

# Public Document Pack

## Cherwell District Council

### Council

Minutes of a meeting of the Council held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 17 December 2018 at 6.30 pm

Present: Councillor Maurice Billington (Chairman)  
Councillor David Hughes (Vice-Chairman)

Councillor David Anderson  
Councillor Hannah Banfield  
Councillor Andrew Beere  
Councillor Claire Bell  
Councillor Mike Bishop  
Councillor John Broad  
Councillor Hugo Brown  
Councillor Phil Chapman  
Councillor Mark Cherry  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Surinder Dhesi  
Councillor Sean Gaul  
Councillor Timothy Hallchurch MBE  
Councillor Simon Holland  
Councillor Shaida Hussain  
Councillor Tony Ilott  
Councillor Mike Kerford-Byrnes  
Councillor Alan MacKenzie-Wintle  
Councillor James Macnamara  
Councillor Kieron Mallon  
Councillor Nicholas Mawer  
Councillor Andrew McHugh  
Councillor Tony Mepham  
Councillor Richard Mould  
Councillor Cassi Perry  
Councillor D M Pickford  
Councillor Lynn Pratt  
Councillor G A Reynolds  
Councillor Barry Richards  
Councillor Alaric Rose  
Councillor Dan Sames  
Councillor Les Sibley  
Councillor Nicholas Turner  
Councillor Douglas Webb  
Councillor Bryn Williams  
Councillor Lucinda Wing  
Councillor Barry Wood  
Councillor Sean Woodcock

Apologies for absence: Councillor John Donaldson  
Councillor Carmen Griffiths  
Councillor Chris Heath  
Councillor Neil Prestidge  
Councillor Sandra Rhodes  
Councillor Jason Slaymaker  
Councillor Tom Wallis

Officers: Yvonne Rees, Chief Executive  
Adele Taylor, Interim Executive Director: Finance and Governance  
Nick Graham, Director of Law and Governance / Monitoring Officer  
Natasha Clark, Governance and Elections Manager

## 66 **Declarations of Interest**

### **10. Purchase of The Mill Arts Centre.**

Councillor Andrew McHugh, Declaration, as a trustee of The Mill and would leave the chamber for the duration of the meeting.

Councillor Mark Cherry, Declaration, as a trustee of The Mill and would leave the chamber for the duration of the meeting.

Councillor Tony Illott, Declaration, as a trustee of The Mill and would leave the chamber for the duration of the meeting.

### **15. Land in Banbury - Proposed Acquisition.**

Councillor Sean Woodcock, Declaration, as a family member was a tenant of part of the site but it was not part of the site being discussed.

## 67 **Communications**

The Chairman made the following announcements:

### **Chairman's Engagements**

The Chairman advised that a copy of the events attended by himself or the Vice-Chairman was included in your agenda pack. The Chairman reported that he had raised £5200 to date for his Chairman's charities.

### **Staff Choir Performance**

That Chairman thanked the staff choir for their excellent performance of Christmas carols which had taken place prior to the Council meeting which has been very enjoyable and entertaining. The Chairman also thanked the Leader, Councillor Wood, for providing mince pies.

### **Post**

The Chairman reminded Members to collect any post from pigeon holes.

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

There were no petitions or requests to address the meeting.

69 **Urgent Business**

There were no items of urgent business.

70 **Minutes of Council**

The minutes of the meeting held on 30 October 2018 were agreed as a correct record and signed by the Chairman.

71 **Minutes**

a) **Minutes of the Executive, Lead Member Decisions and Executive Decisions made under Special Urgency**

**Resolved**

That the minutes of the meeting of the Executive and Lead Member decisions as set out in the Minute Book be received and that it be noted that since the last meeting of Council held on 30 October 2018, one decision had been taken which was not included in the 28 day notice relating to: Property Acquisition in Banbury.

b) **Minutes of Committees**

**Resolved**

That the minutes of Committees as set out in the Minute Book be received.

72 **Questions**

a) **Written Questions**

The Chairman advised Council that one written question had been submitted with advance notice in accordance with the Constitution.

The question was from Councillor Woodcock and addressed to the Leader of the Council, Councillor Wood, and was in relation to Modern Slavery requesting an update to the Motion he had submitted to July Council. A written answer had been tabled at the meeting (annex to the Minutes as set out in the Minute Book). Councillor Woodcock thanked Councillor Wood for the extensive response and confirmed he did not have a supplementary question.

b) **Questions to the Leader of the Council**

Questions were asked and answers received on the following issues:

Councillor Dhesi: Vermin at Canalside

Councillor Banfield: Air pollution and traffic congestion at Hennef Way

Councillor Woodcock: Oxford to Cambridge Expressway

Councillor Mallon: Oxfordshire County Council Banbury Locality meeting and work on sliproads

Councillor Richards: Affordable house sales in Cherwell

### **c) Questions to Committee Chairmen on the Minutes**

There were no questions to Committee Chairman on the minutes of meetings.

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## **Motions**

### **a) Maternity and Paternity Leave for Parents to Premature Babies**

It was moved by Councillor Woodcock, and seconded by Councillor Banfield, that the following motion be adopted:

“This Council supports extending paternity and maternity leave for any of its staff whose babies have been born too soon.

Parents to premature babies are faced with financial, mental and physical stress and hardship, yet their maternity leave begins the day after the birth.

We believe that the added pressure of worrying about the length of maternity or paternity leave is not good for the wellbeing of employees.

This council therefore seeks to adopt a policy of providing one extra week of leave to employees for every week a premature baby spends in hospital before the due date.”

Councillor McHugh proposed the following amendment to the motion, which was seconded by Councillor Wood:

Add the following text to the end of the motion: “In addition to premature birth, there are other clinical crises that could befall council employees. Officers are to investigate extending this motion to allow Directors the discretion to deal with significant medical crises of a similar magnitude involving council employees, in a compassionate and caring manner and report back to Executive in due course.”

Councillor Woodcock, as proposer to the motion, confirmed that he supported the amendment which was therefore added to the motion voted on by Council.

## **Resolved**

(1) That the following motion, as amended, be adopted:

### **Maternity and Paternity Leave for Parents to Premature Babies**

This Council supports extending paternity and maternity leave for any of its staff whose babies have been born too soon.

Parents to premature babies are faced with financial, mental and physical stress and hardship, yet their maternity leave begins the day after the birth.

We believe that the added pressure of worrying about the length of maternity or paternity leave is not good for the wellbeing of employees.

This council therefore seeks to adopt a policy of providing one extra week of leave to employees for every week a premature baby spends in hospital before the due date.

In addition to premature birth, there are other clinical crises that could befall council employees. Officers are to investigate extending this motion to allow Directors the discretion to deal with significant medical crises of a similar magnitude involving council employees, in a compassionate and caring manner and report back to Executive in due course.

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### **Purchase of The Mill Arts Centre**

The Interim Executive Director: Finance and Governance submitted a report to establish a budget in order to complete the transfer of The Mill Arts Centre from Oxfordshire County Council to Cherwell District Council following the Executive's decision in July 2018 to negotiate the purchase of The Mill Arts Centre building in Banbury. It was also agreed that there would be an increase in revenue support to the Mill Arts Centre Trust in the short term to enable The Trust to meet its commitment following the cessation of the financial relationship with Oxfordshire County Council.

Following on from the purchase, there would be a need to carry out a full investment options appraisal on the site to report back to Members on the scale and scope of potential investment in the Towns cultural facilities to create a sustainable venue for the Town. This would be subject to further reports once we are able to work with the Trust on those options. An internal officer working group would be established to take this work forward.

### **Resolved**

- (1) That the expenditure of £1 to secure the transfer of The Mill Arts Centre from Oxfordshire County Council to Cherwell District Council in line with the Executive decision of July 2018 be approved.
- (2) That the establishment of a revenue budget of £50,000 to cover costs of transition funding and arrangements in 2018/19 to be funded from general reserves be agreed and it be noted future funding would be considered when setting the budget and medium term financial plan in February 2019.
- (3) That it be noted that immediate remedial works (expected early in 2019/20) in the region of £250,000 may be required, with further phases of works due later in 2019/20 or the 2020/21 to ensure that the

building is fit for purpose and will be subject to detailed capital proposals as part of the budget setting process and medium term financial plan for 2019/20 to 2023/24.

- (4) That it be noted that an officer working group would be established to establish the options and Business case for any further investment into the site to ensure that the Trust is financially more sustainable in the medium to long term.
- (5) That it be noted that the offer to acquire the asset is subject to a restrictive covenant from Oxfordshire County Council to ensure that at least 80% of the site is used for cultural purposes otherwise state aid applies.
- (6) That the final agreement for the legal agreement to transfer the asset be delegated to the Monitoring officer for Cherwell District Council in consultation with the Interim Executive Director of Finance and Governance.

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### **Gambling Act 2005 - Review of Statement of Licensing Principles**

The Assistant Director Environmental Health and Licensing submitted a report to consider a revised Statement of Licensing Principles as part of the Gambling Act 2005.

#### **Resolved**

- (1) That the revised Cherwell District Council Statement of Licensing Principles (annex to the Minutes as set out in the Minute Book) be adopted.

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### **Council Tax Reduction Scheme 2019-2020 and Council Tax Discounts 2019-2020**

The Interim Executive Director: Finance and Governance submitted a report to seek approval for a Council Tax Reduction Scheme for the year 2019-2020 on the recommendation of the Executive and Budget Planning Committee.

The report also provided members with an update of Council Tax discounts and sought approval for the Council Tax discounts for the year 2019-20.

In introducing the report, the Lead Member for Financial Management and Governance, Councillor Ilott, advised of an amendment to the recommendations in light of the late confirmation of new legislation members of the Budget Planning Committee had considered a report on 27 November 2018 and made a recommendation that as part of the Council Tax discounts for 2019-2020, there be an empty homes premium of an additional 100% for properties that have remained empty for more than 2 years be rather than the existing additional 50% premium.

**Resolved**

- (1) That a Council Tax Reduction Scheme (CTRS) for the year 1 April 2019 to 31 March 2020 as set out in the annex to the Minutes (as set out in the Minute Book) be approved and implemented with effect from 1 April 2019.
- (2) That delegated authority be granted to the Section 151 Officer to make further amendments to the CTRS Regulations up to and including 31 January 2019 in consultation with the Lead Member for Financial Management and Governance.
- (3) That, having given due consideration, the following Council Tax discounts for 2019-2020 be approved:
  - Retain the discount for second homes at zero
  - Retain the discount for empty homes (unoccupied and substantially unfurnished) at 25% for 6 months and thereafter at zero.
  - Retain the discount for empty homes undergoing major repair at 25% for 12 months and thereafter at zero.
  - Empty homes premium of an additional 100% for properties that have remained empty for more than 2 years.

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**Calendar of Meetings 2019/2020**

The Director: Law and Governance submitted a report for Council to consider the calendars of meetings for the municipal year 2019/20.

**Resolved**

- (1) That the calendar of meetings for Cherwell District Council (CDC) for the municipal year 2019/20 (annex to the Minutes as set out in the Minute Book) be approved.

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**Exclusion of the Press and Public**

**Resolved**

That under Section 100A of the Local Government Act 1972, the public and press be excluded from the meeting for the following items of business on the ground that, if the public and press were present, it would be likely that exempt information falling under the provisions of Schedule 12A, Part 1, Paragraph 3 would be disclosed to them, and that in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

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**Land in Banbury - Proposed Acquisition**

The Interim Executive Director: Finance and Governance submitted an exempt report relating to the proposed acquisition of land in Banbury.

**Resolved**

- (1) That the acquisition of the premises shown on the plan on the exempt annex to the Minutes (as set out in the Minute Book), subject to contract, be approved.
- (2) As set out in the exempt minutes.
- (3) As set out in the exempt minutes.
- (4) That the Interim Executive Director of Finance and Governance be given delegated authority to negotiate and finalise the terms for the acquisition in consultation with the Lead Member for Financial Management and Governance, the Lead Member for Economy, Regeneration and Property and the Monitoring Officer.

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**Questions on Exempt Minutes**

There were no questions on exempt minutes.

The meeting ended at 8.10pm

Chairman:

Date:



## **Council**

**Monday 17 December 2018**

### **Agenda Item 8 (a), Written Questions**

**Question From: Councillor Sean Woodcock**

**Question To: Leader of the Council, Councillor Barry Wood**

**Topic: Modern Slavery – Update on Motion to July Council**

### **Question**

In July this council passed a motion on Modern Slavery which contained 12 commitments. Can we be updated on where the Council is in terms of meeting them?

Beyond procurement; our council has a role to play in disrupting and detecting incidents of Modern Slavery taking place in our district. And services like housing, community safety, environmental health as well as licensing, benefits and council tax, are in a position to do just that.

What work has been or is being done to ensure that the whole council is fulfilling its duty in tackling this scourge?

### **Response**

Cherwell District Council takes seriously its role in identifying incidents of modern slavery. Working with a wide range of sector partners and using its best endeavours it is committed to changing the lives of those enslaved and those profiting from enslavement and exploitation.

Staff have received a face to face briefing within the last 6 months regarding the signs of modern day slavery and an introduction to apps and websites; such as Safe car wash have been promoted for staff to use.

Awareness has been raised further through the staff newsletter. The induction of new staff includes a face to face briefing on safeguarding that includes modern day slavery and outlines the expectation that every employee concerns themselves with the exploitation of others. Safeguarding is everyone's business and the comprehensive training programme implemented last year covers the whole organisation, including Members. There is a members briefing for safeguarding on 7 February and will include Prevent – the anti-extremism and radicalisation programme as well as Modern Day slavery.

Officers with a regulatory role whether in Environmental Services, Community Safety, Housing, Planning or Licensing are confident in the role they can play in stopping exploitation through enforcement action and close working with police and social care services. Actions such as revoking licenses, establishing closure orders or partial closure orders, preventing trading from particular premises, have all been undertaken in the past bring the practise of Modern Day Slavery to a close and effect a change in the lives of those enslaved.

In direct response to the motion passed in July there has been work undertaken by the finance and procurement team to upskill staff and ensure greater rigour in ensuring compliance of all contractors.

**Train its corporate procurement team to understand modern slavery through CIPS online course Ethical Procurement and Supply.**

Those members of the team with CIPS Membership have taken the online ethics training offered from CIPS. We are also encouraging the use of similar training courses from LGA and CCS for those who do not have access to CIPS.

**Require it’s contractors to comply fully with the Modern Slavery Act 2015, wherever it applies, with contract termination as a potential sanction for non-compliance.**

Modern Slavery is covered within the Crown Commercial Service Standard Questionnaire (SQ) document, which we use for our tenders

<b>Section 7</b>	<b>Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015</b>	
<b>7.1</b>	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	Yes <input type="checkbox"/> N/A <input type="checkbox"/>
<b>7.2</b>	If you have answered yes to question 1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	Yes <input type="checkbox"/> Please provide relevant the url ...  No <input type="checkbox"/> Please provide an explanation

However, this question is not applicable to companies with under £36m turnover. Therefore, the team is developing its own additional question asking suppliers if they have their own Modern Slavery policy, with the option of agreeing to adopt the Council’s in the absence of their own.

In addition, Framework owners check that all policies, including those relating to ethics, are reviewed regularly during the lifetime of the framework. This includes any frameworks the Council has setup and managed itself. Contract management of frameworks will pick up Modern Slavery as part of the checklist of requirements being formulated by the Contract Monitoring Team.

The Procurement Team introduced Procurement and Contract Management training which covered Modern Slavery. All Assistant Directors and a selection of officers identified as contract managers across both councils were included.

**Challenge any abnormally low-cost tenders to ensure they do not rely on the potential contractor practising modern slavery.**

Abnormally low contracts, when received, are routinely challenged. To date, no queries of abnormally low tenders have indicated the possibility of Modern Slavery as the cause. This continues to be an area for challenge for low cost tenders.

**Highlight to its suppliers that contracted workers are free to join a trade union and are not to be treated unfairly for belonging to one.**

The team have undertaken a review of the standard tender templates in order to introduce a statement in support of this commitment. This will ensure that contracted workers are aware of this.

**Require its tendered contractors to adopt a whistle-blowing policy which enables their staff to blow the whistle on any suspected examples of modern slavery**

The template review includes adding a requirement for contractors to demonstrate their own whistle-blowing policy or to optionally adopt the Council's policy in the absence of their own.

**Review its contractual spending regularly to identify any potential issues with MS**

Regular contract and cost reviews, coordinated by the Contract Monitoring Team, monitor spend and highlight any causes for concern.

**Highlight for its suppliers any risks identified concerning modern slavery and refer them to the relevant agencies to be addressed**

The template review introduces the statement that the Council will contact the supplier if officers identify any risks to advise them to contact the relevant agencies.

**Refer for investigation via NCA's national referral mechanism any of its contractors identified as a cause for concern regarding MS**

The template introduces the statement that the Council will inform prospective suppliers that they will be reported to the NCA if officers identify a cause for concern.

In addition Procurement Officers have identified that there should be continuous management of contracts. Officer across the council are given an opportunity to understand the issues around MS. A tool to address this which is in discussion with HR colleagues, is the possibility of providing an e-learning module for all staff (e.g. <https://www.virtual-college.co.uk/courses/safeguarding-courses/human-trafficking>)

The safeguarding and whistle blowing policies are being updated to reflect the latest legislation and best practice. The safeguarding leads group are taking this work forward.

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**Cherwell District Council  
Gambling Act 2005  
Policy Statement**

This Statement of Principles was adopted by **Cherwell District Council** at its Council meeting on **[Insert date]**

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**Revisions**

<b>Version</b>	<b>Date</b>	<b>Author</b>
Dv01	3 August 2018	EC Draft
Dv02	17 August 2018	NS Draft
Dv03	3 September 2018	NS Draft
Dv04	15 November 2018	NS Post Consultation
Dv05		

## Cherwell District Council Statement of Principles Gambling Act 2005

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## **PART A**

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

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

### **2. Introduction**

- 2.1 Licensing authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must be then re-published.
- 2.2 The Council consulted widely upon this statement before finalising and publishing it. A list of Cherwell’s partners is provided in Annex 1. A list of the persons/organisations that we consulted is provided in Annex 2.
- 2.3 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;
  - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area; and
  - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority’s functions under the Gambling Act 2005.
- 2.4 Our consultation took place between the 1<sup>st</sup> of October and 12<sup>th</sup> of November 2018 and we followed the HM Government Code of Practice on Consultation (published July 2008 and amended in 2018).
- The full list of comments made and consideration given is available by request from the relevant contacts detailed in Annex 1.
- 2.5 The policy was approved at a meeting of the Full Council on [Insert date] and was subsequently published on our website.
- 2.6 Should you have any comments about this policy statement, please send them by **email to the** relevant contacts specified in Annex 1.

- 2.7 It should be noted that this statement of licensing principles 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 Gambling Act 2005.

### **3. Declaration**

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

### **4. Responsible Authorities**

- 4.1 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the authority about the protection of children from harm. The principles are:
- The need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 4.2 This authority designates the Oxfordshire Safeguarding Children Board for this purpose.
- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website, please see Annex 1.

### **5. Interested Parties**

- 5.1 Interested parties can make representations about licence applications, or apply for a review of an existing licence. These parties are defined in the Gambling Act 2005 as follows:

“For the purposes of this Part a person is an interested party in relation to an application for or in respect of a premises licence if, in the opinion of the licensing authority which issues the licence or to which the applications is made, the person:

- a) Lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) Has business interests that might be affected by the authorised activities, or
- c) Represents persons who satisfy paragraph (a) or (b)”

- 5.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are as follows.
- 5.3 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
- 5.4 Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected



will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

- 5.5 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Cherwell District Council Licensing department.

## 6. Exchange of Information

- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 7. Enforcement

- 7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:
- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
  - **Consistent:** rules and standards must be joined up and implemented fairly;
  - **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
  - **Targeted:** regulation should be focused on the problem, and minimise side effects.
- 7.3 This licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on:
- the licensing objectives
  - relevant codes of practice
  - guidance issued by the Gambling Commission
  - the principles set out in this statement of principles.

- 7.5 This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, this licensing authority will undertake to liaise with the Gambling Commission, the Primary Authority (if applicable) and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.
- 7.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.
- 7.7 This licensing authority also keeps itself informed of developments as regards the work of the Department for Business, Energy & Industrial Strategy in its consideration of the regulatory functions of local authorities.
- 7.8 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the licensing team (see Annex 1 for relevant contact details).

## 8. Licensing authority functions

- 8.1 Licensing authorities are required under the Act to:
- be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
  - issue Provisional Statements
  - regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
  - issue Club Machine Permits to Commercial Clubs
  - grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
  - receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
  - register *small society lotteries* below prescribed thresholds
  - issue Prize Gaming Permits
  - receive and Endorse *Temporary Use Notices*
  - receive Occasional Use Notices
  - provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
  - maintain registers of the permits and licences that are issued under these functions
- 8.2 It should be noted that licensing authorities are not to be involved in licensing remote gambling as this is regulated by the Gambling Commission via operating licences.

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

### **1. General Principles**

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

#### (i) Decision-making

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

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

1.3 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral or ethical objections to gambling are not a valid reason to reject applications for premises licences" (with the exception of the casino resolution powers).

#### (ii) Definition of "premises"

1.4 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

1.5 This licensing authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

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

- the premises have a separate registration for business rates;
- the premises' neighbouring premises are owned by the same person or someone else?
- the premises can be accessed from the street or a public passageway?
- the premises can only be accessed from any other gambling premises?

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

The Gambling Commission's relevant access provisions for each premises type are reproduced below:

#### **Casinos**

- The principal access entrance to the premises must be from a street;
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

#### **Adult Gaming Centre**

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

#### **Betting Shops**

- Access must be from a street or from another premises with a betting premises licence;
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

#### **Tracks**

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

#### **Bingo Premises**

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

#### **Family Entertainment Centre**

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

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

(iii) Premises "ready for gambling"

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

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

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

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

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

1.13 More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

(iv) Location

1.14 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. This authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. This authority has the option of adding conditions to a premises licence to address any such concerns.

(v) Planning:

1.15 This authority will not take into account irrelevant matters as per the Gambling Commission guidance.

(vi) Duplication with other regulatory regimes

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

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

1.18 Licensing Objectives

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

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

1.20 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section of this document.

1.21 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

1.22 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

1.23 Conditions

Any conditions attached to licences will be proportionate and will be:

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

1.24 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to a way in which the licensing objectives can be met effectively.

1.25 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

These matters are in accordance with the Gambling Commission's Guidance.

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

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

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

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

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

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

1.29 Door Supervisors

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

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

## **2. Adult Gaming Centres**

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

access to the premises.

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

- proof of age schemes
- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.

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

### **3. (Licensed) Family Entertainment Centres**

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

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

- CCTV
- supervision of entrances / machine areas
- physical separation of areas
- location of entry
- notices / signage
- specific opening hours
- self-exclusion schemes
- provision of information leaflets / helpline numbers for organisations such as GamCare.
- measures / training for staff on how to deal with suspected truant school children on the premises

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

3.3 This licensing authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. This licensing authority will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

### **4. Casinos**

4.1 Cherwell District Council has not adopted a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this licensing authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council

### **5. Bingo premises**



- 5.1 This licensing authority will satisfy itself 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.
- 5.2 This authority also notes the Guidance regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted.

## 6. Betting premises

- 6.1 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.

## 7. Tracks

- 7.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 7.2 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 7.3 This licensing authority may consider measures to meet the licensing objectives such as:
- Proof of age schemes
  - CCTV
  - Supervision of entrances / machine areas
  - Physical separation of areas
  - Location of entry
  - Notices / signage
  - Specific opening hours
  - Self-exclusion schemes
  - Provision of information leaflets / helpline numbers for organisations such as GamCare

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

- 7.4 *Gaming machines* - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 7.5 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

### **Applications and plans**

- 7.6 The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.
- 7.7 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.
- 7.8 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.
- 7.9 In the rare cases where the outer perimeter cannot 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 boundary premises do not need to be defined.
- 7.10 This 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 premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

### **8. Travelling fairs**

- 8.1 This licensing authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

### **9. Provisional statements**

- 9.1 Developers may wish to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 9.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

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

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

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

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

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

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

- which could not have been raised by objectors at the provisional statement stage;
- which in the authority's opinion reflect a change in the operator's circumstances; or
- where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

## 10. Reviews

10.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

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

10.2 The request for the review will also be subject to the consideration by the authority as to whether the request is frivolous, vexatious, or whether it will certainly not cause this authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

10.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

10.4 Once a valid application for a review has been received by the licensing authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the

application within 7 days of receipt.

- 10.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 10.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are to:
- (a) add, remove or amend a licence condition imposed by the licensing authority;
  - (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
  - (c) suspend the premises licence for a period not exceeding three months; and
  - (d) revoke the premises licence.
- 10.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in section 153 of the Act, as well as any relevant representations.
- 10.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 10.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:
- the licence holder
  - the applicant for review (if any)
  - the Commission
  - any person who made representations
  - the chief officer of police or chief constable; and
  - Her Majesty's Commissioners for Revenue and Customs

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## PART C: PERMITS / TEMPORARY & OCCASIONAL USE NOTICES

### 1. Unlicensed family entertainment centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

- 1.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission.

It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles This licensing authority will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises. This licensing authority will also expect, as per Gambling Commission Guidance, that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

### 2. (Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

#### Automatic entitlement: 2 machines

- 2.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority and pay the prescribed fee.
- 2.2 The licensing authority can remove the automatic authorisation in respect of any particular premises if:
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
  - the premises are mainly used for gaming; or
  - an offence under the Gambling Act has been committed on the premises.

#### Permit: 3 or more machines

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

- 2.4 This licensing authority considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 2.5 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 2.6 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 2.7 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

### **3. Prize gaming permits**

- 3.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 3.2 This Licensing Authority has not prepared a statement of principles. Should it decide to do so it will include details in a revised version of the policy statement.
- 3.3 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance (Gambling Act 2005, Schedule 14 paragraph 8(3)).
- 3.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
  - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
  - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
  - participation in the gaming must not entitle the player to take part in any other gambling.

### **4. Club gaming and Club Machines Permits**

- 4.1 Members clubs and miners' welfare institutes (but not commercial clubs) may apply for a club gaming permit. The 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.

- 4.2 Members clubs and miners' welfare institutes – and also commercial clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB commercial clubs may not site category B3A gaming machines offering lottery games in their club.
- 4.3 The club must be conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulations and these cover bridge and whist clubs.
- 4.4 Licensing authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has applied;
  - (b) the applicant's premises are used wholly or mainly by children and/or young persons;
  - (c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
  - (d) a permit held by the applicant has been cancelled in the previous ten years; or
  - (e) an objection has been lodged by the Commission or the police.
- 4.5 There is also a 'fast-track' procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.
- 4.6 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## 5. Temporary use notices

- 5.1 Temporary use notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a temporary use notice, according to the Gambling Commission, would include hotels, conference centres and sporting venues.
- 5.2 The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 5.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 5.4 There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 5.5 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **6. Occasional use notices (OUNs)**

- 6.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though, consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. This licensing authority will also ensure that no more than 8 OUNs are issued in one calendar year in respect of any venue.

## **7. Small society lotteries**

- 7.1 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.
- 7.2 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.
- 7.3 Charities and community groups should contact Cherwell District Councils licensing department.



## PART D: ANNEXES

### Annex 1: List of Local Authorities and other Partners

#### **Cherwell District Council**

Bodicote House  
Bodicote  
Banbury  
OX15 4AA  
TEL: 01295 753738

[licensing@cherwell-dc.gov.uk](mailto:licensing@cherwell-dc.gov.uk)

#### **Oxfordshire Safeguarding**

Oxfordshire Safeguarding Board  
Officer  
3<sup>rd</sup> Floor County Hall  
New Road  
Oxford OX5 2NX

<http://www.oscb.org.uk/>

#### **H M Revenue & Customs**

Holland House  
20 Oxford Road  
Bournemouth  
BH8 8DZ

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

#### **Oxfordshire Fire and Rescue Service**

Oxfordshire Fire and Rescue Service  
Headquarters  
Sterling Road  
Kidlington  
Oxfordshire OX2 2DU  
TEL: 01865 891189

<https://www.oxfordshire.gov.uk/cms/public-site/fire-and-rescue-service>

#### **Thames Valley Police**

Licensing Department  
Thames Valley Police  
E Block HQ South  
165 Oxford Road  
Kidlington  
Oxfordshire OX5 2NX  
TEL: 0845 8505505

<http://www.thamesvalley.police.uk/>

#### **The Planning Authority**

Bodicote House  
Banbury  
OX15 4AA  
TEL: 01295 753738

[planning@cherwell-dc.gov.uk](mailto:planning@cherwell-dc.gov.uk)

#### **The Gambling Commission**

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP  
TEL: 01212306666

[info@gamblingcommission.gov.uk](mailto:info@gamblingcommission.gov.uk)

**Annex 2: List of Consultees on the Statement of Principles**

- Association of British Bookmakers Warwick House, 25 Buckingham Palace Road, London, SW1W 0PP
- British Beer and Pub Association, Market Towers, 1 Nine Elms Lane, London, SW8 5NQ
- Gambling Commission, Victoria Square House, Victoria Square, Birmingham, B2 4BP
- HM Revenue and Customs, Holland House, 20 Oxford Road, Bournemouth, BH8 8DZ
- Thames Valley Police, Thames Valley Police Headquarters, Oxford Road, Kidlington, Oxon, OX5 2NX
- Oxon PCC, The Farmhouse, Thames Valley Police Headquarters, Oxford Road, Kidlington, Oxon, OX5 2NX
- Oxon Safeguarding Childrens Board, 3<sup>rd</sup> Floor, Oxfordshire County Council, County Hall, New Road, Oxford, OX1 1ND
- Oxon Safeguarding Adults Board, 3<sup>rd</sup> Floor, Oxfordshire County Council, County Hall, New Road, Oxford, OX1 1ND
- Bingo Association, 75 High Street North, Dunstable, LU6 1JF
- Gamcare, 1<sup>st</sup> Floor, CAN Mezzanine Old Street, London, N1 6AH
- BACTA, 134-136 Buckingham Palace Road, London, SW1W 9SA
- Public Health Oxfordshire, Public Health Team, OCC, County Hall, New Road, Oxford, OX1 1ND
- Parish Councils
- District Councillors
- Health Protection
- Environmental Protection
- Licensed premises

### Annex 3: Local Area Profile

## Gambling Act Local Area Profile – Cherwell District Council

Cherwell is predominantly a rural district with 3 main towns; Banbury, Bicester and Kidlington. At the last census the population was 146 635 with 63% of that number living in the 3 main towns.

The licensing authority does not have any information that there are specific issues around gambling at present.

The licensing authority would recommend that the following matters are considered by operators when preparing their local risk assessment:

- the location of the premises to services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- the vicinity of the premises to gambling or addiction support or treatment centres where children or vulnerable groups may be present;
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, service tills, refreshment and entertainment type facilities;
- the demographics of the area in relation to vulnerable groups;
- whether the premises is in an area subject to high levels of crime and/or disorder;<sup>8</sup>
- local risk assessments should show how vulnerable people, including people with gambling dependencies are protected including the use of Information held by the licensee regarding self-exclusions and incidences of underage gambling.
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

**This list is not exhaustive and other factors not in this list that are identified must be taken into consideration.**

The Licensing Authority expects a current copy of the Local Risk Assessment to be kept at the licensed premises.

# Minute Item 76

## Cherwell District Council

### Council

17 December 2018

<b>Council Tax Reduction Scheme 2019-2020 and Council Tax Discounts 2019-2020</b>
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### Report of Interim Executive Director: Finance and Governance

This report is public

#### Purpose of report

To seek approval for a Council Tax Reduction Scheme for the year 2019-2020 on the recommendation of the Executive and Budget Planning Committee.

To provide members with an update of Council Tax discounts and seek approval for the Council Tax discounts for the year 2019-20.

#### 1.0 Recommendations

The meeting is recommended:

- 1.1 To approve a Council Tax Reduction Scheme (CTRS) for the year 1 April 2019 to 31 March 2020 as set out in the report and implement the scheme with effect from 1 April 2019.
- 1.2 To grant delegated authority to the Section 151 Officer to make further amendments to the CTRS Regulations up to and including 31 January 2019 in consultation with the Lead Member for Financial Management and Governance.
- 1.3 To review the proposed level of Council Tax discounts for 2019-2020 and to approve the following:
  - Retain the discount for second homes at zero
  - Retain the discount for empty homes (unoccupied and substantially unfurnished) at 25% for 6 months and thereafter at zero.
  - Retain the discount for empty homes undergoing major repair at 25% for 12 months and thereafter at zero.
  - Retain the empty homes premium of an additional 50% for properties that have remained empty for more than 2 years.

## **2.0 Introduction**

- 2.1 In December 2017 members approved a Council Tax Reduction Scheme (CTRS) for Cherwell District Council for the financial year 2018-2019. The scheme mirrored the previous Council Tax Benefit (CTB) scheme in that the maximum Council Tax liability to be included in any assessment for working age customers is 100%.
- 2.2 Funding for the new scheme is based on a fixed cash grant based on approximately 90% of the previous CTB subsidy giving a funding shortfall for Cherwell of £742,430. The funding shortfall is mostly offset by changes to locally set Council Tax discounts.

## **3.0 Report Details**

### **Council Tax Reduction Scheme (CTRS) 2019-2020**

- 3.1 The Government has not yet released indicative funding figures for 2019-2020. For the purposes of calculating the new Council Tax Reduction scheme for 2019-2020 an assumption has been made that funding will remain at the reduced rate. The 10% reduction in government funding for 2019-2020 of £742,430 has been offset by changes to locally set Council Tax discounts.
- 3.2 As the funding for the CTRS is a fixed grant the cost of any increase in the level of demand will be borne by the Council. The CTRS caseload is regularly monitored and there has been a small decrease in the number of live cases from 7,087 in July 2017 to 6,607 in June 2018.
- 3.4 There will continue to be a national scheme which the Council must adhere to for those people who have attained the qualifying age for State Pension Credit.
- 3.5 There are existing regulations for our local Council Tax Reduction Scheme for working age customers. If the recommendation for no change is agreed then the only change required would be the changes to the Regulations to reflect changes such as benefit uprating.

### **Council Tax Reduction Scheme Regulations**

- 3.6 There will continue to be national regulations related to CTRS which the Council must adhere to including the national scheme for those people who have attained the qualifying age for State Pension Credit.
- 3.7 There are existing regulations for our local scheme for 2018-2019. If the recommendation for no change is agreed then the regulations will require some technical changes for uprating by DCLG and Department for Work and Pensions.

## Council Tax Discounts

- 3.8 The Local Government Finance Act 2012 abolished certain exemptions with effect from 1 April 2013 and replaced them with discounts which can be determined locally. Council approved a number of small changes to discounts in order to meet the funding requirements of the Council Tax Reduction Scheme.
- 3.9 Council determined that furnished chargeable dwellings that are not the sole or main residence of an individual (second homes) should no longer receive a discount. If we continue to set the discount at zero it is estimated that this will result in additional income of £84,782.
- 3.10 Council also determined the discount in respect of unoccupied and substantially unfurnished properties should be reduced to 25% for a period of six months and thereafter to zero. Current estimations indicate that this will result in additional income of around £287,351.
- 3.11 Council further exercised its discretion to determine that chargeable dwellings which are vacant and undergoing major repair to render them habitable should attract a discount of 25% for a period of 12 months and thereafter to zero. This is expected to result in additional income of £10,617.
- 3.12 Prior to 1 April 2013 billing authorities could charge up to a maximum of 100% council tax on dwellings that have been empty for more than two years. From April 2013 local authorities were given the powers to charge a premium of up to 50% of the council tax payable. The projected income for 2019-2020 from charging an Empty Homes Premium is £100,163. In the Autumn statement of 2017 the Government announced plans to give local authorities the power to charge a 100% Council Tax premium on empty properties. The legislation has very recently been laid before Parliament. Officers are undertaking some financial modelling on the impact of this change and a report will be presented to members of Budget and Financial Strategy Committee at a future meeting.

## Financial Implications of the recommendation for CTRS 2019-2020

- 3.13 The recommendation for no change to the current Council Tax Reduction Scheme or Council Tax Discounts would have the following financial impact:

	Based on 100%
Overall funding loss	742,430
Second homes income	-84,782
Empty homes income with discount of 25% for 6 months	-287,351
Uninhabitable homes discount of 25% for 12 months	-10,617
Long term empty premium income	-100,163
Total funding gap	259,517
Total funding gap for CDC	18,166

## **4.0 Conclusion and Reasons for Recommendations**

- 4.1 The proposal is to keep the same Council Tax Reduction Scheme for 2019-2020 with changes to the Regulations to reflect the changes such as uprating.
- 4.2 Members are now required to agree a Council Tax Reduction Scheme for the 2019-2020 financial year and are asked to give delegated Authority to the Section 151 Officer to make amendments to the CTRS Regulations up to and including 31 January 2019 in consultation with the Lead Member for Financial Management.
- 4.3 Members are also asked to agree that Council Tax Discounts for 2019-2020 are set at the levels detailed in the report.

## **5.0 Consultation**

There is a requirement to consult with the public, major preceptors and other parties who may have an interest in the Council Tax Reduction scheme on any material changes to the scheme. This is not considered to include changes for annual uprating in accordance with Government Regulations.

Members of Executive recommended a no change scheme for 2019-2020 without the need for a full consultation. The Regulations will be updated to include appropriate text to make it clear that the Council will apply the uprating.

## **6.0 Alternative Options and Reasons for Rejection**

- 6.1 The following alternative options have been identified and rejected for the reasons as set out below.

Option 1: To not agree any of the options for a scheme for 2019-2020. This would have financial implications for the Council and those residents affected by wider Welfare Reform.

## **7.0 Implications**

### **Financial and Resource Implications**

- 7.1 These are contained in report.

Comments checked by:

Kelly Watson Assistant Director, Finance, Procurement and Property

[kelly.watson@cherwellandsouthnorthants.gov.uk](mailto:kelly.watson@cherwellandsouthnorthants.gov.uk)

### **Legal Implications**

- 7.2 The Council is required to review its Council Tax Reduction Scheme on an annual basis and, if it determines to make changes then it must consult on the revised scheme. Failure to do so will affect the reputation of the Council and will

have a financial implication for residents as well as exposing the Council to potential challenge for failing to comply with the legislative requirements of the Local Government Finance Act 1992.

Comments checked by:  
Christopher Mace, Solicitor, 01327 322125  
Christopher.mace@cherwellandsouthnorthants.gov.uk

### **Equality and Diversity**

- 7.3 An equality impact assessment has been undertaken on the Council Tax Reduction Scheme for 2019-2020. It is proposed that the scheme remains unchanged in 2019-2020.

## **8.0 Decision Information**

### **Wards Affected**

All

### **Links to Corporate Plan and Policy Framework**

This links to the Council's priority of sound budgets and a customer focused Council.

### **Lead Councillor**

Councillor Tony Ilott, Lead Member for Financial Management

### **Document Information**

<b>Appendix No</b>	<b>Title</b>
None	
<b>Background Papers</b>	
None	
<b>Report Author</b>	Belinda Green (Joint Revenues and Benefits Manager)
<b>Contact Information</b>	Belinda Green: 01327 322182 <a href="mailto:Belinda.green@csnresources.co.uk">Belinda.green@csnresources.co.uk</a>



## Appendix 1 - Cherwell District Council Calendar of Meetings 2019/20<sup>1</sup>

Council	Executive	Accounts, Audit & Risk Committee	Budget Planning Committee	Overview & Scrutiny Committee	Planning Committee	All Member Briefing
Mon, 6.30pm	Mon, 6.30pm	Weds, 6.30pm	Tues, 6.30pm	Tues, 6.30pm	Thurs, 4pm	Bi-monthly, 6.30pm - 8.30pm
<b>2019</b> Tuesday 14 May AGM 22 July 21 October 16 December <b>2020</b> 24 February  <b>2020/21</b> Tuesday 19 May 2020 AGM (2020 elections on 7 May)	<b>2019</b> 3 June 1 July 2 September 7 October 4 November 2 December <b>2020</b> 6 January 3 February 2 March 6 April	<b>2019</b> 29 May 6.30pm - informal review of accounts 29 May (7.30pm) 31 July 18 September 20 November <b>2020</b> 22 January 18 March	<b>2019</b> 4 June 23 July 24 September 29 October 10 December <b>2020</b> 28 January 10 March	<b>2019</b> 28 May 9 July 3 September 15 October 3 December <b>2020</b> 21 January 17 March	<b>2019</b> 23 May 20 June 18 July 22 August 19 September 17 October 14 November 12 December <b>2020</b> 16 January 13 February 12 March 16 April	<b>2019</b> Tuesday 21 May Wednesday 17 July Thursday 3 October Wednesday 11 December <b>2020</b> Thursday 23 January Wednesday 11 March

NOTES: Chairman and Vice-Chairman for all Committees for the municipal year 2019/20 will be appointed at the first meetings of Committees held at the conclusion of the Annual Council meeting on Tuesday 14 May 2019.

Licensing Committee, Licensing Sub-Committees, Personnel Committee, Appeals Panel and Standards Committee meetings will be arranged as required.

Parish Liaison Meeting: Wednesday 5 June 2019 and Wednesday 6 November 2019  
 Parish Liaison Meeting Contact: Kevin Larner, Community Infrastructure Officer

<sup>1</sup> Dates are subject to change. The website will be updated and Members notified accordingly.