Licensing & Vehicle Parks Manager
Telephone: 01295 753738
Int.ext. 3738
<mailto:natasha.barnes@cherwell-dc.gov.uk>
www.cherwell.gov.uk

From: Stacey Walsham **On Behalf Of** Licensing
Sent: 15 October 2012 15:21
To: Natasha Barnes
Subject: FW: Gambling Act 2005 - Revised Statement of Licensing Principles Consultation - Cherwell DC

FW: Gambling Act 2005 - Revised Statement of Licensing Principles Consultation - Cherwell DC

Many thanks,
Stacey Walsham
Assistant Licensing Officer
Cherwell District Council
Direct Dial: 01295 753740
stacey.walsham@cherwell-dc.gov.uk

From: Rosum, Patrick - Community Safety - Fire & Rescue [<mailto:Patrick.Rosum@Oxfordshire.gov.uk>]
Sent: 15 October 2012 12:52
To: Licensing
Cc: Graham, Peter - Community Safety - Fire & Rescue; Crapper, Jason - Community Safety - Fire & Rescue
Subject: Gambling Act 2005 - Revised Statement of Licensing Principles Consultation - Cherwell DC

To
Natasha Barnes
Licensing and Vehicle Parks Manager

Natasha,
I refer to your letter concerning the Gambling Act 2005 - Revised Statement of Licensing Principles Consultation (scanned copy below)

I can confirm that the draft document on <http://consult.cherwell.gov.uk/portal/environment/urban/rga?tab=files> has been reviewed and the only comment that Oxfordshire Fire and Rescue Service (OFRS) has is the contact details for OFRS in Annex 3 on page 29 should be changed to

Oxfordshire County Council
Oxfordshire Fire and Rescue Service
Banbury Fire Station
Cope Road
Banbury OX16 2EY

Tel. No. 01295 277122

e-mail – fire.service@oxfordshire.gov.uk

Many thanks
Pat Rosum
Technical Officer
Fire Protection Team
Oxfordshire County Council
Fire & Rescue Service
01865 852175
07775 827258
Fire & Rescue Service Headquarters
Sterling Road, Kidlington
OX5 2DU

Oxfordshire Fire and Rescue Service Vision

By 2016, thanks to the emergency response, community and partnership work of Oxfordshire County Council's Fire and Rescue Service, there will be:
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/BIIAB/sejp

5th October 2012

Ms Natasha Barnes
Licensing and Vehicle Parks Manager
Cherwell District Council
Bodicote House
Bodicote
Banbury
Oxfordshire OX15 4AA



Dear Ms SBarnes

Re: Gambling Act 2005 – Policy Statement Review

Further to your letter dated 28th September 2012 I would advise that a copy of your letter has been passed to Ms Rita King, Deputy Director, Pub and Leisure at BBPA to enquire if they will be responding to the review.

Yours sincerely



Sue Polley

P A to Tim Burrows – Director BIIAB

Claire Bold

From: Claire Bold
Sent: 27 November 2012 16:28
To: 'info@gamblingcommission.gov.uk'
Cc: 'garyalanbell@hotmail.com'
Subject: Gambling Concerns

Good Afternoon,

During our consultation period for our 3 yearly policy statement review, we have received the response detailed below:

Mr Gary Bell, completing survey as individual.

The changes being made seem awfully minor and hardly worth making. What's needed are drastic revisions. Effectively we are allowing casinos into our streets via the back door. This should be stopped completely and immediately.

The changes to the Gambling Act 2005 are not doing anything to stop the practice of punters placing quick-fire bets on a video game roulette via a Fixed Odds Betting Terminal.

These terminals need to be banned; they are a constant source of trouble within betting shops and cause gamblers to lose money quicker than almost any other type of bet.

The Gambling industry love them if course but addicted gamblers have a worse time because they are allowed and inevitably their are additional costs for taxpayers.

Half the gambling addicted patients cite these Fixed Odds Betting Terminals as causing problems so why should we have them in the local area at all?

They don't advance society in any way, they just allow gamblers to lose money faster and we all have to pick up the welfare bill of increased problems with addicted gamblers mental & physical health, increased poverty and increasing levels of violence and general anti-social behaviour.

We shouldn't be making it easier to gamble; we should be curbing them more and more.

Please send details of outcome to garyalanbell@hotmail.com

We have advised the respondent that we are unable to alter the requirements of the Gambling Act 2005 and will refer their comments to you for your attention.

Please can you review the comments and respond to the respondent directly?

Kind Regards,

Claire Bold
Licensing Team Leader

01295 753741
07971 302794

claire.bold@cherwell-dc.gov.uk

www.cherwell.gov.uk

Claire Bold

From: Gary Bell [garyalanbell@hotmail.com]
Sent: 28 November 2012 12:54
To: Claire Bold
Subject: RE: Gambling Act 2005: Statement of Licensing Policy Consultation

Good Afternoon Claire,

Yes all agreed – thanks.

It does appear to be a bit of a waste of time having a Consultation on these relatively minor Changes as the real things that require Consultation are the Legislation itself but I guess you are just following the method that's set out when the Council needs to make such a change.

Regards,

Gary Bell.

From: Claire Bold [mailto:Claire.Bold@Cherwell-DC.gov.uk]
Sent: 27 November 2012 16:23
To: garyalanbell@hotmail.com
Subject: Gambling Act 2005: Statement of Licensing Policy Consultation

Good Afternoon,

Thank you for your comments in relation to our current consultation.

The gambling Act 2005 sets out the requirements for Local Authorities to have a policy statement giving guidance in relation to how they will perform their functions under the Act. The Act also requires that we review this policy every three years and consult upon it.

As you quite rightly comment, there are only minor changes taking place to the policy on this occasion.

In relation to your comments regarding Fixed Odds Terminal Betting, whilst I appreciate your concerns unfortunately we do not have the power to comment or amend the legislation as the guidelines governing this type of betting are set out in legislation. Therefore, I have forwarded your comments and contact details to the Gambling Commission who are the main body responsible for the Gambling Act 2005 so that they can give your comments due consideration and advise of any measures they may take.

Kind regards,

Claire Bold
Licensing Team Leader

01295 753741
07971 302794

claire.bold@cherwell-dc.gov.uk

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Licensing Committee

Licensing Act 2003

17 December 2012

Report of Head of Public Protection & Development Management

PURPOSE OF REPORT

To advise the Licensing Committee of changes made to the Licensing Act 2003 with regard to Early Morning Restriction Orders and Late Night Levies

This report is public

Recommendations

The meeting is recommended:

- (1) To note the report.

Executive Summary

Introduction

- 1.1 The Police Reform and Social Responsibility Act 2011 received Royal Assent on September 2011. The Act brings about several changes to the Licensing Act 2003, mainly:
 - doubling the fine for persistent underage sales to £20,000
 - introducing a late night levy to help cover the cost of policing the late night economy
 - increasing the flexibility of early morning alcohol restriction orders
 - lowering the evidential threshold on licensing authorities
 - removing the vicinity test for licensing representations to allow wider local community involvement
 - reforming the system of temporary event notices (TENs)
 - suspension of premises licences due to non-payment of annual fees
- 1.2 Whilst the majority of changes took effect from April 2012, the changes to Early Morning Restriction Orders (EMRO) and the introduction of the Late Night Levy (LNL) only took effect on 31 October 2012.
- 1.3 This report aims to advise the Committee on EMRO's and LNL's with regard

to what they are and the impact these measures may have upon Cherwell District Council.

Background Information

Early Morning Restriction Orders (EMRO's)

- 2.1 Licensing Authorities now have the power to make, vary or revoke an Early Morning Restriction Order (EMRO) as set out in sections 172A to 172E of the Licensing Act 2003
- 2.2 An EMRO enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 2.3 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 2.4 An EMRO:
 - applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
 - applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
 - applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
 - applies to the whole or any part of the licensing authority's area;
 - will not apply to any premises on New Year's Eve (defined as 12am to 6am on 1 January every year);
 - will not apply to the supply of alcohol to residents by accommodation providers between 12 am and 6am, provided the alcohol is sold through mini-bars and/or room service; and will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act
- 2.5 An EMRO can apply to the whole or part of the licensing authority's area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.
- 2.6 The decision whether or not to implement an EMRO lies solely with the licensing authority. As a result, it is the licensing authorities decision to ensure that there is sufficient evidence to support the proposal and that all other avenues have been exhausted in respect of resolving the issues. the licensing authority can work closely with other responsible authorities to gather this information.
- 2.7 An EMRO is a powerful tool which will prevent licensed premises in the area

to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. Other measures that could be taken instead of making an EMRO might include:

- introducing a Cumulative Impact Policy (CIP);
- reviewing licences of specific problem premises;
- encouraging the creation of business-led best practice schemes in the area;

2.8 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:

- the days (and periods on those days) on which the EMRO would apply;
- the area to which the EMRO would apply;
- the period for which the EMRO would apply (if it is a finite period); and
- the date from which the proposed EMRO would apply

2.9 The proposed EMRO must be advertised. Amongst other measures, this includes a 42 day consultation period through site notices, press notices and the Council's website. The licensing authorities is also required to inform responsible authorities and neighbouring licensing authorities of the proposal along with any other persons who may have an interest in the EMRO.

2.10 If relevant representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary).

2.11 As a result of the hearing, the licensing authority has three options:

- to decide that the proposed EMRO is appropriate for promotion of the licensing objectives;
- to decide that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
- to decide that the proposed EMRO should be modified.

2.12 If the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision.

2.13 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it.

2.14 Licensing authorities should update their statement of licensing policy to include reference to the EMRO as soon as reasonably possible.

2.15 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration.

- 2.16 The supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act.
- 2.17 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.
- 2.18 A copy of the relevant sections of the Guidance issued under Section 182 of the Licensing Act 2003 in relation to EMRO's is attached to this report at Appendix 1.

Late Night Levy (LNL)

- 2.19 The late night levy enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority's area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 2.20 The decision to introduce the levy is for the licensing authority to make. The licensing authority is expected to consider the need for a levy with the chief officer of police and police and crime commissioner ("PCC") for the police area in which it is proposed the levy will be introduced.
- 2.21 A Late Night Levy:
- Applies to the whole district
 - Applies to all premises and clubs with permissions to supply alcohol, on and off the premises, regardless of whether or not they are actually open during the late night supply period
 - The late night supply period can be dictated by the licensing authority, beginning at or any time after midnight and ending no later than 6am.
 - The period can be for any length of time within these parameters but must be the same every day.
 - The levy will not apply to Temporary Event Notices (TENS)
 - The licensing authority must publish on their website an estimate of the costs it will deduct from the levy revenue each year.
 - The licensing authority must pay at least 70 per cent of the net levy revenue to the police
 - The licensing authority will be able to retain up to 30 per cent of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy.
- 2.22 It is recommended that the decision to introduce, vary or end the requirement for the levy is made by full council.

- 2.23 When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.
- 2.24 The licensing authority will decide the design of the levy. This includes the late-night supply period, any exemptions or reductions that may apply and the proportion of revenue (after the licensing authority's costs are deducted) which will be paid to the PCC, with the remainder being retained by the licensing authority to fund other activities.
- 2.25 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises which are licensed to sell alcohol late at night.
- 2.26 At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.
- 2.27 The licensing authority should discuss the need for a levy with the relevant PCC and the relevant chief officer of police including the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am. At this time, Cherwell District Council has been unable to do this as the PCC was not in position when these legislative measures were made..
- 2.28 Should the licensing authority decide to consult upon introducing a levy, this will be carried out in accordance with legislation.
- 2.29 The licensing authority will assess consultation responses and make a final decision about whether to introduce the levy and, if so, its design. The decision to introduce the levy will then be put to the full council to approve.
- 2.30 Holders with a relevant late-night authorisation may make a free variation to their licence to reduce their licensed hours to avoid operating in the late-night supply period.
- 2.31 These applications will only be permitted for a two month period. The cost of processing free variations will be a deductible expense from the levy receipts in Year zero. Year zero is the first year in which the levy is introduced by the licensing authority.
- 2.32 The levy will apply indefinitely until the licensing authority decides that the levy will cease to apply in its area. Licensing authorities may wish to review the requirements for the levy at appropriate intervals. A decision that the levy should cease to apply can only be made at the end of a levy year
- 2.33 Certain exemptions are prescribed in legislation for the licensing authorities to abide by. These exemptions include:
- **Premises with overnight accommodation:** residential sales only
 - **Theatres and cinemas:** ticket holders only

- **Bingo halls:** must be licensed under the Gambling Act 2005.
 - **Community Amateur Sports Clubs (“CASCs”):** Premises in this category must have relief from business rates by virtue of being a CASC (Section 658 of the Corporation Tax Act 2010).
 - **Community premises:** must have successfully applied for the removal of the mandatory designated premises supervisor (“DPS”) requirement and demonstrated that they operate responsibly.
 - **Country village pubs:** In England, must be the sole pub situated within a designated rural settlement with a population of less than 3,000.
 - **New Year’s Eve:** Licensing authorities can offer an exemption from the levy for holders in relation to premises which are only have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year
 - **Business Improvement Districts (“BIDs”):** premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus.
- 2.34 Please note, the above list is not exhaustive. Please refer to the legislation for full details. It is the licensing authorities’ decision whether or not a premise qualifies for a reduction.
- 2.35 Certain reductions can also be applied for premises that are deemed to be operating responsibly and in accordance with business-led best practice schemes. Licensing authorities must refer to the legislation for guidance on such schemes.
- 2.36 Eligible premises will receive a 30 per cent reduction from the levy. There will be no cumulative discounts available for holders in relation to premises that are eligible for more than one reduction category.
- 2.37 After year zero, any amendments to be made by the licensing authority in respect of reductions must be consulted upon.
- 2.38 The net levy revenue must be split between the licensing authority and the relevant PCC. The licensing authority must pay at least 70 per cent of the net levy revenue to the police. The licensing authority can choose to amend the portion of the net levy revenue that will be given to the PCC in future levy years. This decision must be subject to consultation in the same way as a decision to introduce the levy.
- 2.39 The licensing authority will be able to retain up to 30 per cent of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy. Specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:
- the reduction of crime and disorder;

- the promotion of public safety;
- the reduction or prevention of public nuisance; or
- the cleaning of any relevant highway or relevant land in the local authority area.

2.40 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority.

2.41 The amount of the levy will be prescribed nationally. The annual charges for the levy will be:

Rateable Value Bands (based on the existing fee bands)	A	B	C	D	E	D x 2	E x 3
	No rateable value to £4,300	£4,301 to £33,000	£33,001 to £87,000	£87,001 to £125,000	£125,001 and above	Multiplier applies to premises in category D that primarily or exclusively sell alcohol	Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Levy Charges	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

2.42 Licensing authorities have discretion to adjust a holder's liability if the licence is surrendered (for instance, because the licence holder ceases to trade). The circumstance for surrendering a licence will vary considerably from case to case; for instance, a licensing authority might chose to exercise this discretion for a long-term illness, but not when a licence holder surrendered a licence in anticipation of it being revoked. Holders whose licences are revoked for contravening the licensing objectives would not be eligible for a reduction.

2.43 Any payment of the levy which is owed to the licensing authority can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of club premises certificate.

2.44 Specific Guidance issued under the Licensing Act 2003 in relation to LNL's has been issued by the Home Office and is attached to this report at Appendix 2.

Key Issues for Consideration/Reasons for Decision and Options

3.1 There are currently no plans to implement either EMRO or LNL. The licensing authority will be discussing LNL with the Chief of Police and PCC in the New Year

- 3.2 The Council's Statement of Licensing Policy will be updated to reflect the changes to legislation

Wards Affected

All

Document Information

Appendix No	Title
Appendix 1	Relevant Sections of 182 Guidance in relation to EMRO's
Appendix 2	Guidance in relation to LNL's
Background Papers	
All members of the Committee have been issued with up to date copies of the Guidance issued under Section 182 of the Licensing Act 2003. Full copies of the Act itself are available on request from the Licensing Team.	
Report Author	Claire Bold, Licensing Team Leader
Contact Information	01295 753741 claire.bold@cherwell-dc.gov.uk

16. Early morning alcohol restriction orders

GENERAL

- 16.1 This chapter provides guidance to licensing authorities about Early Morning Alcohol Restriction Orders (“EMROs”). The power conferred on licensing authorities to make, vary or revoke an EMRO is set out in sections 172A to 172E of the 2003 Act. This power enables a licensing authority to prohibit the sale of alcohol for a specified time period between the hours of 12am and 6am in the whole or part of its area, if it is satisfied that this would be appropriate for the promotion of the licensing objectives.
- 16.2 EMROs are designed to address recurring problems such as high levels of alcohol-related crime and disorder in specific areas at specific times; serious public nuisance; and other instances of alcohol-related anti-social behaviour which is not directly attributable to specific premises.
- 16.3 An EMRO:
- applies to the supply of alcohol authorised by premises licences, club premises certificates and temporary event notices;
 - applies for any period beginning at or after 12am and ending at or before 6am. It does not have to apply on every day of the week, and can apply for different time periods on different days of the week;
 - applies for a limited or unlimited period (for example, an EMRO could be introduced for a few weeks to apply to a specific event);
 - applies to the whole or any part of the licensing authority’s area;
 - will not apply to any premises on New Year’s Eve (defined as 12am to 6am on 1 January every year);
 - will not apply to the supply of alcohol to residents by accommodation providers between 12 am and 6am, provided the alcohol is sold through mini-bars and/or room service; and
 - will not apply to a relaxation of licensing hours by virtue of an order made under section 172 of the 2003 Act.

THE EMRO PROCESS

- 16.4 An EMRO can apply to the whole or part of the licensing authority’s area. The area may, for example, comprise a single floor of a shopping complex or exclude premises which have clearly demonstrated to the licensing authority that the licensable activities carried on there do not contribute to the problems which form the basis for the proposed EMRO.
- 16.5 If the licensing authority already has a Cumulative Impact Policy (“CIP”) in its Licensing Policy Statement, it should consider the relationship between the CIP and proposed EMRO area, and the potential overall impact on its local licensing policy.

EVIDENCE

- 16.6 The licensing authority should be satisfied that it has sufficient evidence to demonstrate that its decision is appropriate for the promotion of the licensing objectives. This requirement should be considered in the same manner as other licensing decisions, such as the determination of applications for the grant of premises licences. The licensing authority should consider evidence from partners, including responsible authorities and local Community Safety Partnerships, alongside its own evidence, to determine whether an EMRO would be appropriate for the promotion of the licensing objectives.

16.7 When establishing its evidence base, a licensing authority may wish to consider the approach set out in paragraphs 13.23 to 13.26 of this Guidance which includes indicative types of evidence, although this should not be considered an exhaustive list of the types of evidence which may be relevant.

INTRODUCING AN EMRO

16.8 An EMRO is a powerful tool which will prevent licensed premises in the area to which the EMRO relates from supplying alcohol during the times at which the EMRO applies. The licensing authority should consider whether other measures may address the problems that they have identified as the basis for introducing an EMRO. As set out in paragraphs 9.38-9.40 of this Guidance, when determining whether a step is appropriate to promote the licensing objectives, a licensing authority is not required to decide that no lesser step will achieve the aim, but should consider the potential burden that would be imposed on premises licence holders as well as the potential benefits in terms of promoting the licensing objectives. Other measures that could be taken instead of making an EMRO might include:

- introducing a CIP;
- reviewing licences of specific problem premises;
- encouraging the creation of business-led best practice schemes in the area; and
- using other mechanisms such as those set out in paragraph [13.39] of this Guidance.

16.9 If the licensing authority has identified a problem in a specific area attributable to the supply of alcohol at two or more premises in that area, and has sufficient evidence to demonstrate that it is appropriate for the promotion of the licensing objectives, it can propose making an EMRO. The licensing authority should first decide on the matters which must be the subject of the proposal. These are:

- the days (and periods on those days) on which the EMRO would apply;
- the area to which the EMRO would apply;
- the period for which the EMRO would apply (if it is a finite period); and
- the date from which the proposed EMRO would apply.

In relation to the date when it plans to introduce the EMRO, the licensing authority should note that this may change when it is specified in the final order.

ADVERTISING AN EMRO

16.10 The proposed EMRO must be advertised. The licensing authority should include a short summary of the evidence and the manner in which representations can be made in the document, as well as the details of the proposed EMRO. The proposal must be advertised for at least 42 days (a reference in this Chapter to a period of “days” means a period made up of any days and not only working days). The licensing authority must publish the proposal on its website and in a local newspaper. If no newspaper exists, it must be published in a local newsletter, circular or similar document. The licensing authority must also send a notice of the proposal to all affected people in its area. They are:

- holders of (and applicants for) premises licences or club premises certificates to which the proposed EMRO would apply;
- premises users in relation to TENs to which the proposed EMRO would apply;

- those who have received a provisional statement in respect of a premises to which the proposed EMRO would apply.

16.11 Licensing authorities must, moreover, display a notice of the proposal in the area to which the EMRO would apply, in a manner which is likely to bring the proposal to the attention of those who may have an interest in it.

16.12 The licensing authority should also inform responsible authorities in its area and neighbouring licensing authorities of its proposal to make an EMRO. It may also like to consider what further steps could be taken, in any particular case, to publicise the proposal in order to draw it to the wider attention of any other persons who are likely to have an interest in it.

REPRESENTATIONS

16.13 Those who are affected by a proposed EMRO, responsible authorities or any other person have 42 days (starting on the day after the day on which the proposed EMRO is advertised) to make relevant representations. To be considered a relevant representation, a representation must:

- be about the likely effect of the making of the EMRO on the promotion of the licensing objectives;
- be made in writing in the prescribed form and manner, setting out the EMRO to which it relates and the nature of the representation;
- be received within the deadline; and
- if made by a person other than a responsible authority, not be frivolous or vexatious. Chapter 9 of this Guidance gives further advice on determining whether a representation is frivolous or vexatious.

Representations can be made in relation to any aspect of the proposed EMRO. If a licensing authority decides that a representation is not relevant, it should consider informing the person who has made that representation.

16.14 Responsible authorities may wish to make representations, as may affected persons (as set out in the above paragraph).

16.15 Others may also wish to make representations about the proposed EMRO. These persons could include, but are not limited to:

- residents;
- employees of affected businesses;
- owners and employees of businesses outside the proposed EMRO area; and
- users of the late night economy.

HEARINGS

16.16 If a relevant representation or representations are received, the licensing authority must hold a hearing to consider them (unless the authority and anyone who has made representations agree that this is unnecessary). The licensing authority should consider, based on the number of relevant representations received by it and any other circumstances it considers appropriate, whether to hold the hearing over several days, which could be arranged to take place other than on consecutive working days.

16.17 Licensing authorities should be familiar with the hearing process as it has similarities with other processes under the 2003 Act. Further guidance on hearings can be found in Chapter 9 of this Guidance (paragraphs 9.27 to 9.37). However, licensing authorities should note the following key points in relation to a hearing about a proposed EMRO:

- the hearing must be commenced within 30 working days, beginning with the day after the end of the period during which representations may be made;
- the hearing do not have to take place on consecutive working days, if an authority considers this to be necessary to enable it to consider any of the representations made by a party or if it considers it to be in the public interest;
- a licensing authority must give its determination within 10 working days of the conclusion of the hearing; and
- the authority is not required to notify those making representations of its determination so that the determination may be put before the full council of the authority to decide whether or not to make the EMRO.

16.18 The licensing authority will determine the manner in which the hearing will be conducted in accordance with the Licensing Act 2003 (Hearings) Regulations 2005. If a licensing authority determines that a representation is frivolous or vexatious, it must notify in writing the person who made the representation.

16.19 As a result of the hearing, the licensing authority has three options:

- to decide that the proposed EMRO is appropriate for promotion of the licensing objectives;
- to decide that the proposed EMRO is not appropriate for the promotion of the objectives and therefore that the process should be ended;
- to decide that the proposed EMRO should be modified. In this case, if the authority proposes that the modified EMRO should differ from the initial proposal in relation to the area specified, any day not in the initial proposal or the period of any day specified, the authority should advertise what is in effect a new proposal to make an EMRO in the manner described above, so that further representations are capable of being made.

FINAL EMRO

16.20 If the licensing authority is satisfied that the proposed order is appropriate for the promotion of the licensing objectives, its determination must be put to the full council for its final decision.

16.21 The matters set out in the final order must be no different from the matters set out in the proposal to make the order, subject to the caveat described above in paragraph 16.18. The order must be set out in the prescribed form and contain the prescribed content.

16.22 No later than 7 days after the day on which the EMRO is made, the licensing authority must send a notice to all affected persons of the EMRO, and make the order available for at least 28 days on its website and by displaying a notice in the EMRO area. A licensing authority should retain details of the EMRO on its website for as long as the EMRO is in force. It is recommended that the licensing authority advises neighbouring licensing authorities and the Secretary of State that the order has been made, the nature of the order and when (and for how long) it will take effect.

- 16.23 The licensing authority should monitor the effectiveness of the EMRO to ensure it continues to be appropriate for the promotion of the licensing objectives and periodically review whether it is appropriate to continue to apply it. The licensing authority should consider setting out its policy in relation to reviewing EMROs (if any) in its statement of licensing policy.
- 16.24 The variation or revocation of an order requires the licensing authority to undertake the same process as that which applied on its introduction; that is after gathering the appropriate evidence, it advertises its new EMRO proposal, following the process set out above so that those affected and anyone else can make representations.
- 16.25 If an order applies for a finite period, the order will cease to apply on its last day. If the licensing authority wishes to introduce a further (new) EMRO, it must follow the full process for proposing a new EMRO.
- 16.26 Licensing authorities should update their statement of licensing policy (in accordance with section 5 of the 2003 Act) to include reference to the EMRO as soon as reasonably possible.

EXCEPTIONS TO AN EMRO

- 16.27 EMROs will not apply on New Year's Eve in recognition of its status as a national celebration. The supply of alcohol to residents through mini-bars and room service in premises with overnight accommodation will also not be subject to an EMRO.

ENFORCEMENT OF EMROS

- 16.28 The supply of alcohol in contravention of an EMRO is an 'unauthorised licensable activity' which is an offence under section 136 of the 2003 Act. Moreover, it may result in a closure notice being served on the premises under section 19 of the Criminal Justice and Police Act 2001 as a precursor to an application for a closure order under section 21 of that Act. This may alternatively, result in the licence being reviewed on crime prevention grounds. Further information on reviews can be found in Chapter 11 of this Guidance.
- 16.29 An EMRO overrides all authorisations to supply alcohol under the 2003 Act (including temporary event notices). It is immaterial whether an authorisation was granted before or after an EMRO was made as there are no authorisations that have the effect of authorising the sale of alcohol during the EMRO period, with the only exception being a licensing hours order made under section 172 of the 2003 Act.

GUIDANCE ON THE LATE NIGHT LEVY

October 2012



Home Office

GUIDANCE ON THE LATE NIGHT LEVY

- 1.1 The late night levy (“the levy”) is a power, conferred on licensing authorities by provision in Chapter 2 of Part 2 of the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”). This enables licensing authorities to charge a levy to persons who are licensed to sell alcohol late at night in the authority’s area, as a means of raising a contribution towards the costs of policing the late-night economy.
- 1.2 The decision to introduce the levy is an option available to all licensing authorities in the whole of their respective areas. The levy will be payable by the holders of any premises licence or club premises certificate (“holders”), in relation to premises in the authority’s area, which authorise the sale or supply of alcohol on any days during a period (the “late night supply period”) beginning at or after midnight and ending at or before 6am.
- 1.3 A licensing authority is the authority which carries out licensing functions under the Licensing Act 2003 (“the 2003 Act”). The main licensing authorities, as defined in the 2003 Act, are:
 - the council of a district in England;
 - the council of a county in England in which there are no district councils;
 - the council of a county or county borough in Wales;
 - the council of a London borough.
- 1.4 It is recommended that the decision to introduce, vary or end the requirement for the levy is made by the full council. Other decisions in relation to the introduction and administration of the levy may be delegated in the manner which the licensing authority considers most appropriate.

INTRODUCTION OF THE LEVY

- 1.5 The decision to introduce the levy is for the licensing authority to make. The licensing authority is expected to consider the need for a levy with the chief officer of police and police and crime commissioner (“PCC”) for the police area in which it is proposed the levy will be introduced.¹ Local residents can use existing channels and forums to put forward views and call for the implementation or not of the levy in their area.
- 1.6 When considering whether to introduce a levy, licensing authorities should note that any financial risk (for example lower than expected revenue) rests at a local level and should be fully considered prior to implementation.
- 1.7 The licensing authority will decide the design of the levy. This includes the late-night supply period, any exemptions or reductions that may apply and the proportion of revenue (after the licensing authority’s costs are deducted) which will be paid to the PCC, with the remainder being retained by the licensing authority to fund other activities as set out in paragraph 1.42.

1 In this guidance, a reference to a PCC include a reference to the holder of the Mayor’s Office for Policing and Crime. Elections for Police and Crime Commissioners (PCCs) in all police force areas in England and Wales (except in London, where the Mayor of London has taken on the powers of a PCC in relation to the Metropolitan Police) take place on 15th November 2012. Once appointed, PCCs will be expected to have a central role working in partnership with local authorities, enforcement bodies and other local partners to decide on what action is needed to tackle alcohol-related crime and disorder in their areas. However, the Chief Officer of Police will remain the named responsible authority under the 2003 Act.

- 1.8 The levy is a power and some licensing authorities will not consider that it is appropriate to exercise it. The licensing authority may wish to decide whether or not it believes it has a viable proposal to introduce the levy before incurring the costs of the formal consultation process. It is recognised that some licensing authorities may not have a large number of premises which are licensed to sell alcohol during the late night supply period. At this stage, some licensing authorities may decide that the levy will not generate enough revenue to make it a viable option in their area.
- 1.9 The late night supply period must begin at or after midnight and end at or before 6am. The period can be for any length of time within these parameters but must be the same every day. If licensing authorities decide that it would be appropriate that certain types of premises should not pay the levy, they can set the late night supply period to suit the opening times of premises in their local area (for example the supply period could begin at 1am).
- 1.10 The licensing authority must consider the desirability of introducing a levy in relation to the matters described in section 125(3) of the Police Reform and Social Responsibility Act 2011. These matters are the costs of policing and other arrangements for the reduction or prevention of crime and disorder, in connection with the supply of alcohol between midnight and 6am.
- 1.11 The licensing authority should discuss the need for a levy with the relevant PCC and the relevant chief officer of police. The licensing authority will then decide whether to move to the next stage in the process and consult on its proposal to introduce a late night levy. The consultation document will state its intention to introduce a levy, its proposed design (including the late night supply period and proposed exemption and/or reduction categories) and the services that the licensing authority intends to fund with its share of the levy revenue.
- 1.12 The licensing authority will publish the consultation online and in a local newspaper. It will also send written details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol during the period when it is proposed the levy will apply. The consultation is intended to be targeted at those affected by the levy, particularly businesses, the police, residents and other interested parties. The consultation process, including the period, is expected to be proportionate and targeted, so that the type and scale of engagement is relative to the potential impacts of the proposal.
- 1.13 The licensing authority will assess consultation responses and make a final decision about whether to introduce (or vary) the levy and, if so, its design. The decision to introduce the levy, and its design, will then be put to the full council to approve.
- 1.14 If the full council approves the introduction (or variation) of the levy, it is recommended that the licensing authority notifies adjoining authorities. It would be helpful if licensing authorities also notified the Secretary of State for transparency purposes, via the Home Office.

IMPLEMENTATION OF THE LEVY

- 1.15 The licensing authority must notify the relevant chief officer of police, the PCC and all holders of a licence or certificate in relation to premises which permit the supply of alcohol within the late night supply period (“relevant late night authorisation”) of the start date for the levy, the late night supply period, any exemptions and reductions, and how the revenue will be shared between the police force and licensing authority. Holders of relevant late-night authorisations should also be notified of the date before which any applications for a minor variation must be made to the authority, as set out in paragraph 1.16. We recommend that licensing authorities set the start date of the levy no less than three months after those notifications have been sent.
- 1.16 Holders with a relevant late-night authorisation may make a free variation to their licence to reduce their licensed hours to avoid operating in the late-night supply period. It is recommended that licensing authorities may wish to allow holders no less than two months to make such applications. The cost of processing free variations will be a deductible expense from the levy receipts in Year zero. Year zero is the first year in which the levy is introduced by the licensing authority.
- 1.17 The licensing authority must publish on their website an estimate of the costs it will deduct from the levy revenue each year. The licensing authority will determine the manner in which any statement is published.
- 1.18 The levy will apply indefinitely until the licensing authority decides that the levy will cease to apply in its area. Licensing authorities may wish to review the requirements for the levy at appropriate intervals. A decision that the levy should cease to apply can only be made at the end of a levy year. Licensing authorities may wish to notify holders of a relevant late night authorisation of any such decision.

DESIGN OF THE LEVY

- 1.19 The levy must apply to the whole of the licensing authority’s area. It will apply to all holders (on and off-trade) of relevant late night authorisations situated in the licensing authority’s area. Any such holder will be liable to pay the levy, regardless of whether the holder’s premises are actually operating during the period. For example, a holder in relation to a supermarket with a 24 hour licence will be required to pay the levy regardless of its actual opening hours.
- 1.20 As set out in paragraph 1.9, the late night supply period must begin at or after midnight and end at or before 6am. The licensing authority can decide the times within the late-night supply period at which the levy will apply (which must be the same every day). The late-night supply period cannot apply on different days or times.
- 1.21 The levy will apply to boats, which are licensed at the place where they are usually moored or berthed. It will also apply to mobile bars, which are required to be licensed at the place where they are parked and carry on the licensable activity.
- 1.22 The levy will not apply to Temporary Event Notices (TENs).

EXEMPTIONS FROM THE LEVY

- 1.23 Licensing authorities may consider that there are some types of premises in relation to which the holder should not make a contribution towards the cost of policing the night-time economy through the levy. This is a local decision – the licensing authority should make its decision based on its knowledge of the night-time economy in the area, including information gathered through the consultation process.
- 1.24 Licensing authorities are not able to choose a category of premises for an exemption from the levy, if it is not prescribed in regulations. Likewise, licensing authorities are not able to exempt specific premises from the requirement to pay the levy.
- 1.25 Licensing authorities can decide, when considering the levy design, if any of the following permitted categories of premises should be exempt from the requirement to pay the levy. These exemption categories are specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012.
- 1.26 **Premises with overnight accommodation:** This exemption is not applicable to any premises which serve alcohol to members of the public who are not staying overnight at the premises, such as a hotel bar which can be accessed by the general public.
- 1.27 **Theatres and cinemas:** Premises in this category must ensure that, during the late night supply period, the sale of alcohol is only made for consumption on the premises to ticket holders, participants in the production or invited guests to a private event at the premises. Licensing authorities should be satisfied that premises which are eligible for this exemption are bona-fide theatres or cinemas, and that the sale of alcohol is not the primary purpose of their businesses. The definition of a “cinema” or a “theatre” should be readily understood by its plain, ordinary meaning.
- 1.28 **Bingo halls:** Premises in this category must be licensed and regulated under the Gambling Act 2005.
- 1.29 **Community Amateur Sports Clubs (“CASCs”):** Premises in this category must have relief from business rates by virtue of being a CASC (Section 658 of the Corporation Tax Act 2010).
- 1.30 **Community premises:** Premises in this category must have successfully applied for the removal of the mandatory designated premises supervisor (“DPS”) requirement and demonstrated that they operate responsibly.
- 1.31 **Country village pubs:** In England, premises in this category must be the sole pub situated within a designated rural settlement with a population of less than 3,000. The definition of a rural settlement appears in the qualifications for rural rate relief in Part III of the Local Government Finance Act 1988.
- 1.32 **New Year’s Eve:** Licensing authorities can offer an exemption from the levy for holders in relation to premises which only have a relevant late-night authorisation by virtue of their being permitted to supply alcohol for consumption on the premises on 1st January in every year.

1.33 **Business Improvement Districts (“BIDs”)**: Licensing authorities can offer an exemption from the levy for premises which participate in BIDs that operate in the night-time economy and have a satisfactory crime and disorder focus. Licensing authorities have the discretion to determine whether the BIDs in their area are eligible.

REDUCTIONS FROM THE LEVY

1.34 Licensing authorities may wish to use the late night levy to promote and support participation by premises in other business-led best practice schemes. Licensing authorities can decide, when considering the levy design, if holders whose premises participate in such schemes should benefit from a reduction to the amount they are required to pay under the levy.

1.35 Eligible premises will receive a 30 per cent reduction from the levy. There will be no cumulative discounts available for holders in relation to premises that are eligible for more than one reduction category. Licensing authorities can offer a reduction to best practice schemes that meet the following benchmarks specified in the Late Night Levy (Expenses, Exemptions and Reductions) Regulations 2012:

- a clear rationale as to why the scheme’s objectives and activities will, or are likely to, result in a reduction of alcohol-related crime and disorder;
- a requirement for active participation in the scheme by members; and
- a mechanism to identify and remove in a timely manner those members who do not participate appropriately.

1.36 Licensing authorities have discretion as to how best practice schemes can demonstrate that they meet these benchmarks. We expect licensing authorities to use their existing partnerships with best practice schemes, and understanding of a scheme’s operation in their area, to identify eligible schemes in their areas. Licensing officials could visit representatives from best practice schemes in their area, or request written details of the scheme’s objectives, if they decide to consider this reduction category.

1.37 Licensing authorities can also offer a reduction to holders in relation to on-trade premises that are in receipt of Small Business Rate Relief (as specified in Part III of the Local Government Finance Act 1988) and have a rateable value of £12,000 or less. This reduction is only available to holders in relation to premises that supply alcohol for consumption on the premises. The relevant billing authority may have information on which premises in the licensing authority area are in receipt of Small Business Rate Relief.

1.38 If the licensing authority decides to introduce or remove categories of exemption and/or reduction after Year zero, they will need to follow the same procedure for consultation as set out in 1.11-1.13 though the consultation should only refer to the new proposal. If a licensing authority chooses to remove categories of exemption and/or reduction after Year zero, they should consider that the opportunity for businesses to make a free variation to their licence is only available when the levy is initially introduced.

LEVY REVENUE

1.39 The net levy revenue must be split between the licensing authority and the relevant PCC. The licensing authority must pay at least 70 per cent of the net levy revenue to the police. The licensing authority can choose to amend the portion of the net levy revenue that will be given to the PCC in future levy years. This decision must be subject to consultation in the same way as a decision to introduce the levy.

1.40 There are no restrictions on what the PCC's portion of the levy revenue can be spent on, in line with standard practice on the allocation of police funds. The PCC's proportion will be subject to the same transparency measures as those that apply in relation to other aspects of the operation of the PCC. The Police and Crime panel will be able to request any documents of the PCC in order to hold them to account in the allocation and use of their funds.²

1.41 We recommend that the licensing authority should use its existing partnership with the police to discuss the police intentions for their share of the levy revenue. We also recommend that the PCC should consider allocating the funds raised from the levy back to local commanders to allow the revenue to be spent on tackling alcohol-related crime and disorder in the area in which the levy was raised.

1.42 The licensing authority will be able to retain up to 30 per cent of the net levy revenue to fund services it provides to tackle late night alcohol-related crime and disorder and services connected to the management of the night-time economy. Specifically, these activities must have regard to the connection with the supply of alcohol during the late night supply period and related to arrangements for:

- the reduction of crime and disorder;
- the promotion of public safety;
- the reduction or prevention of public nuisance; or
- the cleaning of any relevant highway or relevant land in the local authority area.

1.43 A licensing authority can deduct the costs it incurs in connection with the introduction or variation, administration, collection and enforcement of the levy, prior to the levy revenue being apportioned between the police and licensing authority. Regulations have prescribed descriptions of expenses which may be deducted. As set out in paragraph 1.6, any financial risk relating to the levy revenue, such as lower than expected revenue or higher than expected costs, rests at a local level.

1.44 These deductible costs may include (but are not necessarily limited to) the following:

- the preparation and publication of the consultation document, including publishing it online and sending details to the PCC, the relevant chief officer of police and all premises licence and club premises certificate holders whose authorisations permit the supply of alcohol after midnight on any day;
- the collection of levy payments;
- the enforcement of levy payments; and
- the cost of processing applications for a variation in relation to the introduction of the levy.

1.45 There will be no specific restrictions on the amount of the expenses which licensing authorities can claim in expenses, however licensing authorities will have to account for their expenses following existing procedures. The Government may specify a cap on the amount of expenses in further regulations if considered necessary.

² This excludes documents that are operationally sensitive or those that would compromise national security.

LEVY CHARGE AND COLLECTION PROCESS

1.46 The amount of the levy will be prescribed nationally. The annual charges for the levy will be:

Rateable Value Bands (based on the existing fee bands)	A No rateable value to £4,300	B £4,301 to £33,000	C £33,001 to £87,000	D £87,001 to £125,000	E £125,001 and above	D x 2 Multiplier applies to premises in category D that primarily or exclusively sell alcohol	E x 3 Multiplier applies to premises in category E that primarily or exclusively sell alcohol
Levy Charges	£299	£768	£1,259	£1,365	£1,493	£2,730	£4,440

1.47 The levy charges are based on the current licence fee system under the 2003 Act, with holders being placed in bands based on their premises rateable value. A multiplier is applied to premises in Band D and E that primarily or exclusively sell alcohol for consumption on the premises to ensure that larger clubs and bars make a higher contribution towards the levy. Regulations include provision for premises that do not have a rateable value (Band A) or premises that are in the course of construction (Band C).

1.48 The levy will be collected at the same time as the annual licence fee (except in relation to holders premises who obtain a relevant late night authorisation during a levy year). The holder will, therefore, be required to pay the levy on an annual basis. For holders whose licences exist at the time that the first levy year begins, the payment year will be the same as the levy year³. These holders will make their first levy payment when they pay their annual fee. For holders who are granted a licence in the first or subsequent levy years, the payment year runs from the date of the grant of the licence and for each year thereafter. Their first payment will be made 14 days after the grant of the licence, and thereafter when they pay their annual fee.

1.49 In the following circumstances, licensing authorities can adjust a holder's liability to the levy:

- a licence lapses under section 27 of the 2003 Act (that is if the holder of the licence dies, becomes mentally incapable, becomes insolvent, if the partnership holding the license is dissolved or if it is a club, ceases to be a recognised club);
- an EMRO is made which prohibits premises from serving alcohol at any time when the levy applies; or
- the amount of the levy reduction is the amount found by applying the formula: $R = (L/365) \times N$ (see footnote⁴).

³ The payment year is the period by reference to which a licence holder's liability to the levy is determined. The levy year is the period during which the levy applies.

⁴ R is the levy reduction, L is the amount of the late night levy payable by the holder of the relevant late night authorisation and N is the number of days in the payment year beginning on the day following the date on which the relevant event occurred.

- 1.50 Licensing authorities have discretion to adjust a holder's liability if the licence is surrendered (for instance, because the licence holder ceases to trade). The circumstance for surrendering a licence will vary considerably from case to case; for instance, a licensing authority might choose to exercise this discretion for a long-term illness, but not when a licence holder surrendered a licence in anticipation of it being revoked. Holders whose licences are revoked for contravening the licensing objectives would not be eligible for a reduction.
- 1.51 Any payment of the levy which is owed to the licensing authority can be recovered as a debt due to the authority. Non-payment of the levy can result in suspension of a premises licence or suspension of club premises certificate.



Home Office

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