

# Public Document Pack

## Cherwell District Council

### Council

Minutes of a meeting of the Council held at Bodicote House, Bodicote, Banbury, OX15 4AA, on 14 December 2015 at 6.30 pm

Present: Councillor Melanie Magee (Chairman)  
Councillor Chris Heath (Vice-Chairman)

Councillor Ken Attack  
Councillor Andrew Beere  
Councillor Claire Bell  
Councillor Maurice Billington  
Councillor Fred Blackwell  
Councillor Norman Bolster  
Councillor Mark Cherry  
Councillor Colin Clarke  
Councillor Ian Corkin  
Councillor Surinder Dhesi  
Councillor Michael Gibbard  
Councillor Carmen Griffiths  
Councillor Timothy Hallchurch MBE  
Councillor David Hughes  
Councillor Tony Ilott  
Councillor Ray Jelf  
Councillor Matt Johnstone  
Councillor Mike Kerford-Byrnes  
Councillor James Macnamara  
Councillor Nicholas Mawer  
Councillor Alastair Milne Home  
Councillor Richard Mould  
Councillor D M Pickford  
Councillor James Porter  
Councillor Lynn Pratt  
Councillor Nigel Randall  
Councillor G A Reynolds  
Councillor Sandra Rhodes  
Councillor Barry Richards  
Councillor Dan Sames  
Councillor Les Sibley  
Councillor Lawrie Stratford  
Councillor Rose Stratford  
Councillor Lynda Thirzie Smart  
Councillor Nicholas Turner  
Councillor Douglas Webb  
Councillor Bryn Williams  
Councillor Douglas Williamson  
Councillor Barry Wood  
Councillor Sean Woodcock

Apologies  
for  
absence: Councillor John Donaldson  
Councillor Simon Holland  
Councillor Russell Hurle  
Councillor Kieron Mallon  
Councillor Nigel Morris  
Councillor Neil Prestidge  
Councillor Trevor Stevens

Officers: Sue Smith, Chief Executive  
Calvin Bell, Director of Development  
Ian Davies, Director of Community and Environment  
Martin Henry, Director of Resources / Section 151 Officer  
Kevin Lane, Head of Law and Governance / Monitoring Officer  
Natasha Clark, Team Leader, Democratic and Elections

## 49 **Declarations of Interest**

Members declared interests in the following agenda items:

### **8. Questions.**

Councillor Claire Bell, Disclosable Pecuniary Interest, in agenda item 8 (a), Written Questions, as she worked at East Street Centre, Calder Close, Banbury and was therefore an employee of Oxfordshire County Council.

Councillor G A Reynolds, Non Statutory Interest, in agenda item 8(a), Written Questions, as an Oxfordshire County Council Councillor, which was carrying out the consultation.

Councillor Lawrie Stratford, Non Statutory Interest, in agenda item 8(a), Written Questions, as an Oxfordshire County Council Councillor, which was carrying out the consultation.

Councillor Les Sibley, Non Statutory Interest, in agenda item 8(a), Written Questions, as an Oxfordshire County Council Councillor, which was carrying out the consultation.

Councillor Mark Cherry, Non Statutory Interest, in agenda item 8(a), Written Questions, as an Oxfordshire County Council Councillor, which was carrying out the consultation.

Councillor Maurice Billington, Non Statutory Interest, in agenda item 8(a), Written Questions, as an Oxfordshire County Council Councillor, which was carrying out the consultation.

Councillor Surinder Dhesi, Non Statutory Interest, in agenda item 8(a), Written Questions, as an Oxfordshire County Council Councillor, which was carrying out the consultation.

Councillor Timothy Hallchurch MBE, Non Statutory Interest, in agenda item 8(a), Written Questions, as an Oxfordshire County Council Councillor, which was carrying out the consultation.

### **9. Motions**

Councillor Surinder Dhesi, Declaration, as she worked in a retail outlet located in Castle Quay, Banbury

### **10. Licensing Act 2003: Review of Statement of Licensing Policy.**

Councillor Nicholas Turner, Declaration, as a personal licence holder and would abstain from the vote.

### **14. Notification of Urgent Action: Councillor Dispensation.**

Councillor Melanie Magee, Declaration, as she was the subject of the report and would leave the room for the duration of the item.

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## **Communications**

The Chairman made the following announcements:

### **Former Cllr Paul O'Sullivan**

The Chairman referred to the sad passing of former Councillor Paul O'Sullivan on 9 December 2015. Paul had served as a Conservative member for the Deddington ward of Cherwell District Council between 1994 and 2014.

During his time as a councillor, Paul served on the Planning Committee, Licensing Committee, Appeals Panel and Standards Committee. He was appointed Member Champion for Older People in December 2012 following the creation of the Member Champion role and was very active in the role until he retired as a councillor in May 2014.

Paul's funeral would take place at Steeple Aston Church at 11am on Monday 21 December.

A number of Members paid tribute to former Councillor O'Sullivan.

Council observed a period of silence.

### **Recording at meetings**

The Chairman advised Council that members of the public were permitted to film, broadcast and report on the meeting, subject to the efficient running of the meeting not being affected.

### **Chairman's Engagements**

The Chairman reported that a copy of the events attended by herself or the Vice-Chairman was included in the agenda pack.

### **Chairman's Dinner**

The Chairman reported on her 'Winter Wonderland' dinner which had been held on Saturday 28 November 2015. The Chairman thanked everybody who had attended and donated. It had been a very successful evening with around £2400 raised.

**Post**

The Chairman reminded Members to collect post from pigeon holes

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

There were no petitions or requests to address the meeting.

52 **Urgent Business**

There were no items of urgent business.

53 **Minutes of Council**

The minutes of the meeting held on 19 October 2015 were agreed as a correct record and signed by the Chairman.

54 **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 it be noted that since the last meeting 4 decisions, relating to the Weston on the Green Application for Designation as a Neighbourhood Area, the Award of Liquid Fuel Contract, Safeguarding and South West Bicester Update, have been taken by the Executive which were not included in the 28 day notice.

b) **Minutes of Committees**

**Resolved**

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

55 **Questions**

a) **Written Questions**

Councillor Sean Woodcock submitted a written question to the Leader of the Council. A response from Councillor Barry Wood, Leader of the Council, was tabled at the meeting.

Question:

At our previous meeting, it was resolved that officers would provide advice on how this authority would respond to the threat to the district's children's

centres. Can the Leader of the Council provide an update on what has been done since for each of the children's centres in Cherwell?

Response:

The proposal to cut the early years and early intervention services and close children centres and replace these with a much smaller number of family centres is of real concern to Cherwell District Council. The investment and foresight of providing children centres and early intervention hubs relatively recently has resulted in much valued services for local people many of whom are our most vulnerable and most in need of support.

It is clear that the current children's centres and early intervention hubs play a key role in delivering important local services, most of which are County Council related. It is however also clear, that the scale of the OCC budget cuts require substantial change and result in little chance of retaining all current services and premises.

The Council does not have the organisational structure nor expertise to get heavily involved in these County Council services. However, it does wish to support the search for alternative delivery solutions for each of the ten children's centres and two early intervention hubs in the District, is prepared to play its part in this process and has undertaken the following actions since the consultation process began;

- Regular contact with OCC lead officers over their liaison with each centre in Cherwell and the development of alternative service delivery models;
- Consideration of the use of this Council's network of voluntary and community organisations to explore alternative delivery models;
- Consideration on how the Council can assist OCC in the facilitation process for each centre; and
- Meeting with representatives from the Sunshine Centre in Banbury and the Butterflies Children Centre in Bloxham to consider future service provision.

It is intended that the Executive at its meeting on 4 January 2016 will consider a formal consultation response to OCC.

By way of a supplementary question, Councillor Woodcock asked when there would be a full Council debate on the council's response to the consultation. Councillor Wood responded that in this instance "council" referred to the corporate entity and the council's consultation response would be submitted in accordance with the council's standing orders and delegations. Councillor Woodcock, as Leader of the Labour Group, had a standing invitation to attend Executive and any other Member could attend the meeting of 4 January 2016 at which the consultation response would be considered and request to address the meeting.

(Councillor Bell left the meeting for the duration of this item)

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

Questions were asked and answers received on the following issues:

Castle Quay 2 development: Councillor Cherry  
FOI requests submitted to Cherwell District Council: Councillor Dhesi  
Cherwell District Council action to tackle obesity: Councillor Dhesi  
'A' boards in Banbury town centre: Councillor Dhesi  
Services at risk following the Autumn Statement: Councillor Woodcock  
Cherwell District Council response to the Oxfordshire County Council  
consultation on the options for the future of the Children's Centres and Early  
Intervention Service: Councillor Richards

### **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**

### **Car Parking**

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

"This Council notes with concern the decline in revenues to the authority from district council car parks and from commercial rental income in particular at Castle Quay, Banbury.

This Council also notes the feedback from businesses and the general public on the impact that parking charges has on visitor footfall into our town centres.

So noted, this council asks the Executive to implement a month-long suspension of parking charges in its car parks from 9.30am on Thursdays in February 2016 excepting ultra-short stay car parks and drop-off points.

This temporary suspension of charges should be accompanied by a detailed study on the effect that it does, or does not, have on visitor numbers to our town centres. In doing so this Council believes it will restore public confidence in its commitment to prosperous town centres."

The motion was debated and subsequently put to the vote. In accordance with the request that had been moved and seconded for a recorded vote, this was duly taken. Members voted as follows:

Councillor Ken Attack – Against  
Councillor Andrew Beere – For  
Councillor Claire Bell - For  
Councillor Maurice Billington – Against  
Councillor Fred Blackwell - Against  
Councillor Norman Bolster – Against  
Councillor Mark Cherry – For  
Councillor Colin Clarke - Against  
Councillor Ian Corkin - Against  
Councillor Surinder Dhesi – For  
Councillor Michael Gibbard – Against

Councillor Carmen Griffiths - Against  
Councillor Tim Hallchurch MBE – Against  
Councillor Chris Heath - Against  
Councillor David Hughes – Against  
Councillor Shaida Hussain – For  
Councillor Tony Ilott – Against  
Councillor Ray Jelf – Against  
Councillor Matt Johnstone - For  
Councillor James Macnamara – Against  
Councillor Melanie Magee - Against  
Councillor Nicholas Mawer – Against  
Councillor Alistair Milne Home - Against  
Councillor Richard Mould - Against  
Councillor Debbie Pickford - Against  
Councillor James Porter – Against  
Councillor Lynn Pratt – Against  
Councillor Nigel Randall – Against  
Councillor G A Reynolds – Against  
Councillor Sandra Rhodes - Against  
Councillor Barry Richards - For  
Councillor Daniel Sames – Against  
Councillor Les Sibley – Abstain  
Councillor Lawrie Stratford – Against  
Councillor Rose Stratford – Against  
Councillor Lynda Thirzie Smart – Against  
Councillor Nicholas Turner – Against  
Councillor Douglas Webb - Against  
Councillor Bryn Williams – Against  
Councillor Douglas Williamson - Against  
Councillor Barry Wood – Against  
Councillor Sean Woodcock – Against

Accordingly the motion was lost.

**57 Licensing Act 2003: Review of Statement of Licensing Policy**

The Shared Interim Public Protection & Environmental Health Manager submitted a report to consider a revised Statement of Licensing Policy as part of the Licensing Act 2003.

**Resolved**

- (1) That the revised Cherwell District Council Statement of Licensing Policy be approved and adopted.

**58 Gambling Act 2005: Review of Statement of Licensing Principles**

The Shared Interim Public Protection and Environmental Health Manager 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 Gambling Act 2005 Statement of Licensing Principles be approved and adopted.

59

**Council Tax Reduction Scheme 2016-2017**

The Head of Finance and Procurement submitted a report to enable Council to approve the Council Tax Reduction Scheme for 2016-17.

**Resolved**

- (1) That the current Council Tax Reduction Scheme (CTRS) for the year 1 April 2016 to 31 March 2017 be approved.
- (2) That authority be delegated to the Council's section 151 officer in consultation with the Lead Member for Financial Management to determine if any further amendments to the CTRS are required by 31 January 2016 and, if so, to make them.

60

**Calendar of Meetings 2016/17 and Draft Calendar of Meetings 2017/18**

The Head of Law and Governance submitted a report which sought consideration of the calendar of meetings for the municipal year 2016/17 and the municipal year 2017/18.

**Resolved**

- (1) That the calendar of meetings for Cherwell District Council (CDC) for the municipal years 2016/17 and 2017/18 be approved.
- (2) That the joint calendar of meetings 2016/17 and 2017/18, subject to similar agreement by South Northamptonshire Council, be approved.

(Having declared an interest in the following item, the Chairman left the meeting at the conclusion of this item whereupon the Vice-Chairman took the Chair)

61

**Notification of Urgent Action: Councillor Dispensation**

The Chief Executive submitted a report which informed the Council of a decision taken under urgency powers by the Chief Executive in relation to the granting of a dispensation to Councillor Melanie Magee from 19 November to 14 December 2015.

**Resolved**

- (1) That the decision taken under urgency powers by the Chief Executive in consultation with the Vice Chairman of the Council in relation to the



granting of a dispensation to Councillor Melanie Magee from 19 November to 14 December 2015 be noted.

(At the conclusion of this item the Chairman re-joined the meeting and re-took the Chair)

62      **Exclusion of the Press and Public**

There being no questions on exempt minutes, it was not necessary to exclude the press and public.

63      **Questions on Exempt Minutes**

There were no questions on exempt minutes.

The meeting ended at 8.05 pm

Chairman:

Date:

# **Statement of Licensing Policy**

## **Licensing Act 2003**

January 2016

Cherwell District Council Licensing Act 2003  
Statement of Licensing Policy for  
Regulated Entertainment, Late Night Refreshment and the Sale of Alcohol

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## **1. Executive Summary**

- 1.1 The Licensing Act 2003 introduced a revised licensing system for alcohol, entertainment and late night refreshment.
- 1.2 Section 5 of the Licensing Act 2003 has imposed a statutory duty on the Licensing Authority to produce a statement of licensing policy for a five years period, beginning with such day as the Secretary of State may by order appoint.
- 1.3 This document sets out the Licensing Authority's policy, which will guide the Council when considering applications under the Act. The policy provides guidance on the general approach the Council, as the Licensing Authority within the meaning of the Act, will take in terms of licensing. However, each licence application will be considered separately on its individual merits.
- 1.4 The Licensing Authority in adopting this policy recognises both the needs of residents for a safe and healthy environment to live and work and the importance of safe and well run entertainment

premises to the local economy and vibrancy of the area. However, the Council also recognises that balancing these interests will not always be straightforward and it will be guided by the four licensing objectives as set out in this policy.

- 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, this Council in adopting the policy is indicating that a wide range of considerations will be taken into account.
- 1.6 The Council will use its powers to promote best practice in relation to the operation of licensed premises and is committed to partnership working with responsible authorities, local businesses, licensed trade, residents and others to ensure that they have a clear understanding of the legislation.
- 1.7 The Licensing Authority has had regard to the guidance issued by the Secretary of State under Section 182 of the Act when developing this statement of Licensing Policy. This Council may deviate from the guidance but will demonstrate good reasons for doing so.
- 1.8 The scope of this policy covers new applications, renewal of personal licences, transfers and variations of licences and certificates including temporary event licences. This includes the review of licences and certificates which could lead to a range of sanctions including the revocation of a licence or a certificate.

## **2. Purpose and Scope of the Licensing Policy**

- 2.1 The Licensing Act 2003 makes it a duty for the local authority to carry out its functions under the Act with a view to promoting the four licensing objectives:
  - The prevention of crime and disorder
  - Public safety
  - The prevention of public nuisance, and
  - The protection of children from harm
- 2.2 The purpose of this Policy is to detail how this Authority will comply with that duty.
- 2.3 In determining its statement of licensing policy, this Authority will have regard to the guidance issued by central government and other regulatory bodies to ensure that its actions are consistent with those nationally.
- 2.4 Licensing decisions will be made in accordance with the current legislation, case law, relevant guidance and in accordance with this policy.
- 2.5 No decision will be made which undermines the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 2.6 Authorised persons, interested parties and responsible authorities, as defined in the Act, will have the right to make representations to the Licensing Authority on any application or seek a review of a licence or certificate where provision has been made for them to do so in the Act. This Authority recognises that in the absence of relevant representations it will grant licenses on the terms sought.
- 2.7 Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 2.8 This authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area

concerned. However this Council recognises that licensing legislation is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual, club or business holding the licence, certificate or permission concerned.

- 2.9 The Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the control of the licence holder. Nonetheless, it is a key aspect of such control and licensing laws will always be part of the holistic approach to the management of the evening and night-time economy.
- 2.10 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. This Licensing Authority wishes to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.
- 2.11 This Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the area attracting tourists and visitors, and is a source of employment.
- 2.12 This Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering, fouling, noise and street crime.
- 2.13 In determining a licence application the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions offered or agreed with by the applicant will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are appropriate, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
- 2.14 In considering licensing hours this Licensing Authority will place significant emphasis on the individual merits of an application. In addition, the views of the Police and other agencies will be important in this consideration.
- 2.15 Licensing hours will not inhibit the development of a thriving and safe evening and night-time local economy which is important for investment and employment locally and beneficial to tourism without compromising the ability to resource local services associated with the night-time economy. Providing consumers with greater choice and flexibility is an important consideration.
- 2.16 Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community. Individual applicants should address the licensing objectives in their operating schedule within the context of the nature of the location, type of premises, entertainment to be provided, operational procedures and the needs of the local community.
- 2.17 The purpose of this policy document is to assist the Licensing Authority in reaching a decision on a particular application, setting out those matters which will normally be taken into account. In addition, this policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the area with some measure of certainty.
- 2.18 Before determining its policy for any five-year period, this Authority will undertake full consultation as prescribed by the 2003 Act.
- 2.19 The views of all of those consulted will be given appropriate weight when the policy is determined together with those of any other persons or bodies which the Authority considers appropriate to consult with. When undertaking consultation exercises, this Authority will also have regard to cost and time.

### **3. Duplication**

- 3.1 The enforcement of licensing legislation will at all times be distinct from other regulatory regimes such as fire safety and health and safety so far as is practicable.
- 3.2 Conditions will only be attached to premises licences and club premises certificates that are necessary for the promotion of the licensing objectives detailed in the introduction to this policy, be they mandatory conditions, conditions made against the operating schedule and/or following relevant representations. Under normal circumstances where matters are already provided for in other legislation they cannot be considered necessary in the context of licensing law.
- 3.3 To ensure clarity of enforcement roles appropriate liaison with other enforcing authorities will take place and, where considered appropriate, joint inspections by enforcement agencies will be arranged.

### **4. Strategies**

- 4.1 Where relevant representations are received, this Licensing Authority will attach conditions to premises licences and club premises certificates where appropriate to reflect local crime prevention strategies, for example, the provision of closed circuit television cameras in certain premises. The need for such conditions will be considered specifically as part of the application consultation process with Northamptonshire Police and more generally through Crime and Disorder Partnerships.
- 4.2 The Licensing Committee will be advised of any relevant information received either reactively or proactively indicating that this policy is having a detrimental impact on live music and dancing and other regulated activities, to ensure that broader cultural activities and entertainment are not being affected. Where indications are that there is a negative effect on such events then this policy will be reviewed in order to identify how the issues may be remedied. Advice will be sought from other relevant bodies as appropriate where such issues are identified. Every care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are applied.

### **5. Live Music Act**

- 5.1 The Live Music Act came into force on 1<sup>st</sup> October 2012 and is designed to encourage more performances of 'live' music.
- 5.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review. When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits.

### **6. Objectives**

#### **6.1 Prevention of crime and disorder**

The essential purpose of the licence or certificate is to regulate behaviour on premises and access to them where this relates to licensable activities and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and his staff or agents. They can however directly impact on the behaviour of those under the licensee's direction when on their premises or in the immediate vicinity of the premises as they seek entry or leave.

There are a number of offences both within the Licensing Act 2003 and other legislation that relate to crime and disorder that a licensee should be familiar with. These offences stand in their own right and will not be duplicated as conditions on any licence/certificate.

Various 'Pubwatch' schemes operate in the Cherwell District which aim to counter individuals who damage property; are violent and cause disorder; or use or deal in drugs through exclusions. This Licensing Authority is supportive of such schemes and considers premises should join where it is

appropriate to do so. However this authority does not consider it appropriate to make it a condition of licence to be a member of Pubwatch.

## **6.2 Public safety**

The public safety objective is concerned with the physical safety, including fire safety, of the people using the relevant premises and not with public health, which is dealt with in other legislation. Public safety includes the safety of performers appearing at any premises. The Authority has noted that from 1<sup>st</sup> October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Responsibility for complying with the order rests with the 'responsible person' who has control of premises.

The Licensing Authority is familiar with the "Safer Clubbing Guide" and its application to nightclubs and dance events. The guide contains a number of suggestions and safeguards, which appropriate premises should consider and include within their operating schedules as necessary. There are a number of other key publications that relate to public safety at entertainment events, which the Licensing Authority would recommend to applicants.

## **6.3 The prevention of public nuisance**

The public nuisance objective is designed to deal with the impacts of licensable activities at specific premises on persons living and working (including doing business) in the vicinity that is disproportionate and unreasonable. The main issues for concern will be noise nuisance, light pollution, noxious smells and litter.

The provision of welfare facilities such as toilets within licensed premises is relevant to the prevention of public nuisance. Adequate welfare provisions may prevent nuisance activities taking place within the street, such as urination. Licensees should therefore ensure that adequate facilities are provided within the premises and include these details within their operating schedule.

Public nuisance is not defined within the Act but is given a broad common law definition. The prevention of public nuisance could therefore include low-level nuisance perhaps affecting a few people living locally as well as major disturbances affecting the whole community. This may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined) in the vicinity of the licensed premises.

This Licensing Authority will have regard to the powers available within the Anti-Social Behaviour Crime and Policing Act 2014. This provides that if noise from licensed premises is causing a public nuisance the local authority has powers to issue a closure order for up to 24 hours. This compliments the police powers under Part 8 of the 2003 Act.

## **6.4 The protection of children from harm**

The Act has tightened up on the controls relating to the sale and supply of alcohol to children with new and further principle offences contained within the Act itself. However the intention of the Act is to make licensed premises accessible to families and only limit access to children where it is necessary in order to prevent physical, moral or psychological harm to them. This would include the protection of children from too early an exposure to strong language, sexual expletives, violence or frightening images, for example, in the context of film exhibitions, or where adult entertainment is provided.

When deciding where restrictions should be imposed, this Licensing Authority will examine the individual merits of each application and only impose conditions where the circumstances justify them.

Aspects of an application that would be likely to raise concerns in relation to access by children would include:

- Where entertainment or services of an adult or sexual nature are commonly provided;
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;

- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

It is not possible to provide an exhaustive list of the entertainment or services that are of an adult or sexual nature, therefore a common sense approach will be taken to interpretation. However such entertainment or services would also include entertainment involving strong and offensive language.

Where conditions are required for the prevention of harm to children, a range of alternatives will be considered as methods for limiting access. These could include:

- Limitations on hours when children may be present;
- Limitations of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of the premises to which children might be given access;
- Age limitations (below 18);
- Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 from the premises when any licensable activities are taking place.

This Licensing Authority, Oxfordshire County Council Trading Standards Service and Thames Valley Police take a very serious view of the persistent and illegal sale of alcohol and other age-restricted goods to children. Together with Trading Standards, this Licensing Authority will continue to seek to ensure that illegal sales of alcohol and other age-restricted goods are reduced and ultimately eradicated.

The sale of alcohol to minors (under 18 years of age) is a criminal offence and Trading Standards Service has over time, worked to advise the off-licence trade on how to set up systems to avoid sales taking place.

The Licensing Authority will maintain close contact with the police, young offender's team and Trading Standards officers regarding unlawful activities and share actions and intelligence where appropriate.

## **7. The Licensing Authority as a responsible authority**

- 7.1 This Licensing Authority acknowledges that it is now included in the list of responsible authorities. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. Therefore, it is for this Licensing Authority to determine when it considers it appropriate to act in its capacity as a responsible authority.
- 7.2 This Licensing authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for this licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and this licensing authority is aware of relevant grounds to make a representation, a choice may be made to act in its capacity as responsible authority.
- 7.3 This Licensing Authority expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance.



- 7.4 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention and may do so where the authority consider it appropriate without having to wait for representations from other responsible authorities.
- 7.5 In cases where this Licensing Authority is also acting as responsible authority in relation to the same process, there will be a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases licensing determinations will be made by the licensing committee or sub-committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 7.6 Accordingly, the officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) will be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority will not be involved in the licensing decision process and will not discuss the merits of the case with those involved in making the determination by the licensing authority. Communication between these officers in relation to the case will remain professional and consistent with communication with other responsible authorities.

## **8. Health as a responsible authority**

- 8.0 Oxfordshire County Council Directors of Public Health (DPH) are now responsible authorities with all of the powers and responsibilities this brings.
- 8.1 This Licensing Authority acknowledges that DPH will be useful in providing evidence of alcohol-related health harms when there is a revision of policy particularly in relation to cumulative impact policies or early morning restriction orders.
- 8.2 This Licensing Authority envisages that DPH's will also be useful in providing evidence such as alcohol-related A & E admissions or ambulance service data that might be directly relevant to an application under the Act.

## **9. Responsible Authorities**

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

[Licensing@thamesvally.pnn.police.uk](mailto:Licensing@thamesvally.pnn.police.uk)

- 9.2 Oxfordshire Fire and Rescue Service:

Oxfordshire Fire and Rescue Service Headquarters  
Sterling Road  
Kidlington  
Oxfordshire OX2 2DU  
TEL: 01865 897789  
[Fire.service@oxfordshire.gov.uk](mailto:Fire.service@oxfordshire.gov.uk)

9.3 Child Protection:

Oxfordshire Safeguarding Children Board Officer  
3<sup>rd</sup> Floor County Hall  
New Road  
Oxford OX1 1ND  
TEL: 01865 328993

9.4 Trading Standards:

Oxfordshire County Council  
Trading Standards Service  
Electric Avenue  
Ferry Hinksey Road  
Off Botley Road  
Oxford OX2 0BY  
TEL: 0845 0510845

[Trading.standards@oxfordshire.gov.uk](mailto:Trading.standards@oxfordshire.gov.uk)

9.5 Local Health Authority:

Equality and Access Officer  
South East and South West Localities  
Jubilee House  
5510 John Smith Drive  
Oxford OX4 2LH

9.6 The Planning Authority:  
Planning and Development Services  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire OX15 4AA  
TEL: 01295221883

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

9.7 Anti-Social Behaviour Team:

Anti-Social Behaviour Team  
Public Protection & Development Management  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire OX15 4AA  
TEL: 01295252535

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

9.8 Health and Safety/ Public Protection  
Public Protection Team –  
Safer Communities & Community Development  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire OX15 4AA  
TEL: 01295252353

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

9.9 Licensing Authority contact details are detailed in Annex 2 of this statement.

## **10. Planning**

- 10.1 This Licensing Authority acknowledges that there must be proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority Planning Committee or following appeals against decisions taken by that committee.
- 10.2 The Licensing Committee may provide reports to the Planning Committee on the situation regarding licensed premises in the area to ensure proper integration, including the general impact of alcohol related crime and disorder, to provide background information to any planning applications for potential licensed premises under consideration.
- 10.3 The planning authority also has a duty to consider matters of crime and disorder at this stage. This will enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 10.4 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. There is no legal basis for this Licensing Authority to refuse a licence application because it does not have planning permission,
- 10.5 The strength of planning policies is that there is an obligation both on the council, as local planning authority, and the decision maker on any appeal to give considerable weight to them. This helps ensure consistency in the decision making process.

## **11. Licensing Hours**

- 11.1 Consideration will always be given to the individual merits of an application in line with the four licensing objectives and any relevant representations. This Authority recognises that longer licensing hours with regard to the sale of alcohol need to be managed effectively to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which may lead to disorder and disturbance.
- 11.2 However, when issuing a licence with hours beyond 23.00 hours, higher standards may be expected to be included in Operating Schedules to address the Licensing Objectives especially premises which are situated near to residential properties.
- 11.3 In considering licence applications, where relevant representations are made, this Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.
- 11.4 Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with the parties concerned to ensure that adequate noise control measures are in place.
- 11.5 In general terms, this Authority supports the view that, with regard to shops, stores and supermarkets, they should be free to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping unless there are very good reasons for restricting those hours. For example, a limitation may be appropriate following police representations in the case of isolated shops known to be a focus of disorder and disturbance.

## **12. Temporary Event Notices**

- 12.1 The most important aspect of the system of permitted temporary activities is that no permission as such is required for these events from the Council. The system involves the notification of an event

to the Licensing Authority, Environmental Health and Thames Valley Police, subject to fulfilling certain conditions.

- 12.2 As many users giving TEN's will not have commercial backgrounds or ready access to legal advice, the Licensing Authority will ensure that guidance is clear and understandable and will aim to keep arrangements manageable and user friendly for these groups.
- 12.3 Cherwell District Council recommend that at least 28 days and no more than three months' notice be given to hold such events. This will allow it to help organisers plan their events safely. A longer period than this may mean that all relevant details are not available and any lesser time may mean that the planning may be rushed; this may increase the likelihood of Thames Valley Police objecting.
- 12.4 The Licensing Authority will also remind notice givers of relevant offences under licensing law, including:
- the sale of alcohol to minors,
  - the sale of alcohol to a person who is drunk,
- 12.5 The Licensing Authority will also advise notice givers of the police powers to close down an event with no notice on grounds of disorder or because of public nuisance caused by noise emanating from the premises. Where the application is not within the parameters described above, the Licensing Authority will issue a Counter Notice to the person giving the TEN.
- 12.6 The Licensing Authority would encourage event organisers not to rely on giving the minimum amount of notice given the possibility of police intervention. Event organisers are encouraged to contact local Thames Valley Police Licensing Officers as early as possible about their proposed event(s).

### **13. Sexual Entertainment**

- 13.1 This Licensing Authority has adopted a policy in relation sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. With reference to this related policy standard conditions are attached to such licences and where there are similar conditions in the two regimes, the more onerous apply.
- 13.2 This Licensing Authority acknowledges there is an exemption under the Local Government (Miscellaneous Provisions) Act 1982 that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly,

### **14. Cumulative Impact and Special Policies**

- 14.1 Commercial demand for additional licensed premises is not a matter for this Licensing Authority or its statement of policy but a matter for planning committees and for the market. On the other hand, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for the Licensing Committee.
- 14.2 Conditions may only relate to matters that the licensee can be expected to control. These are likely to relate to the premises themselves and the immediate vicinity. Where the number, type and density of premises selling alcohol are unusual, serious problems of nuisance and disorder can sometimes arise or begin to arise outside or some distance from the licensed premises. This has been described as the cumulative effect of the increasing capacity of all premises taken together and is outside of the control of licence conditions. There may be circumstances where this Licensing Authority receives relevant representations from a responsible authority or interested party that the cumulative effect of new licences is leading to an area becoming saturated with premises, making it a focal point for large groups of people to gather and circulate, away from the licensed premises themselves. This might be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. In such circumstances this Licensing Authority may consider the question of whether the granting of any further premises licences or club premises certificates would undermine one of the licensing objectives. The Licensing Act 2003 allows for this, so long as cumulative impact is addressed in the context of the individual merits of any application.

- 14.3 However this Licensing Authority will not impose quotas that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas, either formally or informally.
- 14.4 However, it may be necessary for this Licensing Authority to adopt a special policy of refusing new licences because the area is already saturated with certain types of licensed premises. In such circumstances this policy is not absolute and will still allow for the circumstances of each application to be considered properly and for licences which are unlikely to add significantly to saturation to be approved provided all other requirements are met.
- 14.5 In deciding whether to adopt such a policy, the licensing authority will have regard to:
- a) Identification of serious and chronic concern about crime and disorder or public nuisance;
  - b) Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so identify the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
  - c) Consultation with those persons and bodies identified in Section 5(3) of the 2003 Act.
- 14.6 Where this process identifies such a need, this Licensing Authority will consider adoption of a special policy relating to future licence applications from that area. Reference to any such special policy will be made in the Licensing Policy Statement and the special policy will be published as part of the statement of licensing policy.
- 14.7 A special policy cannot be used to set a terminal hour for premises in the identified area.
- 14.8 This Licensing Authority has duties under Section 17 of the Crime and Disorder Act 1998 to do all that it can to prevent crime and disorder in its locality and to promote the licensing objectives in the Licensing Act 2003.
- 14.9 In considering representations relating to a particular application, this Licensing Authority will have regard to the impact on the promotion of the licensing objectives in the area. In any representations, the onus will be on the objector to lay an evidentiary base for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The impact can be expected to be different for premises with different styles and characteristics.
- 14.10 Any special policy adopted by this Licensing Authority will be reviewed regularly to assess whether it has had the effect intended, whether it is needed any longer or whether it needs extending.
- 14.11 A special policy on cumulative impact will not be used as grounds for removing a licence when representations are received about problems with an existing licensed premises. Nor can it justify rejecting variations to a licence except where those variations are directly relevant to the policy (as would be the case with an amendment significantly to increase the capacity limits of a premises).
- 14.12 This authority will not adopt quotas which pre-determine the individual merits of any application – even in respect of premises selling alcohol for consumption on those premises – as they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they will have on the local community.
- 14.13 This authority recognises that once away from these premises, only a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing these problems. Other mechanisms which may be used to deal with such issues which fall outside of the scope of this licensing policy include:
- a) planning controls;
  - b) positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
  - c) the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;

- d) powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
- e) police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices;
- f) the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
- g) the confiscation of alcohol from adults and children in designated areas;
- h) Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance;
- i) the power of the Police, other responsible authority or a local resident or business to seek a review of the licence or certificate in question.

14.14 This Licensing Authority and Northamptonshire Police will continue to work closely together to ensure that these other mechanisms are used appropriately to deal with the issues of concern and where possible will supplement these with other local initiatives that similarly address these problems.

## **15. Early Morning Restriction Orders**

15.1 The power for this licensing authority to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31<sup>st</sup> October 2012.

15.2 This Licensing Authority will have reference to the guidance that has been introduced which relates to:

- the EMRO process
- the evidence base
- introducing an EMRO
- advertising an EMRO
- dealing with representations
- hearings
- implementation
- limitations
- enforcement

15.3 The legislation provides this licensing authority with the discretion to restrict sales of alcohol by introducing an EMRO to tackle high levels of alcohol related crime and disorder, nuisance and anti-social behaviour. The order may be applied to the whole or part of this licensing authority's area and if relevant on specific days and at specific times. This licensing authority will be satisfied that such an order would be appropriate to promote the licensing objectives.

15.4 The only exemptions relating to EMROs are New Year's Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.

15.5 The decision to implement an EMRO will be evidence based and will be considered by Full Council.

## **16. Children**

16.1 This Authority recognises that there will be a considerable variety of premises for which licences may be sought. These include theatres, cinemas, restaurants, concert halls, cafes, take-away food businesses and fast food outlets as well as public houses and nightclubs. In addition, subject to the licensee's discretion and any conditions included in a premises licence or club premises certificate, the Licensing Act 2003 does not prohibit unaccompanied children in licensed premises except in the circumstances defined in Section 145 of that legislation.

- 16.2 This Authority will not limit the access of children to such premises unless it is necessary for the prevention of harm to children. No statement of policy can properly anticipate every issue of concern that could arise in respect of children with regard to individual premises and so general rules have not been included. Consideration of the individual merits of each application remains the best mechanism for judging such matters.
- 16.3 However, notwithstanding the above, this authority considers that the following premises give rise to particular concern in respect of children:
- a) where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
  - b) with a known association with drug taking or dealing;
  - c) where there is a strong element of gambling on the premises;
  - d) where entertainment or services of an adult or sexual nature are commonly provided.
- 16.4 In these circumstances the Authority will consider the appropriate option for the prevention of harm to children where relevant representations are made. While complete bans on access to children are likely to be rare, there may be circumstances when no other option is considered appropriate. However, in the majority of cases where limiting the access of children to licensed premises is considered necessary, the options which will be considered are:
- a) Limitations on the hours when children may be present;
  - b) Age limitations (below 18);
  - c) Limitations on the exclusion of the presence of children under a certain age when particular specified activities are taking place;
  - d) Requirements for an accompanying adult;
  - e) Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 16.5 This authority will not impose conditions requiring that children must be admitted to any premises. Where the above restrictions are not considered necessary, access to licensed premises by children will remain a matter for the discretion of the individual licence holder or club. Where the licence holder volunteers prohibitions and restrictions and no other relevant representations are made, the volunteered prohibitions and restrictions will be made into conditions and no other conditions in relation to the presence of children will be applied.
- 16.6 Thames Valley Police and Oxfordshire County Council Trading Standards Service are jointly responsible for the enforcement of ss146, 147, 147(a) and 147(b) of the Licensing Act 2003 (The sale of, and allowing the sale of alcohol to children). Trading Standards are mainly responsible for 'off licence' premises and the Police have the main responsibility for 'on licence' premises.
- 16.7 With regard to children in premises giving film exhibitions, this authority will impose conditions requiring that arrangements must be in place for restricting children from viewing age-restricted films or videos classified according to the recommendations of the British Board of Film Classification or the local authority itself.
- 16.8 The Portman Group operates a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks on behalf of the alcohol industry. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. A copy of the Code can be found at [www.portman-group.org.uk](http://www.portman-group.org.uk).
- 16.9 In the case of premises giving film exhibitions, this Licensing Authority will expect licensees or clubs to include in their operating schedules arrangements for restricting children from viewing age-restricted films classified according to the recommendations of the British Board of Film

Classification or the licensing authority itself. The 2003 Act also provides that it is mandatory for a condition to be included in all premises licences and club premises certificates authorising the exhibition of films for the admission of children to be restricted in accordance with the recommendations given to films either by a body designated under section 4 of the Video Recordings Act 1984 (the British Board of Film Classification is the only body which has been so designated) or by the licensing authority itself. This Licensing Authority will expect Licensees to demonstrate the controls they have in place for the showing of recordings which have no age classification.

## **17. Conditions**

- 17.1 A key concept underscoring the Licensing Act 2003 is for conditions to be attached to licences and certificates that are tailored to the individual style and characteristics of the premises and events concerned. Conditions may only be applied following the receipt of relevant representations where they have been agreed by all parties concerned or have been applied by the Licensing Committee. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.
- 17.2 This Licensing Authority agrees that any condition imposed must be:
- clear;
  - enforceable;
  - evidenced;
  - proportionate;
  - relevant; and be expressed in plain language capable of being understood
- 17.3 This authority will therefore avoid the general application of standardised conditions to licences and certificates.
- 17.4 However to ensure consistency, when it is necessary to apply conditions, this authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may be drawn in particular circumstances to suit individual cases. The model conditions will cover the following:-
- Crime and disorder
  - Public safety
  - Public nuisance
  - Protection of children from harm

## **18. Reviews**

- 18.1 The Licensing Act 2003 makes provision for the Review of premises licenses where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.
- 18.2 At any stage following the grant of a premises licence or club premises certificate, a responsible authority or an interested party (such as a resident living in the vicinity of the premises), may request this Licensing Authority review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 18.3 A review of a premises licence will follow any action by Thames Valley Police exercising powers to close licensed premises under Sec 161 licensing Act 2003 on grounds of disorder or noise nuisance as a result of a Magistrates' Courts' determination sent to the Licensing Authority.
- 18.4 In all cases, the representation must relate to a particular premises for which a licence is in force and must be relevant to the promotion of the licensing objectives.
- 18.5 Representations must be made in writing and may be amplified at the subsequent review or may stand in their own right. Additional representations, which do not amount to an amplification of the original representation, may not be heard at the hearing.



- 18.6 Where the request for a review originates from an interested party e.g. a local resident or residents' association, this Licensing Authority will first to consider whether the complaint made is relevant, vexatious, frivolous or repetitious.
- 18.7 A repetitious complaint is one that is identical or substantially similar to:
- a) a ground for review made in respect of the same premises licence which has already been determined; or
  - b) representations considered by the Licensing Authority when the premises licence was granted; or
  - c) representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and
  - d) in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of a licence.
- 18.8 This Licensing Authority recognises the need to prevent attempts to review licences, following the failure of representations on earlier occasions. The Licensing Authority will judge what is to be regarded as a reasonable interval in these circumstances. This Licensing Authority has regard to the recommendation in the guidance that more than one review originating from an interested party should not be permitted within a period of 12 months on similar grounds except in compelling circumstances or where it arises following a Closure Order.
- 18.9 This Licensing Authority also recognises that the promotion of the licensing objectives relies heavily on a partnership approach. The Council would encourage authorised persons and responsible authorities to give licence holders warning of their concerns about problems identified at premises and of the need for improvement. This Licensing Authority will advise licence holders that a failure to respond to such a warning may lead to a responsible authority requesting a Review.
- 18.10 This Licensing Authority will hold a hearing following a request for a Review from a responsible authority, interested party or after closure procedures described earlier. This Licensing Authority will make the licence holder fully aware of the representations received together with supporting evidence in order for the licence holder or his legal representatives to be able to prepare a response.
- 18.11 In determining a Review, this authority has a range of powers it may exercise where it considers them necessary for the promotion of the licensing objectives:
- a) no action necessary as no steps required to promote the licensing objectives;
  - b) issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. This Licensing Authority regards such warnings as important mechanisms for ensuring that the licensing objectives are effectively promoted and any warning issued will be in writing to the licence holder.
  - c) to modify the conditions of the premises licence (including adding new conditions, altering/omitting an existing condition);
  - d) excluding a licensable activity from the licence;
  - e) remove the designated premises supervisor,
  - f) suspend the licence for a period of three months;
  - g) to revoke the licence.
- 18.12 This Licensing Authority in determining what action to take will seek to establish the causes of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be necessary and proportionate.

## **19. Minor Variations**

- 19.1 The purpose of the minor variation process is to save time, money and regulatory resources by allowing small variations that could not impair the promotion of the licensing objectives to be made to premises licences and club premises certificates through a simplified and less costly procedure. Under this process, the applicant is not required to advertise the variation in a newspaper or copy it to Responsible Authorities. However, they must display it on a white notice at the premises. The notice must be displayed for a period of 10 working days starting on the working day after the minor variation application was given to the Licensing Authority.

- 19.2 The holder of a premises licence or a club premises certificate can apply to the licensing authority for a minor variation to the licence or the certificate using the prescribed form. In determining an application this licensing authority will consult such of the Responsible Authorities as it considers appropriate.
- 19.3 This Licensing Authority will take into account any relevant representations made concerning the application by Responsible Authorities or by an interested party, Relevant representations must be about the **likely effect** of the grant of the application on the promotion of the licensing objectives. This Licensing Authority will grant an application only if it considers that none of the variations proposed in the application could have an adverse effect on the promotion of any of the licensing objectives. In any other case the authority must reject the application. There is no right to a hearing in this process.
- 19.4 An application may not be made under the minor variation provision if the effect of the variations proposed in it would be to:
- extend the period for which a premises licence has effect;
  - to vary substantially the premises to which a premises licence/club premises certificate relates;
  - to specify (in a premises licence) an individual as the Designated Premises Supervisor (DPS);
  - to authorise the sale or supply of alcohol or to authorise the sale by retail or supply of alcohol at any time between 11pm and 7am or increase in the amount of time on any day during which alcohol may be sold by retail or otherwise supplied; or
  - to disapply the mandatory conditions concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence at a community premises.
- 19.5 If an application is refused, the Authority must notify the applicant in writing, giving its reasons for the refusal. The Authority is required to reach its determination within a period of fifteen (15) working days starting on the first working day after the authority receives the application, otherwise the application is rejected and the Authority must return the application fee.
- 19.6 Minor variations will generally fall into four categories:
- minor changes to the structure or layout of a premises;
  - small adjustments to licensing hours;
  - the removal of out of date, irrelevant or unenforceable conditions or volunteered conditions;
  - the addition of certain licensable activities.

## 20. Enforcement

- 20.1 This Licensing Authority will establish protocols and have regular liaison with the local police, fire & rescue service, trading standards, other County local authorities and other agencies on enforcement issues. This will provide for a more efficient deployment of local authority staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. There will also be regular liaison with other enforcement authorities.
- 20.2 In particular, these protocols will provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The limited validity of public entertainment, theatre, cinema and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether such inspections are necessary.
- 20.3 The Licensing Act 2003 does not require inspections to take place save at the discretion of those charged with this role. The principle of risk assessment and targeting will prevail and inspections will not be undertaken routinely but when and if they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

## 21. Licence Suspensions

- 21.1 This is a power brought as part of the amendments brought about by the Police Reform and Social Responsibility Act 2011. This Licensing Authority must suspend premises licences and club premises certificates on the non-payment of annual fees. This Licensing Authority will follow the relevant guidance in issuing suspensions for non-payment.

## **22. Administration, Exercise and Delegation of Functions**

- 22.1 The Powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a Sub-Committee or by one or more Officers acting under delegated authority.
- 22.2 Many of the licensing procedures will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness officers will generally carry out these duties.
- 22.3 On applications where there are relevant representations these will be dealt with by a Committee or sub committee of the Licensing Authority, as will any application for review of a licence.
- 22.4 This Licensing Authority will expect applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 22.5 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Schedule.
- 22.6 The 2003 Act provides that decisions and functions may be taken or carried out by licensing committees or delegated to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. In the interests of speed, efficiency and cost-effectiveness, as many of the decisions and functions will be purely administrative in nature, functions will be delegated to the appropriate level within the organisation where possible. See Annex 1.
- 22.7 Where applications are non-contentious, for example, no representations to the grant of a premises licence are received, applications will be delegated to officers in order to speed matters through the system. Any such matters passed in this way will then be listed for comment at the next Committee meeting. The Committee will not have the opportunity to reverse officers' decisions

## **23. Advice and Guidance**

- 23.1 Advice can be obtained by contacting Licensing at South Northamptonshire Council. We will advise on the types of licence needed and can be contacted in the following ways:-

Website <http://www.cherwell.gov.uk/licensing.htm>

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

Phone: 01295 753744

In person or writing to:

Cherwell District Council  
Bodicote House  
Bodicote  
BANBURY  
Oxfordshire OX15 4AA

## **24. Appendices**

- Annex 1. Delegation of functions – page 20  
Annex 2. Oxfordshire Licensing Authority contact details – page 21  
Annex 3. Other policies, legislation and guidance sources – page 22  
Annex 4. Useful references – page 23

## 25. Equal Opportunities

- 25.1 Over the last four decades, discrimination legislation has played an important role in helping to make Britain a more equal society. However, the legislation was complex and, despite the progress that has been made, inequality and discrimination persist and progress on some issues has been stubbornly slow.
- 25.2 [The Equality Act 2010](#) provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.
- 25.3 In implementing the Licensing Act 2003, associated legislation and guidance, this Licensing Authority is committed to ensuring that the obligations and duties within this legislation are met.

## 26. Review of the Policy

- 26.1 This licensing policy will be formally reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy will be subject to the consultation process. Section 5(4) of the Act provides that the licensing authority must keep its policy under review **during** each five year period and make appropriate revisions. Again, any revisions must be subject to consultation.
- 26.2 Where a special policy relating to cumulative impact or early morning restriction orders is being adopted this will be reviewed regularly at least every five years, to assess whether it is needed any longer, or indeed needs expanding. Any cumulative impact policy will also be reviewed to ensure that it has had the intended effect. There will be on-going dialogue and consultation with local residents to consider whether any area is nearing the point where the concentration of premises has a cumulative impact.
- 26.3 This Licensing Authority will consider the most appropriate time to refresh policies, with a view to balancing businesses' need to be kept advised of changes with the additional burden that responding to frequent consultations can bring.

## 27. Late night levy

- 27.1 The legislative provisions relating to the late night levy are not part of the Licensing Act 2003 but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31<sup>st</sup> October 2012.
- 27.2 Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions.

Guidance has also been introduced in relation to:

- implementing the levy and the consultation process
  - the design of the levy
  - exemptions from the levy
  - reductions in levy charges
  - how revenue raised from the levy may be spent
  - the levy charges
  - the levy collection process
- 27.3 With regard to exemptions, this licensing authority retains discretion whether to exempt certain premises or not but only for those types of premises set out in paragraphs 1.24 to 1.31 of the guidance on the Late Night Levy.
- 27.4 This Licensing Authority also has the discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes.

- 27.5 Any revenue from a levy will be split between this licensing authority and Thames Valley Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. A formal service level agreement will be established to ensure that this licensing authority and Northamptonshire Police are aware of responsibilities and undertakings, and to ensure that the use of levy funds can be clearly communicated to those businesses contributing to it.
- 27.6 These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. Any decision to introduce, vary or cease the requirement for a levy will be made by the full council. Other decisions in relation to how the levy is administered may be subject to delegation.

## Annex 1 - Delegation of functions

Matter to be dealt with	Full Committee	Sub Committee or Panel	Officers
Application for personal Licence	-	If a police objection made	If no objection made
Application for personal licence with unspent convictions	-	All cases	-
Application for premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application for provisional statement	-	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor	-	If a police objection	All other cases
Request to be removed as designated premises supervisor	-	-	All cases
Application for transfer of premises licence	-	If a police objection	All other cases
Applications for interim Authorities	-	If a police objection	All other cases
Application to review premises licence/club premises certificate	-	All cases	-
Decision on whether a complaint is irrelevant frivolous vexatious etc	-	-	All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	-	All cases	-
Determination of a police objection to a temporary event notice	-	All cases	-

## Annex 2 – Cherwell District Council Licensing Authority Contacts

<p>Nicholas Sutcliffe Interim Licensing Manager Cherwell District Council Bodicote House Bodicote BANBURY Oxfordshire OX15 4AA</p> <p>Tel: 01295 753744</p> <p>Email: <a href="mailto:nicholas.sutcliffe@southnorthants.gov.uk">nicholas.sutcliffe@southnorthants.gov.uk</a></p>	<p>Jackie Fitzsimons Interim Public Protection and Environmental Health Manager Cherwell District Council Bodicote House Bodicote BANBURY Oxfordshire OX15 4AA</p> <p>Tel: 01295 753744</p> <p>Email: <a href="mailto:jackie.fitzsimons@southnorthants.gov.uk">jackie.fitzsimons@southnorthants.gov.uk</a></p>

## Annex 3 Other policies, legislation, and guidance sources

There are a number of other local and national policies, strategies, responsibilities, and guidance documents which should be taken into account in order to complement this authority's licensing policy. In particular the policy should provide a clear indication of how the licensing authority will secure the proper integration of the licensing policy and other local policies such as the local crime prevention, planning, transport, tourism, cultural strategies and the local alcohol policy.

### (i) Legislation

- Policing and Crime Act 2009
- Crime and Disorder Act 1998
- Crime and Security Act 2010
- Human Rights Act 1998
- Criminal Justice and Police Act 2001
- Private Security Industry Act 2001
- Equalities Act 2010
- Anti-Social Behaviour Crime and Policing Act 2014
- Violent Crime Reduction Act 2006
- The Health Act 2006
- The Clean Neighbourhoods and Environment Act 2005
- Live Music Act 2012

*Note: These and other relevant pieces of legislation can be found at [www.opsi.gov.uk](http://www.opsi.gov.uk)*

### (ii) Strategies and Policies

- Alcohol Strategy
- Alcohol Harm Reduction Strategy for Northamptonshire
- Best Bar None
- British Beer and Pub Association Partnerships Initiative
- Community Alcohol Strategy
- Community Safety Strategy
- Compliance Code
- Crime & Disorder Reduction Strategy
- Council's Enforcement Policy
- Cultural and Tourism Strategies including promotion of live music and community events
- Home Office: Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries
- Local Development Framework
- Local Transport Plan
- National and local PubWatch schemes
- [Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks](#).
- Purple Flag (ATCM)
- Safer Socialising

### (iii) Guidance Documents

- [Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems](#)
- [Home Office Safer Clubbing Guide](#)
- [Home Office Designated Public Place Order \(DPPO\) Guidance](#)
- [Home Office s182 Guidance](#)
- [LACORS/TSI Code of Practice on Test Purchasing](#)
- [The Event Safety Guide](#)



- [Licensing large scale events \(music festivals etc\)](#)
- [Managing Crowds Safely](#)
- [5 Steps to Risk Assessment](#)
- [The Guide to Safety at Sports Grounds](#)
- [Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Performances](#)
- [UK BIDS: Business Improvement Districts\(national BIDS advisory service\)](#)
- [BIS Code of Practice on Consultation](#)
- [The Plain English Campaign](#)

#### **(iv) Relevant case law regarding policy statements**

- Limits of licensing policy:  
[\*BBPA & Others v Canterbury City Council\* \[2005\] EWHC 1318 \(Admin\)](#)
- “Strict” licensing policies and exceptions to policy:  
[\*R \(Westminster City Council\) v Middlesex Crown Court and Chorion plc\* \[2002\] LLR 538](#)
- Cumulative impact policies and hours  
[\*R \(JD Wetherspoon plc\) v Guildford Borough Council\* \[2006\] EWHC 815 \(Admin\)](#)
- Duplication and conditions:  
[\*R \(on the application of Bristol Council\) v Bristol Magistrates’ Court\* \[2009\] EWHC 625 \(Admin\)](#)
- Extra-statutory notification by the licensing authority:  
[\*R \(on the application of Albert Court Residents Association and others\) v Westminster City Council\* \[2010\] EWHC 393 \(Admin\)](#)
- The prevention of crime and disorder: ambit of the objective  
[\*Blackpool Council, R \(on the application of\) v Howitt\* \[2008\]](#)
- Crime and disorder: sanctions on review: deterrence  
[\*Bassetlaw District Council, R \(on the application of\) v Workshop Magistrates Court\* \[2008\]](#)

**Note: This list is not exhaustive**

## **Annex 4 Useful References (organisations)**

### **Local Government Association:**

<http://www.local.gov.uk/regulatory-services-and-licensing>

### **Association of Convenience Stores (ACS)**

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

### **Association of Licensed Multiple Retailers (ALMR)**

**Now incorporating Bar, Entertainment and Dance Association (BEDA)**

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

### **Association of Town Centre Managers (ACTM and Purple Flag)**

<http://www.atcm.org/>

### **Better Regulation Delivery Office (BRDO)**

<http://www.bis.gov.uk/brdo>

### **British Beer and Pub Association (BBPA)**

<http://www.beerandpub.com/>

### **British Board of Film Classification (BBFC)**

<http://www.bbfc.co.uk/>

### **British Institute of Innkeeping (BII)**

<http://www.bii.org/home>

### **British Retail Consortium (BRC)**

[http://www.brc.org.uk/brc\\_home.asp](http://www.brc.org.uk/brc_home.asp)

### **Cinema Exhibitors' Association (CEA)**

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

### **Department for Culture, Media and Sport**

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

### **Home Office**

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

### **Institute of Licensing (IoL)**

<http://www.instituteoflicensing.org/>

### **Licensed Victuallers Associations (LVAs)**

<http://www.flva.co.uk/>

### **National Association of Licensing and Enforcement Officers (NALEO)**

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

### **The Portman Group**

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

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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

Version	Date	Author
Dv01	13 July 2015	EC Draft
Dv02	20 August 2015	EC/RH Draft
Dv03	3 September 2015	EC
Dv04	23 September 2015	NS final CDC draft
Dv05	19 November 2015	NS

## 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 Cherwells 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 21<sup>st</sup> September and 2<sup>nd</sup> November 2015 and we followed the HM Government Code of Practice on Consultation (published July 2008), which is available at [www.bis.gov.uk/files/file47158.pdf](http://www.bis.gov.uk/files/file47158.pdf)
- 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 [licensing@cherwell-dc.gov.uk](mailto:licensing@cherwell-dc.gov.uk)
- 2.7 The area for which Cherwell District Council is responsible is detailed in Annex 3.
- 2.8 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 the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

## 7. Enforcement

- 7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This licensing authority's principles are that 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 Innovation & Skills 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

## **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 miner's 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 for 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**

St James House  
Mansfield Road  
Derby  
DE1 3TU

[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  
Banbury  
OX15 4AA  
TEL: 01295 753738

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

**The Anti-Social Behaviour Team**

Anti-Social Behaviour Team  
Public Protection & Development  
Management  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire OX15 4AA  
TEL: 01295252535

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

**Public Protection Team**

Public Protection Team –  
Safer Communities & Community  
Development  
Cherwell District Council  
Bodicote House  
Bodicote  
Banbury  
Oxfordshire OX15 4AA

[Public.protection@cherwell-dc.gov](mailto:Public.protection@cherwell-dc.gov)

**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**

**All Parish Councils  
In the Cherwell District**

The Portman Group  
4<sup>th</sup> Floor  
20 Conduit Street  
London  
W1 2XW

The British Institution of Innkeeping  
Wessex House  
80 Park Street  
CAMBERLEY  
Surrey  
GU15 3PT

The Arts Council  
14 Great Peter Street  
LONDON  
SW1P 3NQ

Berwin Leighton Paisner  
Adelaide House  
London Bridge  
London  
EC4R 9HA

Poppleston Allen  
37 Stoney Street  
The Lace Market  
Nottingham  
NG1 1LS

Banbury Citizens Advice Bureau  
Cornhill House  
26 Cornhill  
BANBURY  
OX16 5NG

Bicester Citizens Advice Bureau  
The Garth  
Launton Road  
BICESTER  
OX26 6PS

**All District Council Neighbouring  
Cherwell District Council**

**All Gambling Act License Holders  
In the Cherwell District**

British Beer & Pub Association  
Ground Floor  
Brewers Hall  
Aldermanbury Square  
London  
EC2V 7HP

CAMRA Head Office  
230 Hatfield Road  
ST ALBANS  
Hertfordshire  
AL1 4LW

The Publican  
Quantum Business Media  
Quantum House  
19 Scarbrook Road  
CROYDON  
CR9 1LX

Osborne Clarke  
2 Temple Back East  
Temple Quay  
Bristol  
BS1 6EG

James Button & Co  
7 Devonshire Drive  
Rowsley  
Matlock  
Derbyshire  
DE4 2HB

Lockett & Co  
Lockett House  
13 Church Street  
KIDDERMINSTER  
Worcestershire  
DY10 2AH

North Oxfordshire Magistrates  
Court House  
Warwick Road  
Banbury  
Oxon  
OX16 2AW

Security Industry Authority  
PO Box 9  
NEWCASTLE-UPON-TYNE  
NE82 6YX

Department for Culture, Media &  
Sport  
2-4 Cockspur Street  
LONDON  
SW1Y 5DH

Social & Health Care Team  
PO Box 780  
Oxford  
OX1 9GX

Trading Standards  
Electric Avenue  
Ferry Hinksey Road  
Oxford  
OX2 0BY

South Central Ambulance Service NHS  
Foundation Trust  
Unit's 7&8 Talisman Business Centre  
Talisman Road  
Bicester  
OX26 6HR

Oxfordshire Family Information  
Service  
Third Floor Clarendon House  
52 Cornmarket Street  
Oxford  
OX1 3HJ

Collector of Customs & Excise  
Betting & Gaming Officer  
Compass House  
Romsey Road  
Maybush  
SOUTHAMPTON  
SO16 4HP

Alcohol Concern  
Waterbridge House  
32-36 Loman Street  
LONDON SE1 0EE

Association of Councils in Thames  
Valley Region  
ACTVaR Director  
Wycombe DC Council Offices  
Queen Victoria Road  
HIGH WYCOMBE  
Buckinghamshire HP11 1BB

Samaritans (Banbury)  
33 Albert Street  
BANBURY  
OX16 8DG

Cherwell Vale Primary Care Trust  
Chair of Executive Committee  
Oxford Road  
BANBURY  
OX16 9GE

Oxfordshire Economic Partnership  
Partnership Co-Ordinator  
c/o Oxford Innovation  
Oxford Centre for Innovation  
New Road  
OXFORD OX1 1BY

North East Oxfordshire Primary Care  
Trust  
Cocker Close  
BICESTER  
Oxon  
OX26 6AT

Bar, Entertainment & Dance  
Association  
5 Waterloo Road  
STOCKPORT  
Cheshire SK1 3BD

Banbury & District Racial Equality  
Council  
Chair  
Suite 3  
Borough House  
Marlborough Road  
BANBURY OX16 5TH

Age Concern (Oxford & County)  
St Edmund House  
39 West St Helen Street  
ABINGDON OX14 5BT

Oxfordshire Ethnic Minority Business  
Service  
Development Officer  
56 Orchard House  
Parsons Street  
BANBURY OX16 5NB

NSPCC  
Weston House  
42 Curtain Road  
London  
EC2A 3NH

Ben Jackson  
Bicester & District Chamber of  
Commerce  
2B Management Consultancy Ltd  
2nd Floor, Rowood House  
Murdock Road  
Bicester  
OX10 1BB

Banbury and District Chamber of  
Commerce  
The Colin Sanders Innovation Centre,  
Banbury  
Mewburn Road  
Banbury  
Oxon  
OX12 8PA

Oxfordshire Drug & Alcohol Action Team  
Jubilee House  
5510 John Smith Drive  
Oxford Business Park South  
Cowley  
OXFORD OX4 2CH

Energy & Vision – Drug & Alcohol  
Training Services  
Osney House  
Osney Mead  
Oxford  
OX2 0FA

Environment Agency  
Isis House  
Howberry Park  
WALLINGFORD OX10 8BD

Heart of England Business Link  
The Quadrant  
Abingdon Science Park  
ABINGDON OX14 3YS

LACORS  
Wahkwong House  
10 Albert Embankment  
LONDON  
SE1 7SP

Equity  
Guild House  
Upper St Martin's Lane  
LONDON WC2H 9EG

Department for Environment, Food &  
Rural Affairs  
Nobel House  
17 Smith Square  
LONDON  
SW1P 3JR

Association      Licensed      Multiple  
Retailers  
9b Walpole Court  
Ealing Studios  
London  
W5 5ED

Thames Valley Strategic Health Authority  
Jubilee House  
5510 John Smith Drive  
Oxford Business Park  
South Cowley  
OXFORD OX4 2LH

Federation of Licensed Victuallers  
126/128 Bradford Road  
BRIGHOUSE  
West Yorkshire  
HD6 4AU

Association of Chief Police Officers  
The President  
25 Victoria Street  
LONDON  
SW1H 0NN

British Retail Consortium  
Second Floor  
21 Dartmouth Street  
LONDON  
SW1H 9BP

Business in Sport & Leisure  
Brigid Simmonds  
17a Chartfield Avenue  
Putney  
LONDON SW15 6DX

Guild of Master Victuallers  
19 Warren Drive  
Hornchurch  
Essex  
RM12 4QZ

British Hospitality Association  
Queens House  
55-56 Lincoln's Inn Fields  
LONDON  
WC2A 3BH

Health & Safety Executive  
Priestley House  
Priestley Road  
BASINGSTOKE  
Hants RG24 9NW

Charles Wells Pub Company  
Lakeview House  
Fraser Road  
Priory Business Park  
Bedford MK44 3WH

Barracuda Pubs and Bars Ltd  
Lunar House  
Globe Park  
Fieldhouse Lane  
Marlow  
SL7 1LW

Belhaven Pubs Division  
Atrium House  
6 Back Walk  
Stirling  
Scotland FK8 2QA

Brakespear Pub Co  
The Bull Courtyard  
Bell Street  
Henley on Thames RG9 2BA

Punch Taverns  
Jubilee House  
Second Avenue  
Burton upon Trent  
Staffordshire DE14 2WF

County Estate Management Ltd  
9 Harley Street  
London  
W1G 9QF

Eldridge Pope & Co Ltd  
Brewery Square  
21 Weymouth Avenue  
Dorchester  
Dorset DT1 1QT

Enterprise Inns Plc  
3 Monkspath Hall Road  
Solihull  
West Midlands B90 4SJ

Fuller Smith & Turner Plc  
Griffin Brewery  
Chiswick Lane  
SouthChiswick  
London W4 2QB

George Gale & Co Ltd  
The Hampshire Brewery  
Horndean  
Waterlooville  
Hants PO8 0DA

Greene King Plc  
Westgate Brewery  
Bury St Edmunds  
Suffolk  
IP33 1QT

Harvey & Son (Lewes) Ltd  
Bridge Wharf Brewery  
6 Cliffe High Street  
Lewes  
East Sussex BN7 2AH

Heritage Pub Company Ltd  
Donington House  
Riverside Road  
Pride Park  
Derby DE24 8HY

Hook Norton Brewery Co Ltd  
The Brewery  
Brewery Lane  
Hook Norton  
Banbury OX15 5NY

InnSpired Pubs Plc  
Wiltshire Drive  
Trowbridge  
Wiltshire BA14 0TT

J D Wetherspoon Plc  
Wetherspoon House  
Reeds Crescent  
Central Park  
Watford WD24 4QL

J T Davies & Sons Ltd  
7 Aberdeen Road  
Croydon  
Surrey CR0 1EQ

Laurel Pub Company  
Porter Tun House  
500 Capability Green  
Luton LU1 3LS

London & Edinburgh Inns  
4 Clarendon Place  
King Street  
Maidstone  
Kent ME14 1BQ

McMullen & Sons Ltd  
The Hertford Brewery  
26 Old Cross  
Hertford  
SG14 1RD

Mill House Inns Plc  
Berkeley House  
Falcon Close  
Quedgeley  
Gloucester GL2 4LY

Mitchells & Butlers Plc  
27 Fleet Street  
Birmingham  
West Midlands B3 1JP

Pubmaster Limited  
Greenbank  
HARTLEPOOL  
Cleveland TS24 7QS

Shepherd Neame Ltd  
Faversham Brewery  
17 Court Street  
Faversham  
Kent ME13 7AX

Spirit Pub Company  
Sunrise House  
Ninth Avenue  
Burton on Trent  
Staffordshire  
DE14 3JZ

Thorley Taverns Ltd  
The Old Police Station  
60 Gladstone Road  
Broadstairs  
Kent CT10 2HZ

T D Ridley & Sons Ltd  
Hartford End Brewery  
Chelmsford  
Essex CM3 1JZ

Wadworth & Company Ltd  
Northgate Brewery  
Devizes  
Wiltshire SN10 1JW

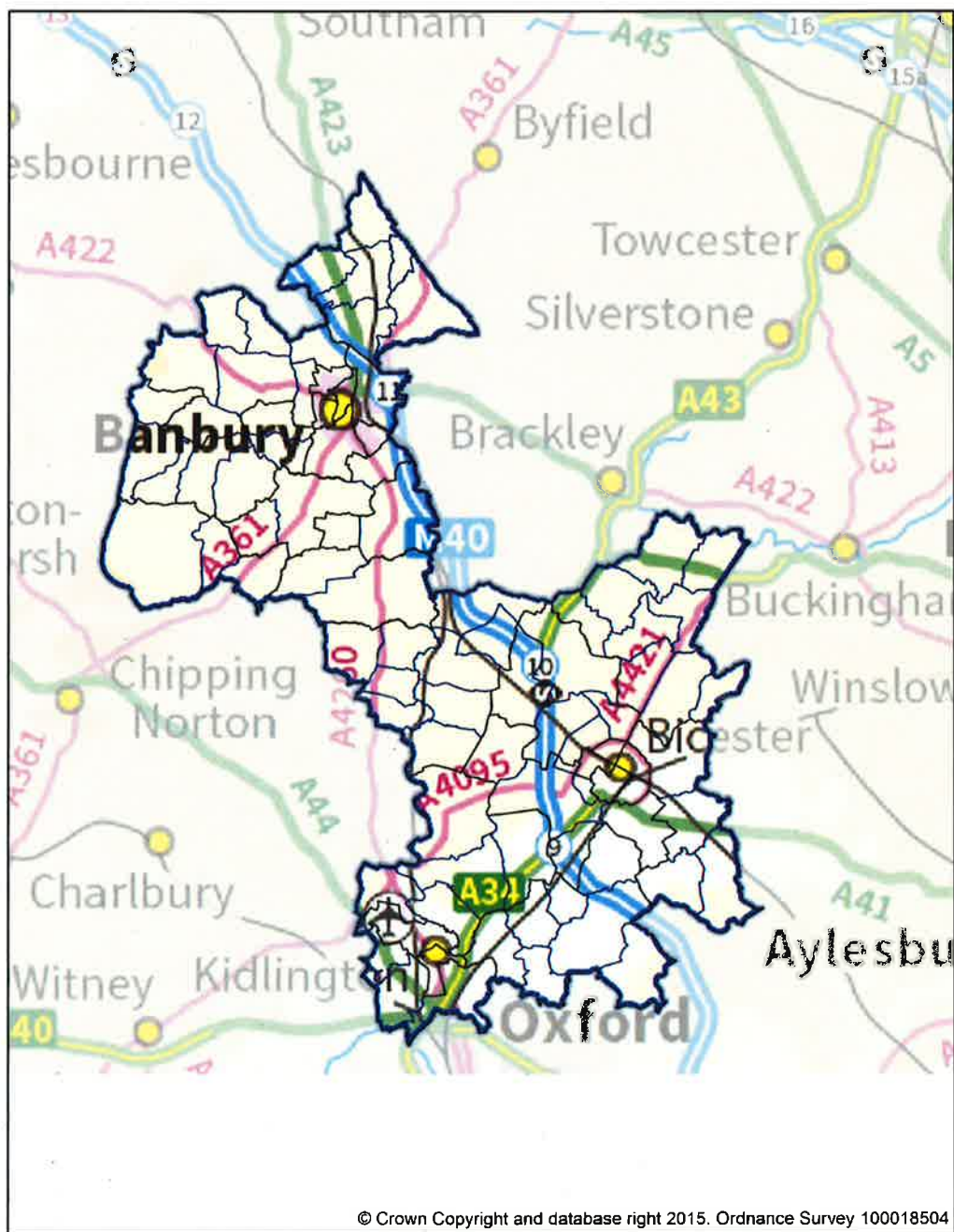
Whitbread  
Oakley House  
Oakley Road  
Luton  
Bedfordshire  
LU4 9QH

Young & Co Brewery Plc  
Riverside House  
26 Osiers Road  
Wandsworth  
London  
SW18 1NH

Association of British Bookmakers Ltd  
Ground Floor  
Warwick House  
25 Buckingham Palace Road  
LONDON  
SW1W 0PP

BACTA  
134-136 Buckingham Palace Road  
London  
SW1W 9SA

## The Cherwell District



Cherwell District Council borders Oxford City, South Oxfordshire, Vale of White Horse, West Oxfordshire, Aylesbury Vale, South Northamptonshire and Stratford on Avon Districts. The District is at a number of major cross-roads; the M40 passes through Cherwell and has strategic connections to the A34 and A43, while there are good rail connections to both London and Birmingham, with new investment bringing new rail connections to Oxford, Reading, Milton Keynes and Bedford.

Approximately 142,252 people live in the District with over half of the population living in the principal centres of Banbury, Bicester and Kidlington; the remainder in more than 70 smaller settlements. Cherwell's population has increased significantly over the past 20 years and this trend is set to continue with the population predicted to reach 155,650 by 2021.