

Public Document Pack

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A meeting of **Council** will be held in Committee Rooms, East Pallant House on **Tuesday 17 May 2016 at 2.00 pm**

MEMBERS: Mr N Thomas (Chairman), Mrs C Apel, Mr G Barrett, Mr R Barrow, Mr P Budge, Mr J Connor, Mr M Cullen, Mr I Curbishley, Mr T Dempster, Mr A Dignum, Mrs P Dignum, Mrs J Duncton, Mr M Dunn, Mr J F Elliott, Mr J W Elliott, Mr B Finch, Mr N Galloway, Mrs N Graves, Mr M Hall, Mrs E Hamilton (Vice-Chairman), Mrs P Hardwick, Mr R Hayes, Mr G Hicks, Mr L Hixson, Mr F Hobbs, Mr P Jarvis, Mrs G Keegan, Mrs J Kilby, Mrs D Knightley, Mrs E Lintill, Mr S Lloyd-Williams, Mr L Macey, Mr G McAra, Mr S Morley, Caroline Neville, Mr S Oakley, Mrs P Plant, Mr R Plowman, Mr H Potter, Mrs C Purnell, Mr J Ransley, Mr J Ridd, Mr A Shaxson, Mrs J Tassell, Mrs S Taylor, Mrs P Tull, Mr D Wakeham and Mrs S Westacott

SUPPLEMENT TO AGENDA

12 **Proposed Sexual Entertainment Venues Policy and Statement of Licensing Policy under the Gambling Act 2005** (Pages 1 - 52)

To consider the consultation responses in relation to the proposed Sexual Entertainment Venues Policy and Statement of Licensing Policy under the Gambling Act 2005 and approve them for publication.

Appendices:

- Appendix A Proposed Sexual Entertainment Venues Policy 2016 – 2021(not printed but available on CDC’s website and copy for members in Members Room or on request)
- Appendix B Proposed Statement of Licensing Policy under the Gambling Act 2005 (not printed but available on CDC’s website and copy for members in Members Room or on request)

CHICHESTER DISTRICT COUNCIL

**Sex Establishment Venues
Statement of Policy 2016 – 2021**

**Under the Local Government (Miscellaneous
Provisions) Act 1982
As amended by
Policing and Crime Act 2009**

**DRAFT
VERSION
(V5 09.02.16)**

CHICHESTER DISTRICT COUNCIL

Sexual Establishment Venues

POLICY 2016 - 2021

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CHICHESTER DISTRICT COUNCIL

SEXUAL ESTABLISHMENTS VENUES POLICY 2016 – 2021

FOREWORD

Chichester district is predominantly a rural area. It covers some 303 square miles and is the second largest district (in area) within Sussex. The Census conducted in 2011 reported a population of approximately 114,000 mainly concentrated in the cathedral city of Chichester, the towns of Midhurst, Petworth and Selsey together with the Parishes of Tangmere and Southbourne.

The district includes a significant area which forms part of the South Downs National Park ('SDNP'). The 'SDNP' came into being in 2010 and at the time of adopting this Policy is England's most recently created National Park. The South Downs National Park Authority (SDNPA) became fully operational in 1 April 2011 and is responsible for keeping the South Downs a special place.

This Licensing Authority recognises that the entertainment industry in this district is a major contributor to the local economy. It attracts tourists and visitors, makes for vibrant communities and is a major employer. Balanced against this the Authority is aware of and fully recognises the special and clearly defined role of the SDNPA.

The district also contains the Chichester Harbour Area of Outstanding Natural Beauty, one of the South coast's finest recreational areas as well as being an important natural habitat for birds, flora and fauna.

Presently in June 2015 there are in excess of 3,000 commercial premises of which approximately 1,500 are registered food premises, over 100 accommodation establishments, hotels and B&B's, and one of the largest caravan and campsites in Europe located in Selsey. There are many historic and cultural attractions in the region including Goodwood, with its renowned horse and motor-car racing, Fishbourne Roman Palace, the internationally recognised Chichester Festival Theatre, the Weald and Downland Museum and the award winning Pallant House Gallery.

Throughout the district there are approximately 600 premises operating by way of an authorisation granted under the Licensing Act 2003 i.e. either a Premises Licence or Club Premises Certificate.

The district currently has no premises licensed as a 'Sex Establishment'.

In adopting this Policy the Licensing Authority has set out the approach this Council will generally apply when making decisions on applications. It also sets out the information about the application process, what is expected of applicants and the types of controls that are available to the Council when decisions are made about licence applications. The Licensing Authority confirms that each application will be considered on its individual merits.

The Licensing Authority, in adopting this policy, recognises both the needs of residents and visitors for a safe and healthy environment in which to live, work and enjoy their recreation.

1. INTRODUCTION

1.1 This document sets out Chichester District Council's Policy (the 'Policy') concerning the regulation of and procedures relating to applications for;

- *Sexual Entertainment Venues*
- *Sex shops*, and
- *Sex cinemas*

Hereinafter, referred to as '*Sex Establishments*' as defined in the Local Government (Miscellaneous Provisions) Act 1982 amended by the Policing and Crime Act 2009.

1.2 Whilst every application will be determined on its individual merits the Policy is intended to be of benefit to applicants, operators and the community. It also aims to guide and re-assure communities and public authorities with regards to transparency and consistency in decision-making.

The objectives of this Policy are to –

- Enable applicants, licensees and Interested Parties to understand the principles that will be applied by this Licensing Authority when regulating such premises;
- To establish the general principles that will be applied by this Licensing Authority in its regulatory activities; and
- To assist in applying the national legislation within the local context i.e. within the wards making up the area of Chichester District Council.

1.3 The overriding objective of this Policy is to ensure that any premises licensed by this Council do not contribute directly or indirectly to crime, disorder or harm to individuals or groups within the community; whilst seeking also not to be unduly restrictive of the rights of persons seeking to operate well run premises in appropriate locations.

1.4 The role of the Council, in its position as Licensing Authority, is to administer the licensing regime in accordance with the law and not in accordance with any moral standpoint. The Council is however mindful of the possible concerns of the local community and potential conflict between applicants and objectors. This Policy will guide the Council when considering applications for licenses, seeking to balance the conflicting needs of commercial operators, patrons, employees, residents and communities.

1.5 A copy of the draft revised policy was made available for inspection at the Council Offices and a copy published on the Council's website prior to its adoption.

1.6 This Policy will take effect on 17 May 2016 and will remain in force for a period of five years. During this period it will be kept under review and, if appropriate, it may continue beyond this period subject to future legislative changes.

2. LOCAL CONTEXT

- 2.0 To control 'sex establishments' by way of licensing within the Chichester district, Chichester District Council adopted Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982 on 10 November 1982. This required anyone wishing to operate such a venue within the district obtaining a licence from the Council.
- 2.1 At the date of this policy Chichester district does not currently have any licensed sex shops or sex cinemas. The district also has no specific lap-dancing or striptease clubs and it is believed there are no licensed premises providing entertainment that would require a Sexual Entertainment Venue licence, for instance pubs and/or clubs where strippers, pole dancers or lap dancers etc perform.
- 2.2 On 6 April 2010 new measures came into force in England under Section 27 of the Policing and Crime Act 2009 ('2009 Act') that reclassified lap-dancing clubs, pole-dancing clubs and strip-shows and similar activities as Sexual Entertainment Venues.
- 2.3 The new legislation, provided Local Authorities re-adopted it, allowed them to regulate such venues under Schedule 3 to the Local Government (Miscellaneous Provisions) Act 1982 as amended by Section 27.
- 2.4 These powers were not mandatory and only applied where they are adopted by Local Authorities.
- 2.5 Chichester District Council resolved to re-adopt the amended provisions as a result of Section 27 on 1 March 2011 however as previously stated there are no premises within the district identified as falling within the definition of sex establishments at the date of this policy. However, the Council will contact any premises identified as holding activities of a sexual nature with a view to assessment.
- 2.6 Following the new provisions of the 2009 Act, the Authority has more power to control the number and location of lap dancing clubs and similar venues within its district. Should an application be received, the new provisions enable Licensing Authorities to take a broader range of considerations into account before making any decisions about licences. The powers also give local communities a greater influence over the regulation of lap dancing clubs and similar venues in their area.
- 2.7 There are a number of terms that are used in the Local Government (Miscellaneous Provisions) Act 1982, as amended, which have specific meaning as defined in the Act, or which are open to interpretation, and in which case this Policy seeks to set out the interpretation that will generally be applied by this Authority.

3. DEFINITIONS

- 3.1 **The Act** – this refers to Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009.
- 3.2 **The Policy** – refers to the Chichester District Council 'Sexual Establishment Venues Policy' which will be reviewed at least every five years. Its content will be revisited to incorporate statute and Guidance as appropriate.

3.3 **Sexual Entertainment Venues** – is any premises, vehicle, vessel or stall where any live performance or any live display of nudity is of such a nature that, regardless of financial gain, it must reasonably be assumed to have been provided solely or mainly for the purpose of sexually stimulating any member of the audience (one person can comprise an ‘audience’).

The category ‘Sexual Entertainment Venue’ includes the following forms of entertainment, as they are commonly understood:

- Lap-dancing;
- Pole-dancing;
- Table-dancing;
- Strip-shows;
- Peep-shows;
- Live-sex shows;

These entertainments are defined as ‘*relevant entertainment*’.

Premises, which provide ‘relevant entertainment’ on an infrequent basis, are exempt and are not required to be licensed as a Sexual Entertainment Venue. Exempted premises are defined as premises where –

- No relevant entertainment has been provided on more than 11 (eleven) occasions within a 12 month period;
- No such occasion has begun within a period of one month beginning with the end of the previous occasion;
- No such occasion has lasted longer than 24 hours.

Such premises will continue to be regulated under the Licensing Act 2003, solely in so far as they are providing ‘regulated entertainment’ under that Act. The Council will however carefully monitor the use of these exempt premises and take firm action should there be evidence of abuse.

In practice this will mean that the vast majority of lap dancing clubs and similar venues will require both a sexual entertainment venue licence for the provision of relevant entertainment and a Premises Licence or Club Premises Certificate for the sale of alcohol or provision of other types of regulated entertainment not covered by the definition of relevant entertainment.

3.4 **The Organiser** – this is any person who is responsible for the organisation or management operation of the relevant entertainment on the premises.

3.5 **Display of nudity** – This means;

- In the case of a woman; exposure of her nipples, pubic area, genitals or anus; and
- In the case of a man; exposure of his pubic area, genitals or anus.

3.6 **Sex Shop** – a sex shop is any premises, vehicle, vessel or stall used for a business which consists to a significant degree of selling, hiring, exchanging, lending, displaying or demonstrating:

- (a) sex articles
- (b) other things intended for use in connection with or for stimulating or encouraging: -
 - (i) sexual activity
 - (ii) acts of force or restraint which are associated with sexual activity.

3.7 **Sex Articles** – is anything for use in connection with or for stimulating or encouraging:

- (a) sexual activity
- (b) acts of force or restraint which are associated with sexual activity
- (c) anything –
 - (i) containing or embodying matter to be read or looked at or anything intended to be used, either alone or as one of a set, for the reproduction or manufacture of any such article; and
 - (ii) to any recording of vision or sound, which
 - (a) is concerned primarily with the portrayal of, or primarily deals with or relates to, or is intended to stimulate or encourage, sexual activity or acts of force or restraint which are associated with sexual activity; or
 - (b) is concerned primarily with the portrayal of, or primarily deals with or relates to, genital organs, or urinary or excretory functions.

3.8 **Sex Cinema** – is any premises, vehicle, vessel or stall used to a significant degree for the exhibition of moving pictures however produced, which:

- (a) are concerned primarily with the portrayal of, or primarily deal with or relate to or intending to stimulate or encourage sexual activity, acts of force or restraint which are associated with sexual activity
- (b) are concerned primarily with the portrayal of, or primarily deal with or relate to genital organs or urinary or excretory functions but does not include a dwelling-house to which the public is not admitted.

3.9 **Relevant locality** – this is the locality where premises are situated or where the vehicle, vessel or stall is going to be used as a sex establishment. The locality and the area that this covers is a matter for the Authority to decide at the time it considers an application for the grant, renewal or transfer of a sex establishment licence.

3.10 **Permitted hours** – These are the hours of activity and operation that have been authorised under a sex establishment licence.

3.11 **Appropriate Authority** – Chichester District Council is the ‘Appropriate Authority’ for the purposes of the sex establishment licensing regime introduced by the Local Government (Miscellaneous Provisions) Act 1982 (as amended) and adopted by the resolution of the Council on the 1 March 2011 taking effect from the 2 April 2011.

4. GENERAL PRINCIPLES OF THE POLICY

- 4.1 This Policy has been prepared with due regard to the provisions of the Crime and Disorder Act 1998 in respect of the reduction of crime and disorder including anti-social behaviour and other behaviour that can, or is adversely affecting the relevant localities described below. This Authority will work closely with the Police and other partners/responsible authorities to achieve the objectives of the Act and those set out in this policy.
- 4.2 This policy should be read in conjunction with the relevant legislation and the Home Office Guidance (dated March 2010) which refers to case law in relation to not considering objections on moral grounds/values and in relation to whether or not an entire area can be deemed to be the 'relevant locality' when considering setting a limit on the appropriate number of sex establishments for that locality. These matters are considered in more detail later in this policy. The policy will continue to be reviewed in light of developing practices, Guidance and any further secondary legislation. Any significant future amendment will only be implemented after further consultation with the partner agencies and individuals originally consulted.
- 4.3 Any significant amendment is defined as one that:
- Is likely to have a significant financial effect of the licence holders; or
 - Is likely to have a significant procedural effect on the licence holders; or
 - Is likely to have a significant effect on the community
- 4.4 Any minor amendments may be authorised by the Head of Housing and Environment Services and undertaken in accordance with the Council's Constitution.
- 4.5 This policy does not in any way fetter the discretion of the decision makers appointed by this Authority, and each case will be taken on its individual merits. The main consideration when determining matters under this policy is whether to apply the policy as set out or whether there is good reason, having regard to all relevant matters and disregarding all irrelevant matters, to deviate from the policy if the individual facts warrant a different approach to be taken. Every decision will be approached with an open mind.
- 4.6 If this Authority receives an application for a sex establishment licence under the Act, it will consider whether to grant or refuse the application. Given the potentially sensitive nature of these applications, it is the policy of this Authority at this time that all such determinations shall be made by the Council's General Licensing Committee rather than through delegated powers.
- 4.7 Specific mandatory grounds for the refusal of a Licence are set out in the Act.
- 4.8 A Licence cannot be granted:
- a) to a person under 18 years of age;
 - b) to a person that has held a Licence that was revoked in the last 12 months (from the date of revocation) and who was disqualified from holding a Licence for that period:

- c) to a person who has been refused a new Licence or renewal of Licence within the last 12 months (from the date of making the application);
 - d) to an individual who is not resident in the United Kingdom or who has not been resident for six months prior to the making of an application; or
 - e) to a company not incorporated in the United Kingdom.
- 4.9 In determining an application for the grant, renewal or transfer of a Sex Establishment Licence the Licensing Authority will assess the application on its individual merits having regard to the content of this policy and any relevant legislation or Guidance.
- 4.10 The Local Authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. The Council shall normally take the following into account when determining whether an applicant is 'fit and proper':
- a) previous relevant knowledge and experience of the applicant and their managerial competence;
 - b) the operation of any existing or previous licence(s) held by the applicant, including any licence held in any other area;
 - c) any report about the applicant and management of the premises received from objectors or the Police and any criminal convictions or cautions of the applicant;
- 4.11 The Authority may also refuse a Licence if the applicant is unsuitable to hold a Licence because they have been convicted of an offence or for any other reason. The determination of the suitability of the applicant is a matter for the Local Authority to decide at the time the application is made.
- 4.12 Whilst every application will be considered on its individual merits the Authority will be unlikely to grant an application from any person, or for the benefit of any person, with unspent convictions.
- 4.13 Applications for a Sex Establishment licence may be refused where the Authority is not satisfied that the application has been advertised in accordance with the requirements of the Act.
- 4.14 The Authority may refuse to accept an application where it considers that relevant information has been omitted or an application is incomplete.
- 4.15 Where the Authority refuses to grant, renew or transfer a licence a Notice of the reasons for that decision will be sent in writing to the applicant within seven days of that decision.
- 4.16 Were the Licence to be granted, renewed or transferred, the business to which it relates would be managed or carried on for the benefit of a person other than the applicant, who would have been refused a Licence if they had applied themselves. The determination of the business benefit is a matter for the Local Authority to decide at the time of application. Again each application will be considered on its own merits.

5. RELEVANT LOCALITY

- 5.1 The 'relevant locality' will be determined in accordance with where the premises are situated or where the vehicle, vessel or stall is going to be used. The area and extent of the 'relevant locality' is a matter of the Local Authority to decide at the time the application is made. Each application for the grant, renewal or transfer of a Sex Establishment Licence will be considered on its own merits on a case-by-case basis.
- 5.2 This Licensing Authority considers the 'relevant locality' to mean the area which surrounds the premises specified in the application; and in accordance with the legislation, does not seek to further define any precise boundaries or markings.
- 5.3 A decision to determine the number of Sex Establishments appropriate for this particular area has not been made, however this may be subject to review. Nil may be the appropriate number.
- 5.4 On receipt of an application the Local Authority will take into account representations from the applicant, any person objecting and the Chief Officer of Police. The Council shall normally take into account:
- Comments/observation of the Police and Council personnel, including compliance with licensing conditions, relevant history (including noise complaints) together with details of previous convictions/prosecutions pending.
 - The suitability and fitness of an applicant/operator to hold a licence.
- 5.5 The number of Sex Establishments or Sex Establishments of a particular kind in the relevant locality at the time the application is determined is equal to or exceeds the number which the authority consider is appropriate for that locality.
- 5.6 The Licensing Authority shall normally take into account;
- i) the character of the relevant locality;
 - ii) the use to which any premises in the vicinity are put; or
 - iii) the layout, character or condition of the premises, vehicle, vessel or stall in respect of which the application is made;
 - iv) where it can be shown that the business would be managed for the benefit of a third party who would be refused a licence.
- 5.7 In determining the character of 'relevant locality' and the appropriate number of Sex Establishment in that relevant locality, the Local Authority will take into account, but not limit its determination to:
- (a) the use to which any premises in the vicinity are put;
 - (b) the number of existing Sex Establishments both in total and also in respect of each type, i.e. sex cinemas, sex shops or sexual entertainment venues;
 - (c) the number of existing premises engaged in and/or offering entertainment of an adult or sexual nature or entertainment or associated with an adult or sexual nature (for example tattooing, piercing);

- (d) the proximity of residents to the premises, including any sheltered housing and accommodation for vulnerable persons;
- (e) the proximity of educational establishments to the premises;
- (f) the proximity of places of worship to the premises;
- (g) access routes to and from schools, play areas, nurseries, children's centres or similar premises;
- (h) the proximity to shopping centres;
- (i) the proximity to community facilities/halls and public buildings such as swimming pools, leisure centres, public parks, youth centres/clubs. This list is not exhaustive;
- (j) the potential impact of the licensed activity on crime and disorder and public nuisance;
- (k) the potential cumulative impact of licensed premises in the area taking into account the days and hours of operation of the activity and the character of the locality where the premises are situated;
- (l) the nature and concerns of any objections received from residents/establishments objecting to the licence application;
- (m) any evidence of complaints about noise and/or disturbance caused by the premises;
- (n) current planning permission/planning requirement on the premises;
- (o) any current planning policy consideration;
- (p) whether there is planned regeneration of the area;
- (q) any current licensing permissions related to the premises in relation to activities, uses and hours.

Determining Applications

- 5.8 The Council has determined that the principles contained within this policy will apply and that applicants must address the principles of this policy in order for any grant of an application to be considered.
- 5.9 The Council can set the number of licensed Sex Establishments it grants in a 'relevant locality'.
- 5.10 An application for a Licence can be refused if the Council considers that the number of Sex Establishments they consider appropriate in a 'relevant locality' would be exceeded by the grant. The term 'relevant locality' is not defined in the Act.

- 5.11 This Council has therefore decided to identify areas in which they do not consider the granting of a Sex Establishment licence to be appropriate.
- 5.12 Chichester District Council covers an area, which includes urban and rural communities.

Chichester, Midhurst, Petworth and the 'Manhood peninsula'

- 5.13 The four main conurbations are the city of Chichester, towns of Midhurst and Petworth and the area referred to as the 'Manhood Peninsula' (including Selsey, and East and West Wittering) these have busy and diverse shopping centres laid out as traditional 'High Streets', incorporating a mixture of independent and national traders.
- 5.14 Commonly included in these areas are a large and diverse range of licensed premises such as pubs, restaurants, cafes and take-away food outlets. There are community facilities in the form of libraries, community centres, schools and places of religious worship.
- 5.15 There are also a number of residential properties within the City and Town centres themselves, many above and adjoining retail units. Bordering these 'High Streets' are large residential areas. Access is equally viable on foot, public or private transport. Accordingly the footfall covers all range groups.
- 5.16 This Council considers that licensed sex establishments may not be suitable for these relevant localities.

Rural communities

- 5.17 Throughout the Chichester district there are currently 29 District Wards and 67 Parishes (59 of which have a Parish Council) consisting of small villages and rural communities. Many of these also have smaller shopping areas.
- 5.18 This Licensing Authority has identified these areas as significantly quieter than those specifically referred to above. Many of these areas however also have pubs, restaurants and take-away outlets. They are not therefore immune to entertainment venues. They too have residential properties either within the trading areas or bordering the main shopping streets, together with residential accommodation above or adjoining retail units. The footfall in these quieter areas still covers all age groups.
- 5.19 This Council considers the association that Sex Establishments have with the 'sex industry' and adult entertainment means they are not suitable for these relevant localities.
- 5.20 There are a number of rural localities within the Chichester district that have small residential communities and businesses. These include agricultural and/or horticultural businesses, operations run from rented accommodation in farms and in some cases small industrial units.
- 5.21 These communities have chosen to live and/or work from these locations because of its tranquillity. The Council wishes to maintain these standards its residents,

businesses in the area and for visitors to enjoy. These areas are too numerous to list due to the size of the district.

5.22 This Council considers that licensed sex establishments may not be suitable for these relevant localities

Business Parks and Industrial Estates

5.23 There are a number of Business Parks/Industrial Estates within the district.

1. Selsey Gate - Pye Business Centre/Mountbatten Place/Pulsar Business Centre/Ellis Square, Selsey
2. Landerry Industrial Site - Selsey
3. Chichester Business Park - Tangmere
4. Terminus Road Industrial Estate – Terminus Road, Leigh Road, Chandler Road - CHICHESTER
5. Dukes Court - Bognor Road CHICHESTER
6. Quarry Lane Industrial Estate - Quarry Lane, Phoenix Business Centre, Spur Road, Angells Estate, Gravel Lane - CHICHESTER
7. Forum Business Centre - Stirling Road CHICHESTER
8. City Business Centre - Basin Road CHICHESTER
9. Appledram Barns, Appledram
10. Vinnetrov Business Park - Runcton
11. North Farm North - Mundham
12. Donnington Park - Donnington
13. St James Industrial Estate - CHICHESTER
14. Ben Turner Industrial Estate - CHICHESTER
15. Shopwhyke Industrial Centre - CHICHESTER
16. Kingley Centre - West Stoke
17. Eastmead Industrial Estate - Lavant
18. Oldwick Farm West - Lavant
19. Charlton Sawmills - Charlton
20. Allmans Business Park - Birdham
21. Northleigh Business Park – Birdham
22. Enborne Business Park, Sidlesham
23. Hills Barns - Chichester
24. East Wittering Business Centre, East Wittering
25. Manor Road EMSWORTH
26. Clovelly Road Industrial Estate – Southbourne/Emsworth
27. Broadbridge Business Centre Bosham
28. Southfield Industrial Park Bosham
29. Holmbush Industrial Estate - MIDHURST
30. The Wharf/Midhurst Business Centre – MIDHURST
31. Hampers Common Industrial Estate – PETWORTH
32. Colhook Industrial Park – PETWORTH
33. Hurstfold Farm Industrial Estate Fernhurst
34. Fernhurst Business Park - Henley, Fernhurst
35. The Old Sawmills Stedham
36. Station Works Elsted
37. Nyewood Industries Nyewood
38. Bognor Road Industrial Estate - CHICHESTER

5.24 The size of these sites varies, but they consist of anything from warehouses, retail outlets and distribution centres to car repair units.

5.25 The hours of operation are generally early morning to early evening.

- 5.26 The nature of the Chichester district is such that these are not sprawling areas and many are bounded by residential communities. Whilst it is accepted that the Business Parks themselves have no residents, consideration must be given to the business communities therein.
- 5.27 The siting of a Sex Establishment within the confines of such areas may give rise to concern.
- 5.28 The issue of late night opening is a factor that must be taken into account. The areas are likely ordinarily to be quiet after the respective units have ceased operating. Customers frequenting Sex Establishments may therefore be vulnerable in these areas, particularly after dark. There is also the question of increased footfall during hitherto quiet times and the inherent risk of opportunist and organized crime against the business units.
- 5.29 This Council acknowledges that a Sex Establishment venue in a business/industrial area does not carry the same risk to vulnerable groups as a residential or retail area. However it does conclude a different type of crime risk, due to the loneliness of the operation and the subsequent risk to established businesses.
- 5.30 This Council considers that licensed sex establishments may not be suitable for these relevant localities and near residential areas.

6. INTEGRATING STRATEGIES AND AVOIDING DUPLICATION

- 6.1 This Authority understands that the co-operation and integration of policies, strategies and initiatives is important. Such integration will be achieved through liaison with the Planning Authority (Development Management or SDNPA), Housing & Environment Services, Police, Trading Standards, Fire Authority, Community Safety Partnership, local businesses, local people and other persons. Agreement about best practice will be achieved where possible.
- 6.2 In addition to the above the Authority will also seek to secure integration of its policy with local crime prevention, transport, tourism, race equality schemes and cultural strategies and any other plans introduced for the management of town centres and the night-time economy. Agreement about best practice will be achieved where possible.
- 6.3 In undertaking its licensing function and in determining applications, the Authority recognises and accepts the duty imposed on it to fulfil its obligations under other legislation, at the same time avoiding duplication as far as possible.

In particular, the Licensing Authority is mindful of statutes and related guidance on:

- Section 17 of the Crime and Disorder Act 1998 (as amended) which requires a Local Authority to exercise its various functions with due regard to the likely effect of the exercise of those functions on and the need to do all that it reasonably can to prevent crime and disorder in the district;
- The European Convention on Human Rights, which is given effect by the Human Rights Act 1998, places a duty on public authorities to protect the rights of individuals in a variety of circumstances. In particular, due consideration will be given to the rights under article 1 of the first protocol – protection of property, article 6 – right to a fair hearing and article 8 – respect for private and family life;
- Health and Safety at Work etc Act 1974 and its associated Regulations;
- Environmental Protection Act 1990, in relation to statutory nuisance;

- The Anti-social Behaviour, Crime and Policing Act 2014 in relation to public nuisance;
- Equality Act 2010 in relation to elimination of unlawful discrimination and promoting premises that show safe design for all users;
- The Clean Neighbourhoods and Environment Act 2005 (as amended); and
- The Health Act 2006.

7. DURATION OF LICENCE

- 7.1 Sex Establishment licences will normally expire on an annual basis, but can be issued for a shorter term if deemed appropriate.

8. HEARINGS/APPEALS

- 8.1 Under Paragraph 10 (19) Schedule 3, this Authority will give applicants the opportunity of appearing before the relevant Licensing Sub-Committee prior to a decision being made to refuse the grant, variation or transfer of a licence.
- 8.2 Where the Licensing Authority is required to determine an application by reference to a Sub-Committee, the applicant and objectors will be advised of the date, time and venue of the hearing.
- 8.3 In preparation for the hearing, all parties will receive a copy of the Licensing Officer's report that will contain a summary of the application, objections and any other relevant information.
- 8.4 At the hearing, all parties will have the opportunity to address the Sub-Committee and ask questions of all parties that they feel are relevant to the determination process. All parties will be reminded that they can if they wish be legally represented at their own expense at the hearing.
- 8.5 The Sub-Committee will either communicate the decision at the end of the hearing or within five working days. All parties will receive written notification of the decision within seven working days.
- 8.6 Whilst the Act does not stipulate a timescale for hearing applications where objections have been submitted and accepted, this Licensing Authority will endeavour to determine the application within 28 days from the last day of the advertising period.
- 8.7 The Act strictly limits who can appeal to the Magistrates Court, the matters about which they can appeal. The Act affords rights of appeal to the industry only. The decisions against which a right of appeal lies are refusals of grants, renewals, transfers or variations, the imposition of conditions and also revocations.
- 8.8 Any appeal to the Magistrates Court must be made within 21 days from the date on which the person is notified of the decision or became aware of conditions imposed by the Licensing Sub-Committee.
- 8.9 Where an application is lodged against refusal to renew or for revocation of a licence, the licence remains in force until such time as the appeal is determined.

8.10 Where an appeal is lodged against conditions applied to a licence, the conditions are deemed not to come into force until the determination or abandonment of the appeal.

9. CONDITIONS

9.1 This policy provides for a set of 'standard conditions' to be attached to each licence granted, renewed or transferred by the Licensing Authority unless they have been expressly excluded or varied. Such conditions will be applicable to Sex Establishments, Sex Cinemas and Sex Shops.

9.2 Further conditions may be attached to individual licences where the Authority deems it necessary.

9.3 The Licensing Authority will seek to avoid duplicating licence conditions where a premise holds licences under both the Licensing Act 2003 and Schedule 3 of the Local Government (Miscellaneous Provisions) Act 1982.

10. ENFORCEMENT

10.1 It is essential that premises are maintained and operated so as to ensure compliance with the specific requirements of the Act and the relevant licence. The Licensing Authority will make arrangements to monitor premises and take appropriate action to ensure this.

10.2 The Licensing Authority will liaise with Sussex Police and partner agencies on issues of enforcement including such matters as crime prevention, public safety, public nuisance, protection of children from harm, transport and anti-social behaviour, with the view to establishing, where necessary, an enforcement protocol in order to ensure that resources are targeted at problem and high-risk premises.

10.3 Premises visits will be made on a targeted and risk-assessed basis, or as necessary e.g. following a complaint.

10.4 Wherever possible inspections will be co-ordinated with other inspection/enforcement/partner agencies.

10.5 When considering enforcement action, the Licensing Authority will consider each case on its own facts and merits and in accordance with the Housing & Environment Services Enforcement Policy.

10.6 The Licensing Authority may from time to time exercise its power under Section 115 of the Crime and Disorder Act 1998 to exchange data and information with the Police and other partners to fulfil its statutory objective of reducing crime and disorder.

11. HUMAN RIGHTS

- 11.1 In determining applications, the principles of the Human Rights Act 1998 must be taken into consideration. The Act acknowledges that Local Authorities are entitled, amongst other things, to act where this is in the 'general interest'.
- 11.2 Should it be decided to refuse or to grant an application, or to attach conditions, the rights of appeal that exist through the Magistrates Court will ensure that the principles of the Human Rights Act 1998 are adhered to.

12. POLICY REVIEW

- 12.1 As indicated above, this Policy will take effect on the 17 May 2016 and will remain in force for a period of five years.

CHICHESTER DISTRICT COUNCIL

GAMBLING ACT 2005

STATEMENT OF POLICY 2016-2019

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This Statement of Policy was approved by Chichester District Council on the *****.

Please note that all references within this Statement to 'Guidance', refers to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015. This was the current version of the Guidance at the time when this Statement was prepared and published.

PART A

1. THE LICENSING OBJECTIVES

1.1 In exercising most of their functions under the Gambling Act 2005 (the 'Act'), Licensing Authorities (the '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; and
- Protecting children and other vulnerable persons from being harmed or exploited by gambling.

1.2 This Licensing Authority (the 'Authority') is aware that, as required by Section 153 of the Act, in making decisions about Premises Licences, Temporary Use Notices and some Permits that 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 (the 'Commission') under Section 24 of the Act;
- In accordance with any relevant Guidance issued by the Commission under Section 25 of the Act;
- Reasonably consistent with the licensing objectives; and
- In accordance with the Statement published by the Authority under Section 349 of the Act i.e. this Statement of Policy (the 'Statement').

2. INTRODUCTION

2.1 Chichester district is predominantly a rural area. It covers some 303 square miles and is the second largest district (in area) within Sussex. The Census conducted in 2011 reports a population of 113,794 in the district which is mainly concentrated in the cathedral city of Chichester, the towns of Midhurst, Petworth and Selsey together with the parishes of Tangmere and Southbourne.

2.2 The district includes a significant area which forms part of the South Downs National Park (SDNP). The SDNP came into being in 2010 and is England's most recently created National Park. The South Downs National Park Authority (SDNPA) is the sole Planning Authority for all premises located within the area of the National Park and became fully operational on the 1st April 2011. In addition it is responsible for keeping the South Downs a special place.

2.3 This Licensing Authority is aware of and fully recognises the special and clearly defined role of the SDNPA, this includes the following 'purposes' and 'duty' for which they have been established:

Purpose 1 - *'To conserve and enhance the natural beauty, wildlife and cultural heritage of the area'*.

Purpose 2 - *'To promote opportunities for the understanding and enjoyment of the special qualities of the National Park by the public'.*

Duty - *'To seek to foster the social and economic well-being of the local communities within the National Park in pursuit of our purposes'.*

Where there is a conflict between the purposes and/or duty, then Purpose 1 must have priority.

The Licensing Authority is aware of the requirement under the National Parks and Access to the Countryside Act 1949, currently supported by paragraphs 26-27 of the English National Parks and the Broads UK Government Vision and Circular 2010, to have regard to the above Purposes when undertaking its licensing functions. The Licensing Authority also recognises that the 'Duty' referred to above falls solely upon the SDNPA.

- 2.4 In view of the above and given the overriding duty to ensure the promotion of the licensing objectives, this Licensing Authority will actively encourage those currently or proposing to operate premises/events within the National Park to proactively engage with the SDNPA at the earliest opportunity. In respect of major events proposed to take place in the National Park, it is expected that applicants will give proper consideration to the content of any written or verbal guidance offered by the SDNPA. This is in relation to both the licensing application and any supporting documents e.g. an Event Management Plan.
- 2.5 The Licensing Authority will also, when undertaking its various licensing functions, remaining conscious of the effect that premises/events operating within the National Park can have, and will subsequently remain cognisant of the need to ensure that the special qualities and characteristics of the National Park are maintained and wherever possible, enhanced.
- 2.6 The district also contains the Chichester Harbour Area of Outstanding Natural Beauty, one of the south coast's finest recreational areas as well as being an important natural habitat for birds, flora and fauna.
- 2.7 Tourism is crucial to this thriving district. In 2013 tourism generated some 10% of the employment. At that time tourism related expenditure translated to £308.5 million worth of income for local businesses through direct, indirect and induced effects. Overall, an estimated 1,220,000 staying trips were spent in Chichester district, of which around 1,146,800 were made by domestic visitors (94%) and 73,200 by overseas visitors (6%); this generated over £141.8 million. In addition approximately 5.4 million tourism day trips were made to Chichester district (lasting more than 3 hours and taken on an irregular basis) generating a further £166.7 million expenditure. Around a third (33%) of all staying or overnight trips to Chichester district were accommodated in commercial serviced accommodation, whilst 45% of all overnight trips involved staying in non-serviced accommodation such as self-catering and caravan/camping accommodation. Smaller volumes of overnight trips involved staying on boats, in hostels, on campus, in private lodgings and in more than one type of accommodation over the duration of the trip.

2.8 In June 2015 there were in excess of 3,167 commercial premises of which approximately 1,501 are registered food premises, over 100 accommodation establishments, hotels and B&B's, and one of the largest caravan and campsites in Europe located in Selsey. There are many historic and cultural attractions in the region including Goodwood, with its renowned horse and motor car racing, Fishbourne Roman Palace, the internationally recognised Chichester Festival Theatre, the Weald and Downland Museum and the award winning Pallant House Gallery.

2.9 In November 2015, current authorisations within the Chichester district under the Act include:

Bingo Premises Licence - 3
Betting Premises Licence – 9
Track Premises Licence – 1
Family Entertainment Centre Premises Licence - 1
Adult Gaming Centre Premises Licence – 2
Licensed Premises Gaming Machine Permit – 7
Unlicensed Family Entertainment Centre Gaming Machine Permit – 8
Club Gaming Permit -1
Club Machine Permit – 20
Registered Non-commercial Societies – 151
Notification of 2 or less gaming machines in licensed premises - 61

There are therefore 264 current authorisations for which the Licensing Authority is responsible for ensuring compliance with.

2.10 An Authority may find it useful to complete their own assessment of the local environment as a means of 'mapping out' the key characteristics of the local area. Such an assessment is referred to as a 'Local Area Profile'. There is however no statutory requirement on an Authority to undertake such an assessment.

2.11 This Authority has carefully considered whether it is appropriate to undertake an assessment of the Chichester district. At the current time, the Authority is not proposing to undertake an assessment for the following reasons, however naturally the matter will be kept under review and a suitable assessment undertaken if it becomes necessary:

- Since the Act came into effect, only a very small number of complaints/concerns regarding gambling matters have ever been received by the Authority. None of the subsequent investigations have necessitated the Authority to instigate formal action;
- No issues or concerns have ever been brought to the attention of this Authority by organisations (e.g. Citizens Advice Bureau) who represent children or other individuals who may be harmed or exploited by gambling; and
- Due to market forces, the number of premises benefitting from Premises Licences has remained fairly consistent without a particular area becoming saturated by licensed premises.

- 2.12 A plan showing the Chichester District Council area is shown at Appendix A.
- 2.13 Authorities are required under the Act 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, although can be reviewed and revised at any time following consultation with those bodies and persons set out in Section 349(3) of the Act.
- 2.14 Chichester District Council consulted widely upon this Statement before it was finalised and published. A list of those persons who were consulted is provided at Appendix B.
- 2.15 Section 349 of the Act requires that the following parties are specifically consulted:
- 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 Act.
- 2.16 Our consultation took place between ***** and *****.
- 2.17 The full list of comments made and the consideration by the Authority of those comments is available by request to:
- Licensing Manager, Licensing Team, Housing & Environment Services, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY or Email: licensing@chichester.gov.uk or Tel: 01243 534740.
- 2.18 The Statement was approved at a meeting of Full Council on ***** and was published via our website on *****. The Statement has effect from the ***** until ***** inclusive.
- 2.19 Should you have any comments regarding this Statement, please send them via letter or email to the following:
- Licensing Manager, Licensing Team, Housing & Environment Services, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY or Email: licensing@chichester.gov.uk or Tel: 01243 534740.
- 2.20 It should be noted that this Statement will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence, as each will be considered on its own merits and according to the statutory requirements of the Act.

3. DECLARATION

- 3.1 In producing the final Statement, this Licensing Authority declares that it has had regard to the licensing objectives, the Guidance issued to Authorities by the Commission, and any responses from those consulted on the draft Statement.

4. RESPONSIBLE AUTHORITIES

- 4.1 The 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 formally designates the West Sussex Local Safeguarding Children Board as the body competent to advise it about the protection of children from harm.
- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website at:
<http://www.chichester.gov.uk/licensingfees#responsible> and are also shown at Appendix C.

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 Section 158 of the Act as follows:

"For the purposes of this Part a person is an Interested Party in relation to a Premises Licence or in relation to an application for or in respect of a Premises Licence if, in the opinion of the Licensing Authority which issues the Licence or to which the application 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 Authority is required by regulations to state the principles it will apply in exercising its powers under the Act to determine whether a person is an Interested Party. The principles are:

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 Guidance at Paragraphs 8.12 to 8.17 inclusive. It will also consider Paragraph 6.21 of the Guidance that *"have business interests"* should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

- 5.3 For the purposes of Section 158(c) of the Act, Interested Parties includes persons who are democratically elected such as Councillors (District, County, Town and Parish Councillors) and MPs, as representing individuals who meet the criteria defined in Section 158(a) or Section 158(b) of the Act. Other representatives include bodies such

as trade associations and trade unions, along with residents' and tenants' associations. A school head or governor might also act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to a proposed premises.

5.4 No specific evidence of being asked to represent an Interested Party will be required from a democratically elected person, however in all other cases this Licensing 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 to ensure that the Councillors are not part of the Licensing Committee dealing with the application. If there are any doubts then please contact:

Licensing Manager, Licensing Team, Housing & Environment Services, Chichester District Council, East Pallant House, East Pallant, Chichester, West Sussex, PO19 1TY – Email: licensing@chichester.gov.uk or Tel: 01243 534740.

6. EXCHANGE OF INFORMATION

6.1 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 Commission, and the functions under Section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

6.2 The principle that this Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The Authority will also have regard to any Guidance issued by the Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act.

6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

6.4 Administered by the Better Regulation Delivery Office, the 'Primary Authority' scheme provides for a statutory partnership to be formed between a business and a single authority, e.g. a local authority. That single authority, the Primary Authority, can provide a national inspection strategy within which other local regulators can operate, to improve the effectiveness of visits by local regulators and enable better sharing of information between them. The Primary Authority scheme therefore aims to ensure that local regulation is consistent at a national level.

6.5 Since October 2013, the Primary Authority scheme was extended to include age-restricted sales of gambling, although does not apply to any other aspect of the Act. This means local authorities in England and Wales must follow any age restricted sales

of gambling national inspection plans and strategies that are published on the Primary Authority register when considering proactive age restricted sales (gambling) activity including testing. Primary Authority plans do not prohibit licensing authorities undertaking reactive test purchasing.

6.6 This Authority recognises the value and importance of the Primary Authority scheme and as is required, will engage with Primary Authorities where and when necessary.

7. ENFORCEMENT

7.1 Authorities are required by regulations under the Act 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 Authority's principles are that:

It will be guided by the Guidance 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 When considering enforcement action, the Licensing Authority will consider each case on its own facts and merits and in accordance with its enforcement policy.

7.4 As the Guidance requires, this Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.5 This Authority has adopted and implemented a risk-based inspection programme, based on;

- The licensing objectives;
- Relevant Codes of Practice;
- Guidance issued by the Commission, in particular at Part 36; and
- The principles set out in this Statement.

7.6 The main enforcement and compliance role for this Authority in terms of the Act is to ensure compliance with the requirements of the Premises Licences and other permissions which it authorises. The 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 Authority but should be notified to the Commission.

7.7 This Authority also keeps itself informed of developments as regards the work of the Better Regulation Delivery Office in its consideration of the regulatory functions of Local Authorities.

7.8 Bearing in mind the principle of transparency, this Authority's enforcement/compliance protocols/written agreements and risk methodology is available upon request to:

Licensing Manager, Licensing Team, Housing & Environment Services, Chichester District Council, East Pallant House, East Pallant, Chichester, West Sussex, PO19 1TY – Email: licensing@chichester.gov.uk or Tel: 01243 534740.

8. LICENSING AUTHORITY FUNCTIONS

8.1 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 any person(s) or entity that holds an appropriate Premises Licence granted under the Licensing Act 2003, in order that a maximum of two gaming machines may be made available. The Premises Licence must include the retail sale of alcohol as a licensable activity for consumption on the premises, there must be a bar at the premises from which the alcohol is served without a requirement that alcohol is served only with food;
- Issue *Licensed Premises Gaming Machine Permits* to any person(s) or entity that holds an appropriate Premises Licence granted under the Licensing Act 2003 in order that three or more gaming machines may be made available. Again, the Premises Licence must include the retail sale of alcohol as a licensable activity for consumption on the premises, there must be a bar at the premises from which the alcohol is served without a requirement that alcohol is served only with food;
- Register *Non-Commercial Societies* in order that they can operate Small Society Lotteries within prescribed thresholds;
- Issue *Prize Gaming Permits*;
- Receive and Endorse *Temporary Use Notices*;
- Receive *Occasional Use Notices*;
- Provide information to the Commission regarding details of Licences issued (see Section above on 'Information Exchange'); and
- Maintain registers of the Permits and Licences that are issued under these functions.

8.2 It should be noted that Authorities are not involved in licensing remote gambling at all, as this is regulated by the Commission via Operating Licences.

8.3 Gambling Act 2005 decisions and functions are mostly delegated to the Licensing Committee of the Licensing Authority (as established under Section 6 of the Licensing Act 2003 by virtue of Section 154(1) with the exception detailed in Section 154(2)), or in appropriate cases to Officers of this Licensing Authority. As many of the decisions will be purely administrative in nature, the principle of delegation to Officers is adopted in the interests of speed, efficiency and cost effectiveness. The terms of delegation of function are set out below.

Matter to be dealt with	Full Council	Sub-committee of licensing committee	Officers
Final approval of the Licensing Authority Statement of Policy (Section 349)	X		
Policy not to permit casinos (Section 166)	X		
Fee setting (when appropriate) (Section 212)		X To be made by the full Alcohol and Entertainment Licensing Committee	
Application for premises licences		X Where representations have been received and not withdrawn	X Where no representations received/representations have been withdrawn
Application for a variation to a licence		X Where representations have been received and not withdrawn	X Where no representations received/representations have been withdrawn
Application for a transfer of a licence		X Where representations have been received from the Commission or responsible authority	X Where no representations received from the Commission or responsible authority
Application for a provisional statement		X Where representations have been	X Where no representations received/representations

		received and not withdrawn	have been withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		X Where objections have been made (and not withdrawn)	X Where no objections made/objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consideration of temporary use notice			X
Decision to give a counter notice to a temporary use notice		X	

9. HUMAN RIGHTS ACT 1998

9.1 In considering applications, and taking enforcement action, this Licensing Authority is subject to the Human Rights Act 1998 and in particular the following relevant provisions of the European Convention on Human Rights:

- Article 1, Protocol 1 - peaceful enjoyment of possessions;
- Article 6 - right to a fair hearing;
- Article 8 - respect for private and family life; and
- Article 10 – right to freedom of expression.

PART B

PREMISES LICENCES - CONSIDERATION OF APPLICATIONS

10. General Principles

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

(i) Decision-making

10.2 This 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 Commission;
- In accordance with any relevant Guidance issued by the Commission;
- Reasonably consistent with the licensing objectives; and
- In accordance with this Statement.

10.3 The Authority recognises that Paragraph 5.34 of the Guidance states that *"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)." - see Section 13 on Casinos – and that Paragraph 5.22 further states that "s.153 makes it clear that in deciding whether or not to grant a licence, a Licensing Authority must not have regard to the expected demand for gambling premises that are the subject of the application."*

(ii) Definition of "premises"

10.4 In Section 353(1) of the Act, *"premises"* is defined as including *"any place and in particular – (a) a vessel, and (b) a vehicle"*. Section 152 of the Act states that a Premises Licence *"may not be issued in respect of premises if a premises licence already has effect in relation to the premises"*. However, a single building could be subject to more than one Premises Licence, provided they are for different parts of the building and these parts 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. When considering applications, this Authority is aware of the need to pay particular attention regarding sub-division of a single building or plot so as to ensure that the mandatory conditions relating to access between premises are, or would be complied with.

10.5 The Guidance states at Paragraph 7.6 that: *"In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter*

for discussion between the operator and the Licensing Authority.” Further paragraph 7.7 states that “The Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a Licensing Authority should request a plan of the venue on which the premises should be identified as a separate unit”.

10.6 This Authority takes particular note of Paragraph 7.23 the Guidance which states that:

“Licensing Authorities should take particular care in considering applications for multiple premises 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 this 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; and*
- Customers should be able to participate in the activity named on the premises licence.”*

10.7 At Paragraph 7.33 of the Guidance, factors which may assist the Authority in determining whether two premises are truly separate have been provided these include:

- Is a separate registration for business rates in place for the premises?*
- Is the premises’ neighbouring premises owned by the same person or someone else?*
- Can each of the premises be accessed from the street or a public passageway?*
- Can the premises only be accessed from any other gambling premises?*

10.8 This Authority will consider the above and any other relevant factors in making its decision, depending on all the circumstances of the case.

10.9 Paragraph 7.23 of the Guidance provides the relevant access provisions for each type of premises, this is reproduced below:

Casinos

- The principal entrance to the premises must be from a ‘street’ (as defined at Paragraph 7.21 of the Guidance)*
- 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 (as defined at Paragraph 7.21 of the Guidance) or from other 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 unless that shop is itself a licensed betting premises.*

Tracks

- *No customer must be able to access the premises directly from a casino or adult gaming centre.*

Bingo Premises

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

Part 7 of the Guidance contains further advice on this issue, which this Authority will also carefully take into account in its decision-making.

(iii) Premises “ready for gambling”

10.10 The Guidance states at Paragraph 7.58 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.”*

10.11 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.

10.12 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 the following two stage consideration process in accordance with Paragraph 7.59 of the Guidance:

- Whether, as a matter of substance after applying the principles in Section 153 of the Act, the premises ought to be permitted to be used for gambling; and
- 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.

10.13 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.

10.14 More detailed examples of the circumstances in which such a licence may be granted can be found within the Guidance at Paragraphs 7.58-7.65 inclusive.

(iv) Location

10.15 This Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. As suggested by the Guidance, this Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this Statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) Planning

10.16 The Guidance states at Paragraph 7.58 that *“In determining applications, the Licensing Authority should not take into consideration matters that are not related to gambling and the licensing objectives. One example would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.”* This Authority will therefore only take into account matters that are relevant to gambling and the licensing objectives,

10.17 In addition, this Authority notes the Guidance at Paragraph 7.65 which states that *“When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have to comply with the necessary planning or building consents. Nor should fire or health and safety risks be taken into account. Those matters should be dealt with under relevant planning control, building and other regulations, and must not form part of the consideration for the premises licence. Section 210 of the Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally, the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”*

(vi) Duplication with other regulatory regimes

- 10.18 This Authority seeks to avoid any duplication with other statutory/regulatory systems where possible, including planning. This Authority will therefore not consider whether a premises subject of a licence application is likely to be awarded planning permission or building regulations approval.
- 10.19 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.

Licensing objectives

- 10.20 Premises Licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this Authority has considered the Guidance and some comments are made below.

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime

- 10.21 This Authority is aware that the Commission takes a leading role in preventing gambling from being a source of crime. The Guidance does however envisage that Authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an application is for a premises in an area noted for particular problems with disorder, organised criminal activity etc., then this Authority will consider very carefully whether gambling premises are suitable to be located there. Equally it will carefully consider whether control measures by way of conditions are appropriate to prevent the premises from being associated with or used to support crime. An example of a control measure is the provision of Door Supervisors. When considering attaching conditions, this Authority will also take into consideration the content of any risk assessments conducted by the operator.

Ensuring that gambling is conducted in a fair and open way

- 10.22 This Authority has noted that the Commission states at Paragraph 5.11 that it generally *“would not expect Licensing Authorities to find themselves dealing with issues of fairness and openness frequently. Fairness and openness is likely to be a matter for either the way specific gambling products are provided and therefore subject to the operating licence, or will be in relation to the suitability and actions of an individual and therefore subject to the personal licence”*. However, naturally if this Licensing Authority suspects that gambling is not being conducted in a fair an open way, it will liaise with the Commission appropriately.

Protecting children and other vulnerable persons from being harmed or exploited by gambling

- 10.23 This Authority considers, as suggested in the Guidance, whether staff will be able to adequately supervise gambling premises, as adequate staffing is a factor to consider regarding the prevention of underage gaming. This Authority will work together with operators to consider how any impediments to the supervision of premises might be most appropriately remedied. Supervision also applies to premises that are themselves not age-restricted (e.g. bingo and family entertainment centres) but which make gambling products and facilities available,
- 10.24 Where the Licensing Authority considers the structure or layout to be an inhibition or potential inhibition to satisfying the licensing objective, the Licensing Authority will expect the applicant/licensee to consider what changes are required to ensure the risk is mitigated. Changes might include the positioning of CCTV/staff, the use of floor-walkers and/or determining a suitable location for the staff counter so as to ensure direct line of sight.
- 10.25 As regards the term “*vulnerable persons*” it is noted that the Commission does not seek to offer a definition but states at Paragraph 5.17 that “*it does for regulatory purposes, assume that this group includes people who gamble more than they want to, people who gambling beyond their means and people who may not be able to make informed or balanced decisions about gambling due to, for example, mental health needs, a learning disability or substance misuse relating to alcohol or drugs*”. This Authority will consider this licensing objective on a case by case basis.

Conditions

- 10.26 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.
- 10.27 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this 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 Authority will also expect applicants for Premises Licences to offer their own suggestions as to ways in which the licensing objectives can be effectively met.
- 10.28 This 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 Guidance.

10.29 This Authority will also ensure that where Category C or above gaming machines are on offer in premises to which children are admitted that:

- 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 holder of the licence; 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.

10.30 These considerations will apply to premises including buildings where multiple Premises Licences are applicable.

10.31 This 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 Guidance, this 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.

10.32 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 Act 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.

Door Supervisors

10.33 This Authority recognises Paragraph 33.1 of the Guidance where it states 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. The licensing authority is able to impose a condition on the premises licence to this effect.”*

10.34 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be licensed by the Security Industry Authority 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. This is supported by the Guidance at Part 33.

11. Adult Gaming Centres

11.1 This Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect applicants to satisfy the Authority that there will be sufficient measures to, for example, ensure that persons under 18 years do not have access to the premises.

11.2 This 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; and
- 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.

12. (Licensed) Family Entertainment Centres

12.1 This 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.

12.2 This 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; and
- 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.

- 12.3 This Authority will seek to establish, so far as is reasonably possible, the extent to which any conditions attached to an Operating Licence controls the way in which the area containing the Category C gaming machines should be delineated.

13. Casinos

- 13.1 This Authority historically passed a 'no casino' resolution pursuant to Section 166(1) of the Gambling Act 2005, and therefore determined that it would not issue Casino Premises Licences for any premises in its District. There is no proposal to alter that position and it therefore remains the case that a no casino resolution continues to have effect for the duration of this policy.
- 13.2 Potential applicants should note that as a 'no-casino' resolution has been passed by this Authority, that no applications for Casino Premises Licences will therefore be considered. Any applications received will be duly returned with a notification that a 'no-casino' resolution is in place.

14. Bingo

- 14.1 This Authority notes the following Paragraphs of the Guidance:

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

Paragraph 18.7 – “Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are made available for use these must be separated from areas where children and young people are allowed.”

15. Betting Premises

- 15.1 *Self-Service Betting Terminals (SSBTs)* – Section 181 contains an express power for Licensing Authorities to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. In accordance with the Guidance at Paragraph 19.9, when considering the number/nature/circumstances of SSBTs an operator wants to offer, this Authority will 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 persons under 18 to bet) or by vulnerable people.

16. Tracks

- 16.1 This Authority is aware that Tracks may be subject to one or more Premises Licences, provided each licence relates to a specified area of the track. This Authority notes that Guidance and confirms that it 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.
- 16.2 This Authority will therefore expect the applicant for a Track Premises Licence 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.
- 16.3 This 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; and
 - 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.

- 16.4 *Gaming machines* - Where the applicant holds a Pool Betting Operating Licence (this is granted by the Commission) and is going to use the entitlement to four gaming machines, machines (other than Category D) should be located in areas from which children are excluded.

Applications and plans

- 16.5 As part of an application for a Track Premises Licence, applicants are required to submit plans of the premises. As the Guidance states at Paragraph 20.43, *“This ensures that licensing authorities have the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan also informs future premises inspection activity.”*

16.6 The Authority also notes Paragraphs 20.44 of the Guidance which states that:

“Plans for tracks need not be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.”

16.7 This Authority shares the Commission’s appreciation at Paragraph 20.46 of the Guidance 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. Licensing Authorities should satisfy themselves that the plan provides sufficient information to enable them to assess an application.”*

17. Travelling Fairs

17.1 Without requiring any form of authorisation under the Act, travelling fairs may provide an unlimited number of Category D gaming machines and/or equal chance prize, provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.

17.2 The Authority will consider whether the travelling fair falls within the statutory definition. The Act defines a travelling fair as *“wholly or principally”* providing amusements and they must be on a site that has been used for fairs for no more than 27 days per calendar year.

17.3 It is noted that the 27-day statutory maximum for 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. So far as is reasonably practicable, this Authority will monitor the use of land and will work with its neighbouring Authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

18. Provisional Statements

18.1 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.

18.2 Section 204 of the Act provides for a person to make an application to the Authority for a Provisional Statement in respect of premises that they:

- (a) Expect to be constructed;
- (b) Expect to be altered; or
- (c) Expect to acquire a right to occupy.

- 18.3 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.
- 18.4 In contrast to the Premises Licence application, the applicant does not have to hold, or have applied for, an Operating Licence from the Commission and they do not have to have a right to occupy the premises in respect of which their application for a Provisional Statement is made.
- 18.5 The holder of a Provisional Statement may then apply for a Premises Licence once the premises are constructed, altered or acquired. The 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 Responsible Authorities or Interested Parties can be taken into account unless:
- They concern matters which could not have been addressed at the Provisional Statement stage, or
 - They reflect a change in the applicant's circumstances.
- 18.6 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 way of representations 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 and information submitted with the Provisional Statement application. This must be a substantial change to the plan and this Authority would discuss any concerns it has with the applicant before making a decision.

19. Reviews

- 19.1 Requests for a review of a Premises Licence can be made by Responsible Authorities or Interested Parties; however, it is for the 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 Commission;
 - In accordance with any relevant Guidance issued by the Commission;
 - Reasonably consistent with the licensing objectives; and
 - In accordance with this Statement.
- 19.2 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.

- 19.3 The 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.
- 19.4 Once a valid application for a review has been received by the 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 Authority, who will publish notice of the application within 7 days of receipt.
- 19.5 The Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 19.6 The purpose of the review will be to determine whether the Authority should take any action in relation to the Licence. If action is justified, the options open to the Authority are:-
- (a) Add, remove or amend a Licence condition imposed by the 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.
- 19.7 In determining what action, if any, should be taken following a review, the Authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representations.
- 19.8 In particular, the Authority may also initiate a review of a Premises Licence on the grounds that a holder of a Premises Licence 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.
- 19.9 Once the review has been completed, the Authority must, as soon as possible, notify its decision to:
- The holder of the licence;
 - The applicant for review (if any);
 - The Commission;
 - Any person who made representations;
 - The Chief Officer of Police or Chief Constable; and
 - Her Majesty's Commissioners for Revenue and Customs

PART C
Permits / Temporary & Occasional Use Notice

**20. Unlicensed Family Entertainment Centre Gaming Machine Permits
(Statement of principles on Permits – Section 247 of the Act and Schedule 10
Paragraph 7)**

- 20.1 Where a premises does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the 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 in accordance with the requirements of Section 238 of the Act.
- 20.2 Schedule 10, Paragraph 7 of the Act states that an Authority may “*prepare a statement of principles that they propose to apply*” 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 under Section 25 of the Act. The Guidance also states at Paragraph 24.8 “*In its Statement of Policy, a Licensing Authority may include a statement of principles that it proposes to apply when exercising its functions in considering applications for Permits..... Licensing Authorities may wish to give weight to matters relating to protection of children from being harmed or exploited by gambling and to ensure that staff supervision adequately reflects the level of risk to this group.*”
- 20.3 Guidance also states at Paragraph 24.9 that “*An application for a Permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an Unlicensed Family Entertainment Centre, and if the Chief Officer of Police has been consulted on the application....Licensing Authorities may also consider asking applicants to demonstrate:*
- *A full understanding of the maximum stakes and prizes of the gambling that is permissible in Unlicensed Family Entertainment Centres;*
 - *That the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and*
 - *That employees are trained to have a full understanding of the maximum stakes and prizes.”*
- 20.4 It should be noted that an Authority cannot attach conditions to this type of Permit.
- 20.5 Statement of principles - This Authority will expect applicants 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 Authority will also expect, as suggested by the 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. This Authority also expects applicants to provide a plan in support of their application. The plan must clearly show the extent of the boundary or perimeter of the premises and the location at the premises in which the Category D gaming machines will be made available for use in reliance on the Permit.

21. (Alcohol) Licensed Premises Gaming Machine Permits & Automatic Entitlement (Section 283 of the Act and Schedule 13 Paragraph 4(1)) (Section 282 of the Act)

Permit: 3 or more gaming machines

- 21.1 Under Section 283 of the Act, the holder of an appropriate alcohol Premises Licence granted under the Licensing Act 2003 (the Premises Licence must include the retail sale of alcohol as a licensable activity for consumption on the premises, there must be a bar at the premises from which the alcohol is served without a requirement that alcohol is served only with food) may apply for a Permit if they wish to make available for use at the premises more than two gaming machines drawn from Category C and/or D. The Authority must consider any application for a Permit based upon the licensing objectives, any guidance issued by the Commission issued under Section 25 of the Act, and “*such matters as they think relevant*”.
- 21.2 This Authority considers that “*such matters*” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harmed or being exploited by gambling and will expect applicants to satisfy the Authority that there will be sufficient measures to ensure that persons under 18 years do not have access to the adult only gaming machines. Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 21.3 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.
- 21.4 It should be noted that the 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.
- 21.5 It should also be noted that the holder of a Permit must comply with any Code of Practice issued by the Commission about the location and operation of the machine.

Automatic entitlement: Maximum of 2 gaming machines

- 21.6 Under Section 282 of the Act, the holder of an appropriate alcohol Premises Licence granted under the Licensing Act 2003 (the Premises Licence must include the retail sale of alcohol as a licensable activity for consumption on the premises, there must be a bar at the premises from which the alcohol is served without a requirement that

alcohol is served only with food) may give notice to the Authority that they wish to take advantage of the automatic entitlement to provide at the premises a maximum of two gaming machines again drawn from either Category C and/or D. There is no application process, however the holder of the Premises Licence is required to formally notify the Authority prior to making gaming machines available for use.

21.7 However, the 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 Act, for example the gaming machines have been made available in a way that does not comply with requirements on the location and operation of the gaming machines;
- The premises are mainly used for gaming; or
- An offence under the Act has been committed on the premises.

22. Prize Gaming Permits

22.1 Schedule 14, Paragraph 8(1) of the Act states that an 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.*”

22.2 Statement of principles - This Authority will expect that applicants should set out the types of gaming that they are intending to offer and they should also be able to demonstrate:

- That they understand the limits to stakes and prizes that are set out in regulations;
- That the gaming offered is within the law; and
- Clear policies that outline the steps to be taken to protect children from harm.

22.3 In accordance with the provisions of Schedule 14, Paragraph 8(3) of the Act, the Authority, when making its decision on an application for a Permit, does not need to (but may) have regard to the licensing objectives but must have regard to any Guidance issued by the Commission.

22.4 It should be noted that there are conditions in the Act by which the holder of the Permit must comply, but that the 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.

23. Club Gaming and Club Machines Permits

23.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit which authorises an establishment to provide gaming machines as well as equal chance gaming and games of chance as prescribed in regulations, namely pontoon and chemin de fer. Up to a maximum of three gaming machines drawn from categories B3A, B4, C or D may be provided, but only one B3A machine may be sited as part of this entitlement.

23.2 If a Club does not wish to have the full range of benefits permitted by a Club Gaming Permit or if they are a Commercial Club, then they may apply for a Club Machine Permit. This authorises gaming machines to be provided in accordance with the following requirements:

Members Clubs and Miners' Welfare Institutes - maximum of three gaming machines drawn from categories B3A, B4, C or D. Only one B3A machine may be sited as part of this entitlement.

Commercial Clubs - maximum of three gaming machines drawn from categories B4, C or D.

23.3 Guidance states at Paragraph 25.4 that *"Members' clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is restricted to that of a prescribed kind (currently bridge or whist). Members' clubs must be permanent in nature but there is no need for a club to have an alcohol licence."*

23.4 The Guidance also states at Paragraph 25.38 that *"Licensing Authorities may only refuse an application on the grounds that:*

- The applicant does not fulfil the requirements for a Members' or Commercial Club or Miners' Welfare Institute and therefore is not entitled to receive the type of Permit for which it has applied;*
- The applicant's premises are used wholly or mainly by children and/or young persons;*
- An offence under the Act or a breach of a Permit has been committed by the applicant while providing gaming facilities;*
- A Permit held by the applicant has been cancelled in the previous ten years; or*
- An objection has been lodged by the Commission or the Police."*

23.5 There is also a 'fast-track' procedure available under Schedule 12, Paragraph 10 of the Act in respect of premises which also benefit from a Club Premises Certificate granted under the Licensing Act 2003. As the Guidance states at Paragraphs 25.41 & 25.43, *"Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the Police, and the grounds upon which an Authority can refuse a permit are reduced."* and *"The grounds on which an application under this process may be refused are that:*

- (a) *The Club is established primarily for gaming, other than gaming prescribed by Regulations under Section 266 of the Act;*
- (b) *In addition to the prescribed gaming, the applicant provides facilities for other gaming;*
- (c) *A Club Gaming Permit or Club Machine Permit issued to the applicant in the last ten years has been cancelled."*

23.6 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.

24. Temporary Use Notices

24.1 Temporary Use Notices allow the use of premises for gambling where there is no Premises Licence in effect, however the holder of an appropriate operating licence wishes to use a premises temporarily for providing facilities for gambling. At Paragraph 14.1 of the Guidance, the Commission have suggested that premises that might be suitable for a Temporary Use Notice would include hotels, conference centres and sporting venues. Temporary Use Notices are often, but not exclusively, used to run poker tournaments.

24.2 Secondary legislation, The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 sets out the restrictions on the type of gambling to be offered under a Temporary Use Notice. These restrictions are:

- It can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both;
- Gambling under a Temporary Use Notice may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises;
- It can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner;
- Gaming machines may not be made available under a Temporary Use Notice.

24.3 There are a number of statutory limits regarding Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Guidance. 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*".

24.4 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.

24.5 This Authority is likely 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.

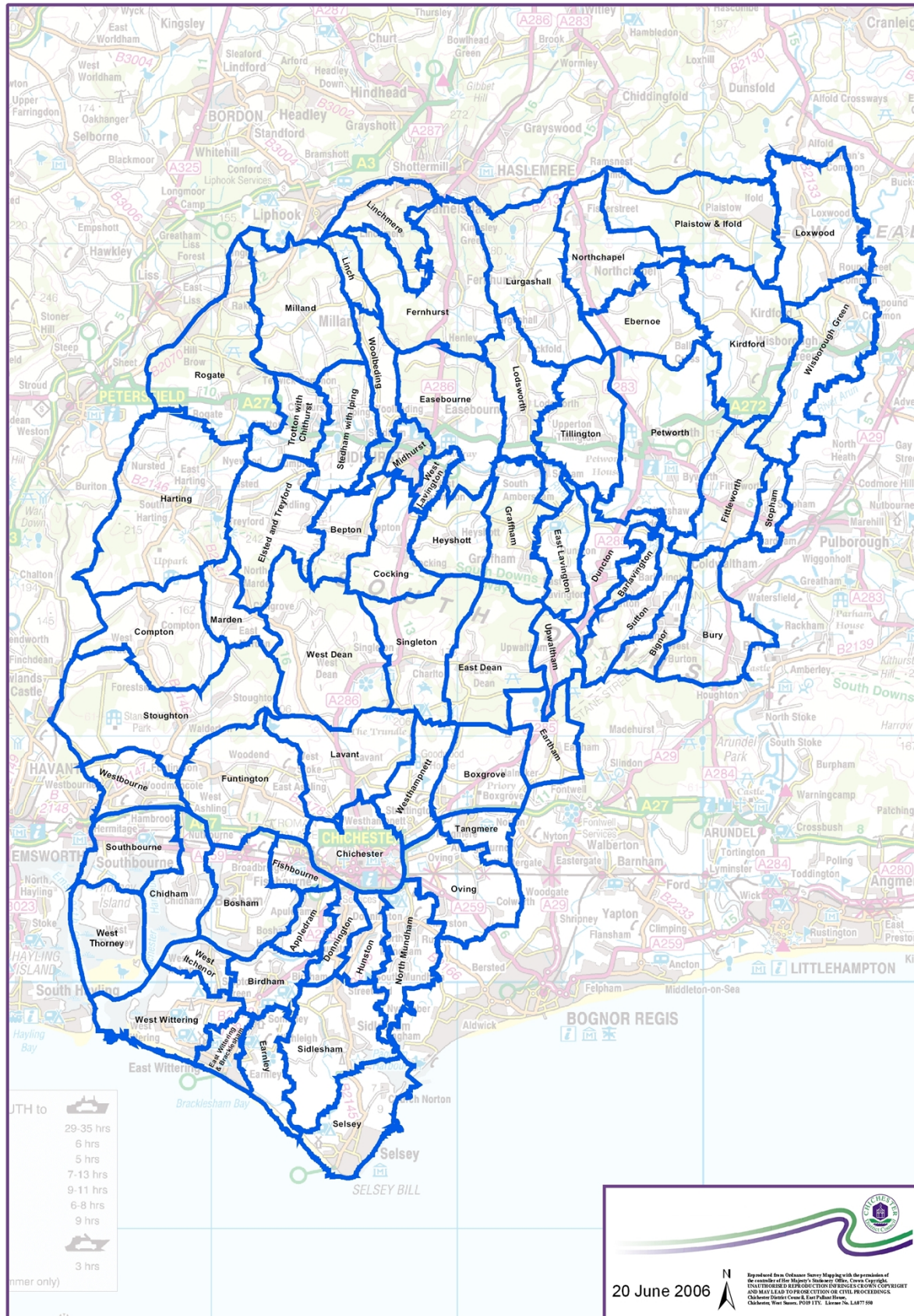
25. Occasional Use Notices:

25.1 The intention of Occasional Use Notices is to permit licensed betting operators with appropriate permission from the Commission, to use tracks for short periods for conducting betting, where the event upon which the betting is to take place is of a temporary, infrequent nature. The Occasional Use Notice must be served by a person who is responsible for administration of events on the track or by an occupier of a track.

25.2 The Authority has very little discretion as regards these notices, except for ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This Authority will, however, consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. A 'track' includes horse racecourses or dog tracks, but also any other premises on any part of which a race or other sporting event takes place, or is intended to take place. Land therefore which has a number of uses, one of which fulfils the definition of a track, can qualify for the Occasional Use Notice provisions (for example agricultural land upon which a point-to-point meeting takes place).

25.3 Betting operators cannot provide gaming machines at tracks by virtue of an Occasional Use Notice.

APPENDIX A – PLAN OF THE CHICHESTER DISTRICT COUNCIL AREA



APPENDIX B – CONSULTEES ON DRAFT STATEMENT

Mr Steve Carvell, Executive Director of Environment, Chichester District Council
Mr Paul Over, Executive Director of Support Services and the Economy, Chichester District Council
Mr John Ward, Head of Finance and Governance Services, Chichester District Council
Mr David Stewart, Legal Practice Manager
District Councillors of Chichester District Council
City, Town and Parish Councils within the Chichester district
Responsible Authorities as specified at Appendix C
Mr Andy Isaacs, Compliance Manager, Gambling Commission
Adults' Services, West Sussex County Council
Holders of existing permissions granted under the Gambling Act 2005
Community Safety Partnership (CSP)
Chichester Chamber of Commerce and Industry (CCCI)
British Amusement Catering Trade Association (BACTA)
Association of British Bookmakers (ABB)
Bingo Association
National Casino Forum
Hospice Lotteries Association
Lotteries Council
Remote Gambling Association (RGA)
The Racecourse Association Limited
British Horse Racing Authority (BHA)
British Beer and Pub Association (BBPA)
Responsible Gambling Trust
GamCare
Gamblers Anonymous
Citizens Advice Bureau
Churches Together in Sussex

APPENDIX C – RESPONSIBLE AUTHORITY DETAILS

Development Management (*premises outside of the South Downs National Park*)

Head of Planning Services, Development Management, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY - Tel: 01243 534734 - Fax: 01243 534563 - Email: dcplanning@chichester.gov.uk - Website: www.chichester.gov.uk

South Downs National Park Authority (*premises inside the South Downs National Park*)

South Downs National Park Authority, c/o Head of Planning Services, Development Management, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY - Tel: 01243 534734 - Fax: 01243 534563 - Email: dcplanning@chichester.gov.uk - Website: www.chichester.gov.uk and <http://www.southdowns.gov.uk/>

Environmental Management Team

Environment Manager, Environmental Management Team, Housing & Environment Services, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY - Tel: 01243 785166 ext. 4598 - Fax: 01243 776766 - Email: environmentalmanagement@chichester.gov.uk - Website: www.chichester.gov.uk

Gambling Commission

Victoria Square House, Victoria Square, Birmingham, B2 4BP - Tel: 0121 230 6666 - Fax: 0121 230 6720 - Email: info@gamblingcommission.gov.uk - Website: www.gamblingcommission.gov.uk

Her Majesty's Commissioners of Customs and Excise

Betting and Gaming National Registration Unit, Portcullis House, 21 India Street, Glasgow, Scotland, G2 4PZ - Tel: 0141 555 3495 (Registration of Betting and Gaming) - Fax: 0141 555 3506 - Email: nrubetting&gaming@hmrc.gsi.gov.uk - Website: www.hmrc.gov.uk

Licensing Authority

Licensing Manager, Licensing Team, Environment & Housing Services, Chichester District Council, East Pallant House, 1 East Pallant, Chichester, West Sussex, PO19 1TY - Tel: 01243 785166 x 2267 - Fax: 01243 776766 - Email: licensing@chichester.gov.uk - Website: www.chichester.gov.uk

West Sussex Local Safeguarding Children Board

West Sussex Local Safeguarding Children Board, c/o Children's Safeguarding Unit, Room 24, Durban House, Bognor Regis, West Sussex, PO22 9RE - Tel: 03302 223337 - Email: cpu.team@westsussex.gcsx.gov.uk - Website: www.westsussex.gov.uk

Sussex Police

Chief Officer of Sussex Police, c/o Licensing Officer, Sussex Police, Centenary House, Durrington Lane, Worthing, West Sussex, BN13 2PQ - Tel: 0845 60 70 999 or 101 - Fax: 01243 843637 - Email: WS_Licensing_WOR@sussex.pnn.police.uk - Website: www.sussex.police.uk

West Sussex Fire and Rescue Service

Business Fire Safety, West Sussex Fire & Rescue Service, Centenary House, 1st Floor West Wing Rooms 236 & 245, Durrington Lane, Worthing, West Sussex, BN13 2QB - Tel: 0330 222 3333 - Email: businessfiresafety@westsussex.gov.uk - Website: www.westsussex.gov.uk

APPENDIX D – SUMMARY OF GAMING MACHINE CATEGORIES AND ENTITLEMENTS

Category of machine	Maximum stake (from January 2014)	Maximum prize (from January 2014)
A	Unlimited – No category A gaming machines are currently permitted	
B1	£5	£10,000*
B2	£100	£500
B3A	£2	£500
B3	£2	£500
B4	£2	£400
C	£1	£100
D - Non-money prize	30p	£8
D - Non-money prize (crane grab machines only)	£1	£50
D - Money prize	10p	£5
D - Combined money and non-money prize	10p	£8 (of which no more than £5 may be a money prize)
D - Combined money and non-money prize (coin pusher or penny falls machine only)	20p	£20 (of which no more than £10 may be a money prize)

* With option of maximum £20,000 linked progressive jackpot on premises basis only