

Democratic Services

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Date: 28 September 2010

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To: All Members of the Licensing Committee

Councillors: Tim Warren (Chair), Tim Ball, Gabriel Batt, John Bull, Bryan Chalker, Anthony Clarke, Gerry Curran, Steve Hedges, Malcolm Lees and Carol Paradise

Chief Executive and other appropriate officers
Press and Public

Dear Member

Licensing Committee: Tuesday, 5th October, 2010

You are invited to attend a meeting of the **Licensing Committee**, to be held on **Tuesday, 5th October, 2010** at **2.30 pm** in the **Kaposvar Room - Guildhall, Bath**.

The agenda is set out overleaf.

Yours sincerely

Sean O'Neill
for Chief Executive

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact Sean O'Neill who is available by telephoning Bath 01225 395090 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** The Council has a scheme to encourage the public to make their views known at meetings. They may make a statement relevant to what the meeting has power to do. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards. Further details of the scheme can be obtained by contacting Sean O'Neill as above.

- 3. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting Sean O'Neill as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

For Councillors and Officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. Emergency Evacuation Procedure**

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Arrangements are in place for the safe evacuation of disabled people.

Licensing Committee - Tuesday, 5th October, 2010

at 2.30 pm in the Kaposvar Room - Guildhall, Bath

A G E N D A

1. EMERGENCY EVACUATION PROCEDURE

The Chair will draw attention to the emergency evacuation procedure as set out under Note 7.

2. ELECTION OF VICE-CHAIR (IF DESIRED)

3. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS

4. DECLARATIONS OF INTEREST

To receive any declarations from Members/Officers of personal/prejudicial interests in respect of matters for consideration at this meeting together with their statements on the nature of any such interests declared.

5. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

6. ITEMS FROM THE PUBLIC - TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

7. MINUTES: 24 MAY 2010 (Pages 1 - 4)

8. REVIEW OF THE COUNCIL'S STATEMENT OF LICENSING POLICY (Pages 5 - 58)

9. APPROVAL OF AN APPLICATION PACK FOR THE GRANT OF A PREMISES LICENCE FOR A SMALL CASINO IN BATH AND APPOINTMENT OF ADVISORY PANEL (Pages 59 - 234)

The Committee Administrator for this meeting is Sean O'Neill who can be contacted on 01225 395090.

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BATH AND NORTH EAST SOMERSET COUNCIL

LICENSING COMMITTEE

MINUTES OF THE MEETING OF 24TH MAY 2010

Present:- **Councillors:** Tim Ball, John Bull, Gabriel Batt, Tony Clarke, Gerry Curran, Steve Hedges, Carol Paradise, Tim Warren (Chairman), Gordon Wood

Also in attendance: Andrew Jones (Environmental Monitoring and Licensing Manager), Francesca Smith (Senior Legal Adviser)

1 EMERGENCY EVACUATION PROCEDURE

The Clerk read out the procedure.

2 ELECTION OF VICE-CHAIR

RESOLVED that a Vice-Chair was not required on this occasion.

3 APOLOGIES FOR ABSENCE AND SUBSTITUTION

Apologies were received from Cllrs Bryan Chalker, Malcolm Lees, and Richard Maybury. Cllr Gordon Wood substituted for Cllr Lees.

4 DECLARATIONS OF INTEREST

There were none.

5 TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIRMAN

There was none.

6 ITEMS FROM THE PUBLIC – TO RECEIVE DEPUTATIONS, STATEMENTS, PETITIONS OR QUESTIONS

7 MINUTES: 13TH OCTOBER 2009

These were approved as a correct record and signed by the Chairman.

8 LICENSING ACT 2003 – REVIEW OF THE COUNCIL'S STATEMENT OF LICENSING POLICY

The Environmental Monitoring and Licensing Manager presented the report. He said that the Council was required by the Licensing Act 2003 to prepare and publish a Statement of Licensing Policy and to review it every three years. The current policy was last reviewed in 2008 and would need to be reviewed again by 5th January 2011. The Act required the Council to consult specified persons before it determined its policy; these were listed in paragraph 5.3 of the report. A consultation exercise would commence shortly. He invited the Committee to comment on the proposed Statement, which was attached at Appendix A to the report.

A Member was concerned about the omission of Ward Councillors from the list of consultees contained in paragraph 5.3 of the report. The Environmental and Licensing Manager replied that the paragraph merely reproduced the relevant provision of the Licensing Act 2003. After discussion it was agreed that the list of

consultees in paragraph 7.1 of the Statement would be expanded to include Ward Councillors and Town and Parish Councils.

Members discussed the assertion in paragraph 19.4 of the Statement *“that Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises.”* The Environmental Monitoring and Licensing Manager said that problems caused by people drinking in the street were for the police to deal with. The Senior Legal Adviser agreed that the maintenance of order in the streets was the responsibility of the Police and the Street Marshals Scheme could also contribute. However conditions could be attached to premises licences to further the licensing objectives by, for example, controlling the entrance and egress of customers, or forbidding the taking of open containers of drink into the street. The Council had also made a designated public place order forbidding drinking in public within a defined area.

A Member was concerned that many people were unable to afford the prices charged by city centre premises and suggested that paragraphs 1.2-1.6 of the Statement, by referring, for example, to “bistros”, gave an impression of elitism and exclusivity. He also believed that local residents should be mentioned as well as the “needs of the local tourist economy”. Members agreed that a reference to local residents should be added to the text. With regard to the first point, Members acknowledged that the Council could not control the type of premises applying for licences or the prices they charged. It was agreed, however, that “all income groups” should be added to “people of all ages and social groups” in paragraph 1.4.

A Member asked about the second bullet point in paragraph 16.3 *“Consideration as to whether there is good evidence that public nuisance and crime and disorder is occurring, and is caused by the customers of licensed premises, or that the risk of cumulative impact is imminent”*. The Environmental Monitoring and Licensing Manager replied that, in 2007, Councillors had been involved in identifying whether there was a need for a cumulative impact policy. He stated that there had to be evidence to justify adopting and continuing such a policy. When the first cumulative impact policy had been formulated, the Police had provided a map showing crime and disorder hotspots in the city centre and the Primary Care Trust (PCT) had provided data. It was possible that the hotspots had moved and that the cumulative impact area needed to be redrawn. The Police and PCT would be asked to supply updated information.

A Member suggested that an outsider would be surprised by paragraph 1.3: *“In partnership with other agencies and interested parties, the Council/Licensing Authority seeks to develop the area with a view to increasing the number of establishments, including coffee shops and bistros, which are open and available to the public in the evening.”* This might be true in relation to the whole of Bath and North East Somerset, but he thought that the Council ought not to be saying that it wished to increase the number of licensed premises in the cumulative impact area. He suggested that the “area” needed to be clarified. The Environmental and Licensing Manager replied that there was no evidence that the cumulative impact policy had actually deterred people from opening licensed premises in the cumulative impact area. The wording in the Statement reflected the fact that each of the three town centre managers in B&NES had a vision for the economic development of their towns. A Member suggested that the Statement should say that the Council wished to see more premises which sold alternatives to alcohol.

A Member asked about the role of the Fire Authority. The Environmental Monitoring and Licensing Manager said that they were statutory consultees in relation to the

Statement, they provided advice to the Council, and participated in multi-agency visits to licensed premises. The Senior Legal Adviser said that, following the introduction of a new Order, each premises had to carry out its own risk assessment, which had to be approved by the fire authority. Because of this they now made very few representations to licence applications.

Members congratulated officers for producing a clear, readable document.

RESOLVED to note the revised Statement of Licensing Policy.

9 REVIEW OF STREET TRADING POLICY AND CONDITIONS

The Environmental Monitoring and Licensing Manager presented the report. He explained that the Council had designated all streets in Bath and North East Somerset as “consent streets” under schedule 4 of the Local Government (Miscellaneous Provisions) Act 1982. The effect of this was that, with certain exceptions, selling, exposing, or offering for sale any article in the street required a street trading consent issued by the Council. The current policy had been adopted in 2002. The draft revision circulated with the agenda had been updated to take into account subsequent changes. The decision to adopt the new policy was delegated to a Cabinet Member. It was being presented to the Committee as part of the consultation process.

Members congratulated officers on a much improved and clearer policy document.

A Member said that he had not realised that car boot sales on private land required a consent. He asked whether school fetes had to have a consent. The Environmental and Licensing Manager replied that they did not, and that a car boot sale held for charitable purposes would not have to have a consent. In reply to a question from another Member he said that a consent would only have to be obtained for a raffle if tickets were sold to the general public.

A Member noted the provision about mobile artists and asked about musicians. The Environmental Monitoring and Licensing Manager and the Senior Legal Adviser explained that a consent was not required for busking, but that musicians who offered CDs of their performances for sale would commit an offence if they did not have a consent. Visiting choirs, for example, had done this. They had not given notice of their intention to sell CDs, so there had been no consultation period and they had not paid the daily fee of £26.

In reply to question from a Member, the Environmental Monitoring and Licensing Manager and the Senior Legal Adviser explained that the distinction between a pedlar and a trader was that a trader had a fixed pitch, whereas a pedlar moved from location to location while trading and was not permitted to be stationary for more than 15 to 20 minutes.

RESOLVED

- (i) to note the proposed Policy and Conditions in Annex A.
- (ii) to agree to the adoption of the Table specified in Annex B, subject to the following amendments:
 - a. in the row “*Approval of Street Trading Policy*” “*in consultation with the Chairman of the Licensing Committee*” to be inserted after “*All cases*” in the column headed “*Cabinet Member*”.

- b. insert a new bullet point "*affected businesses;*" after "*occupiers of premises immediately adjacent and opposite where appropriate;*" in the list of consultees in paragraph 5.5

The meeting finished at 11.55am.

Chairman.....

Date confirmed and signed.....

Bath & North East Somerset Council		
MEETING:	Licensing Committee	AGENDA ITEM NUMBER
MEETING DATE:	5 th October 2010	
TITLE:	Licensing Act 2003 - Review of the Council's Statement of Licensing Policy	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Annex A – Copy of the responses to the consultation exercise on the proposed Statement of Licensing Policy		
Annex B – Copy of the proposed Statement of Principles, including amendments.		

1 THE ISSUE

- 1.1 Section 5 of the Licensing Act 2003 (“the Act”) requires a licensing authority to prepare and publish a statement of its licensing policy every three years. Such a policy must be published before the authority carries out any function in respect of individual applications made under the terms of the 2003 Act. During the three year period the policy must be kept under review and the licensing authority may make any revisions to it as it considers appropriate.
- 1.2 This report brings the findings of the consultation exercise carried out on the proposed revision of the Council's Statement of Licensing Principles and this report asks the Licensing Committee to note the comments received and to approve the officer's recommendations prior to the revised Statement being presented to Full Council in November for adoption.

2 RECOMMENDATION

- 2.1 The Licensing Committee is asked to note the comments received from the consultation exercise and to accept the officer recommendations set out in Annex A.
- 2.2 The Licensing Committee are asked to recommend that the revised policy, provided at Annex B, is presented to Full Council at its meeting on the 16th November 2010, with a recommendation that the policy is adopted.

3 FINANCIAL IMPLICATIONS

3.1 There are no financial implications associated with this report as any recommendations made by the committee will form part of a further report to Full Council.

4 CORPORATE IMPROVEMENT PRIORITIES

- Reducing fear of crime
- Improving the public realm

5 THE REPORT

5.1 At its meeting on the 24th May 2010 the Licensing Committee approved the release of a proposed Statement of Licensing Principles for consultation. This report brings back to the committee the findings of the consultation together with officer comments and recommendations. A copy of the comments received is provided in Annex A.

5.2 A copy of the amended Statement of Principles, which includes the officer recommendations, is provided in Annex B.

5.3 The Licensing Committee are now being asked to note the comments received from the consultation exercise, to note the officer comments, to approve the officers recommendations and that the revised policy is presented to Full Council at their meeting on the 16th November 2010 with a recommendation that the revised policy is adopted..

5.4 The consultation included the persons listed below:

- The chief officer of police for the area;
- The fire and rescue authority for the area;
- Persons/bodies representative of local holders of premises licences.
- Persons/bodies representative of local holders of club premises certificates;
- Persons/bodies representative of local holders of personal licences;
- Persons/bodies representative of businesses and residents in the area.
- All Ward Councillors, Town Councils and Parish Councils

5.5 The Government's guidance states that the views of all these persons/bodies listed should be given appropriate weight when the policy is determined.

5.6 The Government's guidance also states;

- All statements of policy should begin by stating the four licensing objectives, which the licensing policy should promote.

- While statements of policy may set out a general approach to making licensing decisions, they must not ignore or be inconsistent with provisions in the 2003 Act.
- No statement of policy should override the right of any person to make representations on an application or to seek a review of a licence or certificate where provision has been made for them to do so in the 2003 Act.
- Policies should make it clear that licensing is about regulating licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the 2003 Act.
- The conditions attached to various authorisations will be focused on matters which are within the control of individual licensees and others with relevant authorisations i.e. the premises and its vicinity. Whether or not incidents can be regarded as “being in the vicinity” of licensed premises is a question of fact and will depend on the particular circumstances of the case. In judging vicinity the licensing authority should focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- The statement of policy should also make it clear that licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises.
- Statements of licensing policy should include a firm commitment to avoid attaching conditions that duplicate other regulatory regimes as far as possible.
- Statements of policy, should express the intention to establish protocols with the local police and the other enforcing authorities.

Further information of what should be contained in a Statement of Licensing Policy can be found in the Government’s “Guidance issued under section 182 of the Licensing Act 2003”. The guidance can be seen at the following website address:

www.culture.gov.uk/

6 RISK MANAGEMENT

6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

7 RATIONALE

7.1 The rationale for this report stems from a statutory duty on the Council to review its Statement of Licensing Policy every three years.

8 OTHER OPTIONS CONSIDERED

8.1 None.

9 CONSULTATION

9.1 An extensive consultation exercise was carried out as in accordance with Government guidance and included all bodies listed in paragraph 5.4 above.

9.2 The comments received from the consultation exercise are listed in Annex A.

10 ADVICE SOUGHT

10.1 The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Resources Director) have had the opportunity to input to this report and have cleared it for publication.

Contact person	Andrew Jones, Licensing Manager. Telephone: 01225 477557
Background papers	The Licensing Act 2003 Revised Guidance issued under s.182 of the Licensing Act 2003.
Please contact the report author if you need to access this report in an alternative format	

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
1.	Ian Perkins Federation of Bath Residents Associations	1.2	We are pleased to see that improving the quality of life for residents and increasing the attractiveness of the area to visitors is recognised as a purpose of the policy. The document needs to indicate how improvements in respect of these two groups will be monitored. If the policy is not to monitor that should be made clear.	It is a Statement of policy not a means to evaluate the impact of the Licensing Act 2003. The licensing authority already facilitates the improvement of the quality of life to residents and the attractiveness of the area by ensuring that it makes balanced decisions on applications. It also works in partnership with the Police in enforcing conditions and giving advice and assistance both to residents and to licence holders. Para 21 contains details on enforcement.	No change
		1.3 and 1.4	We note the Council objective in 1.3 of increasing the number of establishments open in the evening, but see no evidence for the hope you express in 1.4 that this will encourage greater use of licensed premises in the evening by people of all ages and groups, and reduce crime. The nature and quality of the offer is more relevant to the objective and these considerations are broader than the 4 paramount objectives of licensing set out in the legislation but we believe they should be covered in this policy document, to give the implementation of policy a local context. In themselves the 4 objectives are about avoiding negative outcomes. They should be seen explicitly in a context of promoting quality of provision in a World Heritage city.	The Act is clear on the licensing objectives and that it is only these which Licensing authorities should take into account when determining applications. The licensing objectives are not related to the quality of provision. Refer also to the above.	No change
		6.7	The quality of resident and visitor experience depends on effective enforcement of the full range of statutory conditions. The document should explain how this is to be achieved. It is the customer experience, and that of neighbours, that counts and that justifies the range and cost of statutory interventions.	The Licensing Act 2003 and case law is clear that, where other statutory controls exist, then there should not be any regulatory duplication. Para 6.7 is clear in that it is not necessary to impose the same or similar statutory controls.	No change
		13.1	It has been repeatedly suggested that the authorities in Bath should put together a vision for the night-time economy, which licensing policy could then seek to implement. We understand that the Council is now looking at this and it should be mentioned here, whether the vision is complete by the time of publication or not.	The Council is currently considering a vision for the night time economy in Bath and, if implemented, will complement its Statement of Licensing Policy but will form no part of it.	No change
		14.1	The document needs to explain what integration has been achieved between these various strategies and note successes and indicate outstanding issues. Otherwise it tells us nothing.	It is a Statement of policy not a means to evaluate the impact of the Licensing Act 2003, or how strategies, unconnected with Licensing, are evaluated.	No change

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
		16.17	These examples could also include a restriction of the area within the premises in which alcoholic drinks may be consumed, and a requirement that drinks should be served by waiter/waitress service, rather than to customers standing at a bar.	The list is not exhaustive and each application is taken on its own merits.	No change
		17	A new section should be inserted. Applicants for premises licences should be encouraged by the Licensing Department to discuss their proposals with local residents before any application is made. In many cases, residents' concerns can be met by some modification of the proposal, and the delay and cost of a hearing thereby avoided. Even if this cannot be made a statutory requirement, we think the licensing policy should encourage applicants and licensing agents, who have much influence on applicants, to follow this approach.	There is no statutory requirement that Licensing Authorities facilitate such discussions. See also para 17.4 and 17.5/.	No change
		18.2	Whilst staggered closing times can help to reduce friction in the evening, we doubt whether anyone outside the licensed trade still believes that later hours are a positive way of managing the night-time economy. This paragraph needs to recognise that later closing inevitably leads to later noise and disturbance on the streets, which increases problems for residents.	Flexible hours allow for a more gradual dispersal of customers from premises and therefore reduce the impact of anti social behaviour and disorder. There is no general presumption in favour of lengthening licensing hours and this Policy states, at Paragraph 18.4, that zoning is to be avoided on the grounds that it could lead to significant numbers of people moving across boundaries and causing problems.	No change
		36.6	To have any practical impact this paragraph needs to indicate what criteria the licensing authority will use in judging balance.	Each application is determined on its own merits (Para 6.3) and the licensing objectives are paramount. In this regard the Licensing Authority will consider the evidence put forward by the parties.	No change
		37.11	We believe it should be explained that the Portman Group is a group of large drinks companies, and speaks on their behalf.	It is understood that the Portman Group provide independent advice on best practice. The Portman Group is funded by several drinks companies as is Drinkaware, another independent advisory body.	It is recommended that Drinkaware is included in this paragraph and the removal of the last sentence.

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
2.	John Barnes Strategic Planning Manager Children Services	Section 7.1	Children services	The list can be amended to show that responsible authorities have been consulted which would include Children's Services.	Amend the list to show that all responsible authorities have been consulted. Delete references to the Police and Fire Service as this is superfluous
		Section 8.1	Children Act 1989- This is the main legislation which governs services to children including children in need , children in care and children at risk of harm	There is no general duty imposed by the Children Act 1989 to consider the welfare of the child unlike the other statues in this paragraph.	No change
		Section 12.1	Every Child Matters – This the overall programme of the development of services to children .It is based on the Five Outcomes which are identified by children as being the most important for their lives Being Healthy Staying Safe Making a positive contribution Economic well being Enjoying and achieving	The list in the paragraph 12.1 relates to licensing and the welfare of children is implicit in these strategies.	No change
		Section 13.	The Children and Young People's plan .This is the basis of the services that are provided to children locally and sets out the objectives and principles for children locally. They are guided by the Department of Education's five outcomes for children in which staying safe and being healthy are the most relevant to the Licensing objectives.	This is the Council's policy dealing with the provision of services to children and their families and is outside the scope of this policy.	No change
		Section 14.3	The action plan of the Local safeguarding Children's board which plans for all of the areas where children's safety is needed to be improved.	As above	No change
		Section 16.19	The cumulative approach and measures that could be taken to control cumulative impact. Measures to control the alcohol sold to young people .There should be one person who should hold the responsibility for the protection of children on the premises and who would take responsibility for children and young people's welfare while they are on the premises	The cumulative impact (CI) policy is concerned with the potential impact of a number on the licensing objectives of a significant number of licenced premises concentrated in a given area. The suggested condition would not address the broad matters with which the CI policy is designed to deal with.	No change
		Section 23.17	These may include Processes to ensure that alcohol is not sold or provided to children or young people	This examples can be included.	Amend the paragraph to include the two examples

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
		Section 37.4	Not marketing alcohol so that it is attractive to young people Not allowing adult entertainment when children or young people are present Ensuring that staff are aware of the safety, health and welfare of children while they are on licensed premises. (Please see advice for applicants regarding the safeguarding of children).	This is a national issue and would also be difficult to enforce, so will not be included. This example can be included.	
		Section 37.7	Clearly this relaxation places additional responsibilities upon licence holders to safeguard the welfare of children while they are on their premises .However it is also If there were a member of staff who had convictions against children and children were known to be visiting the premises.	This is covered by Health and Safety legislation and would also be difficult to enforce, so will not be included. This issue is beyond the scope of the Act.	No change
		Section 38	This section deals with the admission of children and young people to cinemas .Is there also a need to ensure that the sale of DVD's and games which are restricted by age are also controlled ?	As above	No change
3.	Councillor N Coombes Bathwick Ward	Section 16	Regarding the draft statement of licensing policy, I have the following observations: I feel that the cumulative impact policy is unnecessary and ineffective. The methods outlined in 16.19 are sufficient and as such the cumulative impact policy should be revoked.	The cumulative impact policy (CIP) was adopted by Council following evidence provided by the Police and Primary Care Trust. Government guidance requires that where a CIP is in place the authority must continually review its impact and to date no evidence has been provided to justify the removal of the policy.	No change
		Section 42.3 b + e	I support the addition of these provisions	Noted.	No change

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
4.	The Abbey Residents Association	<p>Context of the Consultation</p> <p>Targets and Goals</p>	<p>It is slightly unfortunate that this consultation is taking place at this time given the coalition government commitment in the Queen's speech to introduce new legislation in this area.</p> <p>According to the No 10 web site the new Bill will contain:</p> <ul style="list-style-type: none"> _ the power for directly elected individuals to hold the police to account, ensuring that local policing activities meet the needs of the local community; _ Amended health and safety laws that do not stand in the way of "common sense" policing (there are no clues as to what "common sense" means); _ Overhaul of the Licensing Act 2003 to give local authorities and the police much stronger powers to remove licences from, or refuse to grant licences to, any premises that are causing problems; _ banning the sale of alcohol below cost price; _ allowing local councils to charge more for late-night licences to pay for additional policing; _ giving local councils powers to shut down shops or bars persistently selling to children; _ increasing the maximum fine for selling to children to £20,000 <p>These are all changes which TARA supports in principal and which would require much of the proposed new policy to be redrafted.</p> <p>Both the old and new policy statements make reference to targets the policy sets out to achieve, some explicit and some implied. It would be useful in evaluating the proposed new policy to have information about how successful the old policy was in achieving the goal it set for the Licensing Authority.</p> <p>The new policy statement, and the old policy statement, often imply goals and targets without suggesting how its effectiveness at a means of achieving them will be measured. For example:</p> <p>"The Licensing Authority aims to facilitate the development of a healthier economy in Bath and North East Somerset that feels both safe and offers diverse cultural activities to enable a broad age range of people to enjoy themselves whilst at the same time improving the quality of life of residents and increasing the attractiveness of the area to visitors."</p>	<p>These issues are beyond the scope of the policy</p> <p>It is a Statement of policy not a means to evaluate the impact of the Licensing Act 2003. The licensing authority already facilitates the improvement of the quality of life to residents and the attractiveness of the area by ensuring that it makes balanced decisions on applications. It also works in partnership with the Police in enforcing conditions and giving advice and assistance both to residents and to licence holders.</p>	<p>No change</p> <p>No change</p>

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
		The Purple Flag	How will the quality of life of residents be measured? Reference is made to the Purple Flag but no explanation is offered as to how this policy will support the ongoing achievement of Purple Flag standards.	The policy is designed to facilitate the continued improvement and attractiveness of Bath in terms of entertainment and hospitality in order to retain its Purple Flag status.	No change
		Southgate	The reference to the Southgate fails to explain how the Licensing Authority will operate in relation to this development going forward.	The Southgate development is part of Bath to which the policy applies.	No change
		Relationship with Planning Policy	No attempt has been made to resolve this inherent conflict between licensing policy and planning policy or indeed other strategic policy processes. We are not aware of any legal barrier preventing the Licensing Authorities attempting to do this within its policy statement. This is of particular significance in relation to the Cumulative Impact Policy and to assist with this we attach an opinion we have receive from leading counsel on the de facto relationship.	It is beyond the scope of this policy to address planning and other policies. It is not clear why the CI is referred to here.	No change
		Licensing Objectives	This policy document does not explain how the licensing objectives will be measured nor how well the old policy succeeded in achieving them and therefore how this policy might have been shaped by that performance. The policy document does not explain how the licensing authority interprets these objectives, set nationally, in the local context.	It is a Statement of policy not a means to evaluate the impact of the Licensing Act 2003. It is a matter for the Court to interpret statutory provisions.	No change
		General Principles	The quality of resident and visitor experience depends on effective enforcement of the full range of statutory conditions. The document should explain how this is to be achieved. It is the customer experience, and that of neighbours, that counts and that justifies the range and cost of statutory interventions.	It is a Statement of policy not a means to evaluate the impact of the Licensing Act 2003. The licensing authority already facilitates the improvement of the quality of life to residents and the attractiveness of the area by ensuring that it makes balanced decisions on applications. It also works in partnership with the Police in enforcing conditions and giving advice and assistance both to residents and to licence holders. Para 21 contains details on enforcement.	No change
			Where the licensing authority seeks to rely on other legislation or statutory obligations it should give due consideration to how onerous enforcement of that legislation is particularly when the most likely to be affected by any breaches are individuals. Noise nuisance is a good example, since Environmental Protection	The imposition of conditions is unnecessary and disproportionate where there are duplications of other statutory regimes.	No change

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
			<p>officers cannot or will not be proactive in enforcement, individuals affected by noise nuisance face a lengthy, onerous and bureaucratic procedure to get the nuisance addressed. This burden would be lifted if proper noise control conditions were attached to the premises licence.</p>		
		Relationship with the planning process	<p>Many applicants, rightly or wrongly, seem to operate under a belief that planning permission particularly as it relates to hours can be used to pressure the licensing process and visa versa and we think this policy should make it clear that this is not the case</p>	<p>The relationship between planning and licensing is dealt with fully in paragraph 9 of the policy.</p>	No change
		Integrating Strategies	<p>The document needs to explain what integration has been achieved between these various strategies and note successes and indicate outstanding issues. Otherwise it tells us nothing</p>	<p>It is a Statement of policy not a means to evaluate the impact of the Licensing Act 2003. The Licensing Authority has regard to integrating strategies as set out in paragraph 14 when determining applications.</p>	No change
		Cumulative Impact Policy	<p>We are pleased see 'needs of local community' added to the list of 'matters the licensing authority will have regard to'.</p> <p>Why do the Council's findings on Cumulative Impact, arrived at after thorough and exhaustive review, play no part at all in planning policy for the city centre and in decisions of the Local Planning Authority? There is no mention of cumulative impact in the Local Plan. Why not?</p>	<p>The Council's Local Plan is beyond the scope of this policy.</p>	No change
		Suggested additions to operating schedules	<p>The list of standard conditions for Cumulative Impact Areas is welcome. Conditions 2 and 10 could usefully be amended to read: 'SIA registered door staff (numbers to be stated) shall be on duty at (times to be stated) to supervise entry to and exit from the premises at busy times. Among their duties will be to ensure that customers gathering at or near the premises entrance are not excessive in number, do not litter or obstruct the pavement or highway and do not make such noise as is likely to disturb residents and others in the neighbourhood'.</p>	<p>The list in the policy contains suggestions only and is not exhaustive.</p>	No change
			<p>'The Licensing Authority will expect all licensed premises to take a socially responsible approach by participating in schemes such as Bath Night Watch or similar...' This is an empty expectation as it cannot be consistently enforced by the Licensing Authority unless there is an</p>	<p>As above.</p>	No change

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
		<p>Other mechanisms for controlling cumulative impact</p> <p>Local Amenity</p> <p>The Portman Group</p>	<p>application for a new licence or a licence variation or through review of all the seventy-odd licenses that have been granted in the city centre.</p> <p>The use of “other mechanisms” includes</p> <ul style="list-style-type: none"> * Planning controls * Police enforcement of the 'general law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices for relevant offences.' * The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to persons who are drunk'. We would be interested to know how often has this happened? * Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.' How often has this happened? <p>All these appear unenforced or unenforceable or both.</p> <p>To have any practical impact this policy needs to indicate what criteria the licensing authority will use in judging the balance between “the legitimate aspirations of the entertainment industry and the needs of the Residents”.</p> <p>We believe it should be explained how the Portman Group is funded and whom it seeks to represent</p>	<p>A number of the mechanisms are beyond the control of the licensing authority who work in partnership with the Police to enforce conditions and giving advice and assistance both to residents and to licence holders. Para 21 contains details on enforcement.</p> <p>Each application is determined on its own merits (Para 6.3) and the licensing objectives are paramount. In this regard the Licensing Authority will consider the evidence put forward by the parties.</p> <p>It is understood that the Portman Group provide independent advice on best practice. The Portman Group is funded by several drinks companies as is Drinkaware, another independent advisory body.</p>	<p>No change</p> <p>No change</p> <p>It is recommended that Drinkaware is included in this paragraph and the removal of the last sentence.</p>
5.	David Batho Chair Claverton Parish Council	Claverton Parish Council is broadly in agreement with the amended Statement of Licensing Policy but wish to	We share B&NESs aspiration for development of a healthier economy which feels safe and offers diverse activities to all. However, the above paragraphs appear to suggest that development of the area, by increasing the number of establishments, will reduce <i>fear</i> of alcohol	The licensing authority works in partnership with the Police in enforcing conditions and giving advice and assistance both to residents and to licence holders with a view to reducing the fear and incidents of alcohol related crime and disorder.	No change

Number	Person making representation	Paragraph of policy	Comment	Officer response	Recommendation
		comment on paragraphs 1.2, 1.3 and 1.4 of the Introduction.	<p>related crime and anti-social behaviour.</p> <p>We feel that increasing the number of establishments will reduce neither the <i>fear</i>, nor the <i>incidence</i> of, alcohol related crime and anti-social behaviour.</p> <p>It is one thing to promote development of the area. However, we feel that it is imprudent to suggest or, as is stated at 1.4, <i>hope</i> that realisation of such a goal will bring about a safer environment.</p>		
6.	<p>Martin Purchase</p> <p>Liquor Licensing Officer</p> <p>Bath Police Station.</p>		<p>The Police view is that the policy remains effective and serves the needs of promoting the management of the licensing regime and strikes a balance alongside other policies designed to achieve the same agenda.</p> <p>The cumulative impact policy as outlined within the BANES Licensing Policy has proved itself to be an effective measure that has ensured that controls and balances on new and variation applications within the stress area are placed within operating schedules, providing measures that seek to negate the impact of the proposed application. Applicants and their legal representatives contact responsible authorities and interested parties as a direct result of the policy to ensure that the measures they are proposing are considered to be effective measures to negate the impact, this has the desired effect of furthering the licensing objectives. This is a very effective tool in the management of the application process.</p>		<p>No change</p> <p>No change</p>

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STATEMENT OF LICENSING POLICY

1 Introduction

- 1.1 Bath and North East Somerset Council (the Council), is the Licensing Authority for Bath and North East Somerset under the Licensing Act 2003 (the Act). This means the Council is responsible for granting Premises Licences, Personal Licences, and Club Premises Certificates, in respect of the sale and/or supply of alcohol and the provision of regulated entertainment and late night refreshment. It is also responsible for receiving Temporary Event Notices.
- 1.2 The Licensing Authority aims to facilitate the development of a healthier economy in Bath and North East Somerset that feels both safe and offers diverse cultural activities to enable a broad age range of people to enjoy themselves whilst at the same time improving the quality of life of residents and increasing the attractiveness of the area to visitors.
- 1.3 In partnership with other agencies and interested parties, the Council as the Licensing Authority, seeks to develop the area with a view to increasing the number of establishments, including coffee shops and restaurants, which are open and available to the public in the evening.
- 1.4 It is hoped that realisation of this goal will reduce fear of crime including alcohol related crime and anti-social behaviour and consequently encourage greater use of facilities throughout the district and in the evening by people of all ages, all income groups and all social groups.
- 1.5 Bath and North East Somerset was the first Council in the South West to be awarded a Purple Flag in January 2010. The award was granted by the Association of Town Centre Management and is the new "gold standard" that recognises safer and more appealing town and city centres at night. The Purple Flag status also provides external recognition for cities that offer a great diversity of entertainment and hospitality to a wide range of age groups. This achievement highlights the effective multi-agency work in place to enhance the night time economy of Bath, and therefore the need to maintain these standards through sustained partnership working in the future.
- 1.6 The Council has worked in partnership to bring to Bath a modern shopping destination at Southgate, with classic Georgian-style open streets, and public spaces. Southgate Bath has over 55 new stores including a mix of retail, eating, entertainment, and residential properties.
- 1.7 The Act requires the Licensing Authority to publish a 'Statement of Licensing Policy' that sets out the policies the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act. This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Act and having regard to the Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act (the Guidance).

- 1.8 Licensing is about regulating the use of premises, including qualifying clubs, for licensable activities and temporary events within the terms of the Act.
- 1.9 Any conditions which are attached to the various authorisations will be focused on matters which are within the control of individual licensees and others in possession of relevant authorisations on licensed premises. Accordingly, these matters will centre on the premises being used for licensable activities and the vicinity of those premises.

2 Purpose

- 2.1 The purpose of this policy is to assist and inform those involved in the decision making process and those who may be affected by such decisions.
- This policy will provide the decision makers with parameters under which to make their decisions.
 - This policy will inform applicants of the parameters under which the Licensing Authority will make decisions, and therefore how a licensed premise is likely to be able to operate within Bath and North East Somerset. Each case will, however, be determined on an individual basis.
 - This policy will inform residents and businesses of the parameters under which the Licensing Authority will make licence decisions, and therefore how their needs will be addressed.
 - This policy will provide the courts with the basis upon which decisions were reached.
 - Where it is necessary to depart from the Guidance in considering a particular application the Licensing Authority will give reasons.
 - This policy will be regularly reviewed by the Licensing Authority in accordance with the requirements of the Act or as the Authority deems necessary.

3 Licensing objectives

- 3.1 Section 4 of the Act provides that it is the duty of all Licensing Authorities to carry out their various licensing functions with a view to promoting the four licensing objectives laid down in the Act. The licensing objectives are:
- 1 The prevention of crime and disorder;**
 - 2 Public safety;**
 - 3 The prevention of public nuisance;**
 - 4 The protection of children from harm.**

- 3.2 Each objective is of equal importance; there are no other licensing objectives so these four objectives are paramount considerations at all times.
- 3.3 When considering applications/representations the Licensing Authority will have regard to these licensing objectives. Where appropriate the Licensing Authority will make exceptions to its own policies and give reasons for doing so.

4 Types of Licence

- 4.1 This policy will be taken into account by the Licensing Authority when carrying out its licensing functions under the Act and in relation to:

Premises Licences;
Club Premises Certificates;
Personal Licences;

and when considering notifications made in respect of:

Temporary Event Notices.

5 Licensable Activities

- 5.1 The term “Licensable Activities” is defined by the Act.

Licensable Activities are:

- the sale by retail of alcohol;
- the supply of alcohol by or on behalf of a club to, or to the order of, a member of the club;
- the provision of regulated entertainment; and
- the provision of late night refreshment.

6 General Principles

- 6.1 Decisions

Many minor or routine matters may be determined by the Licensing Officer; other decisions will be referred to the Licensing Committee for determination. These decisions are made in accordance with the table of delegated functions found at page 36 of this Policy.

- 6.2 The Licensing Committee is not a court of law and may seem informal in comparison with such proceedings. For example the rules of evidence do not normally apply and evidence is not taken on oath. Nevertheless, in determining licensing matters the Committee will follow judicial principles to ensure that a fair and orderly hearing is given to each application/representation.

- 6.3 Each case will be considered on its own merits and nothing in this Policy shall undermine this principle.
- 6.4 The review of a Premises Licence or a Club Premises Certificate can be requested by an Interested Party or a Responsible Authority subject to conditions as indicated in paragraph 45 (Reviews).
- 6.5 Applicants for Premises Licences and Club Premises Certificates will be expected to set out how they intend to promote the Licensing objectives and what measures they intend to employ to ensure compliance with them.
- 6.6 In order to avoid duplication with other statutory regimes the Licensing Authority will seek to use the most appropriate method of dealing with a particular issue. Subject to the provisions of paragraph 20 (Conditions) the only conditions which should be imposed on a Premises Licence or Club Premises Certificate are those which are necessary, proportionate and reasonable for the promotion of the licensing objectives.
- 6.7 Accordingly if other controls are available because the law already places certain statutory responsibilities on an employer or operator of premises (such as in relation to Health and Safety) it cannot be necessary to impose the same or similar duties on the Premises Licence holder or club. For example, conditions relating to noise nuisance would not normally be necessary where the provisions of byelaws or of other legislation such as the Environmental Protection Act 1990 protect those living in the vicinity of the premises in question. Where adequate protection is not available conditions subject to the provisions of paragraph 20 may be considered appropriate.
- 6.8 Applicants may suggest and are encouraged to suggest appropriate conditions in their operating schedules.
- 6.9 Where the Act provides for mandatory conditions to be included in a Premises Licence the Licensing Authority has a duty to include those conditions on the licence.
- 6.10 Subject to paragraph 43 (Relevant Representations) anyone wishing to make representations in respect of an application will be required to relate their objection to one or more of the licensing objectives before the Licensing Authority will be able to consider it.

7 Consultees

- 7.1 Before determining this policy the Licensing Authority has consulted with various bodies including:
- All Responsible Authorities;
 - Representatives of local holders of Premises Licences, Club Premises Certificates.
 - Representatives of businesses and residents of the area.
 - All Ward Councillors and Town and Parish Councils.

LEGISLATION, POLICIES AND STRATEGIES

8 Legislation

- 8.1 In undertaking its licensing function under the Act, the Licensing Authority is also bound by other legislation, including:
- Section 17 of the Crime and Disorder Act 1988;
 - Human Rights Act 1998.
 - Race Relations Act 1976, as amended by the Race Relations (Amendment) Act 2000.
- 8.2 The impact of this policy will be monitored through the Council's equality policies.

9 Relationship with Planning Policies

- 9.1 The Licensing Authority recognizes that Licensing and Planning are separate regimes. Where an application is granted by the Licensing Authority which would require planning permission this would not relieve the applicant of the need to obtain that permission. It will still be necessary, for the applicant to ensure that he/she has all the necessary permissions in place to enable them to run the business within the law.
- 9.2 There will, however, be a clear separation of the Planning and Licensing regimes to avoid duplication and inefficiency. Therefore, any decision made under the Licensing Act will not take into consideration the need for planning permission.
- 9.3 The Licensing Authority recognises that licensing applications should not be seen as a re-run of the planning application process as different considerations will apply.
- 9.4 In addition, if an application is granted by the Licensing Authority which involves a material alteration to a building, this would not relieve the applicant of the need to apply for planning permission.

10 Relationship with Building Control

- 10.1 The Licensing Authority recognizes that Licensing and Building Control are separate regimes. Where an application is granted by the Licensing Authority which involves a material alteration to a building, this would not relieve the applicant of the need to obtain building control approval.

11 Provisional Statements (and the relationship with planning policies and building control).

- 11.1 Further guidance is given below and in paragraph 25 regarding Provisional Statements generally.

- 11.2 In relation to planning and building control it should be noted that any decision of the Licensing Authority on an application for a provisional statement would not relieve an applicant of the need to obtain any necessary planning permission, listed building consent or building control approval before any development takes place.

12 National Strategies

- 12.1 The Licensing Authority will also seek to discharge its responsibilities identified by other Government strategies, so far as they impact on the objectives of the Licensing function. These will include:
- Action Plan for Tackling Alcohol Related Crime, Disorder and Nuisance;
 - Safer Clubbing;
 - Professional Guidance as to best practice on test purchasing;
 - Alcohol Harm Reduction Strategy.

13 Local Strategies and Policies

- 13.1 Where appropriate, the Committee will take into account local strategies and policies. These will include:
- Sustainable Community Strategy
 - Community Safety Plan

14 Integrating Strategies

- 14.1 The Licensing Authority has endeavoured to secure proper integration with local strategies such as local crime prevention, planning, transport, tourism, race equality schemes and cultural strategies.
- 14.2 There are a number of wider issues which may need to be given due consideration when dealing with applications. These may not directly relate to the four licensing objectives, but may impact upon them. However, on any application under the Licensing Act the four licensing objectives will remain paramount in the application of this policy.
- 14.3 Where appropriate, the Licensing Authority will have regard to:
- local crime prevention strategies;
 - needs of the local tourist economy;
 - cultural strategy for the area;
 - employment situation in the area and the need for new investment and employment where appropriate;
 - planning considerations that might affect licensed premises;
 - needs of the local community

- the duty on Public Authorities to eliminate unlawful discrimination; and to promote equality of opportunity and good relations between persons of different racial groups.
- the Economic Strategy
- the policy on cumulative impact.

15 Regulated Entertainment

- 15.1 In its role of implementing Council cultural strategies, the Licensing Authority recognises the need to encourage regulated entertainment such as live music, dance and theatre for the wider cultural benefit of the community.
- 15.2 When considering applications for such events and the imposition of conditions on licences or certificates, the Licensing Authority will carefully balance cultural needs with the necessity of achieving the promotion of the licensing objectives.
- 15.3 The Licensing Authority monitors the impact of licensing on the provision or lack of provision of regulated entertainment, and particularly live music and dancing.
- 15.4 The Licensing Authority will ensure that only necessary, proportionate and reasonable licensing conditions are imposed on such events.
- 15.5 As a matter of general policy the Council intends to continue to seek Premises Licences from the Licensing Authority for public spaces, within the local community, in their own name. This may include for example; village greens, markets, promenades, community halls, parks, Council owned art centres and similar public spaces. In this instance performers and entertainers would require the permission of the Council as the Premises Licence holder rather than a premises licence.

16 Cumulative Impact Policy

- 16.1 Cumulative impact is not mentioned specifically in the Act but the Guidance to the Act states that cumulative impact is the potential impact, on the promotion of the licensing objectives, of a significant number of licensed premises concentrated in one area. This collective effect is known as “cumulative impact”. The Guidance further states that the cumulative impact of licensed premises, on the promotion of the licensing objectives, is a proper matter for a licensing authority to consider in developing its statement of licensing policy.
- 16.2 Where the number, type and density of premises selling alcohol for consumption on the premises are unusual, serious problems of nuisance and disorder can arise in the vicinity of those premises. Where a number of licensed premises are grouped together, and particularly where they may be situated near residential areas, the problem can be compounded. The distribution of late night premises may be such as to warrant special action by the licensing authority to combat exceptional problems of crime and disorder and public nuisance over and above the impact of individual premises.

Steps taken in considering a cumulative impact policy

16.3 The steps that this Licensing Authority has taken in considering whether to adopt a cumulative impact policy within the statement of licensing policy are summarised below:-

- Identification of the concern about public nuisance and crime and disorder
- Consideration as to whether there is good evidence that public nuisance and crime and disorder is occurring, and is caused by the customers of licensed premises, or that the risk of cumulative impact is imminent
- Identification of the boundaries of the area where problems are occurring
- Consultation with those specified in section 5(3) of the 2003 Act and, subject to the outcome of the consultation,
- Inclusion and publication of the details of a cumulative impact policy to be included in the Statement of Licensing Policy

Evidence of cumulative impact

16.4 The Bath and North East Somerset Community Safety and Drugs Partnership (CSDP) collated information which demonstrated that, in Bath City Centre, “a defined temporal and geographic area experiences a significantly greater degree of alcohol related crime and disorder than the remainder of the authority area” and that Bath City Centre can be defined as experiencing a significant amount of alcohol related crime.

16.5 At the meeting on the 18th January 2007 Council considered the report from the CSDP. After considering the available evidence Council resolved to consult on the proposed area outlined in Appendix 1 of the CSDP’s report. Having consulted with those individuals and organisations listed in section 5(3) of the 2003 Act, the Council resolved, on 13th September 2007, that the evidence contained within the report was sufficient to justify the preparation of a cumulative impact policy for inclusion in the Council’s Statement of Licensing Policy. At a meeting on the 20th April 2009 the Licensing Committee considered a report on the review of the cumulative impact policy and resolved to continue with the policy. A copy of the reports, together with the Minutes of the meetings, can be seen at any of the Council’s libraries or on the Council’s web site at the following address:-

www.bathnes.gov.uk

16.6 The area identified for the cumulative impact policy is outlined on the map in Appendix A of this document (the Cumulative Impact Policy Area).

The effect of a cumulative impact policy

- 16.7 The effect of adopting a cumulative impact policy is to create a rebuttable presumption that applications for new premises licences, club premises certificates or variations will be refused if relevant representations are received. If the application is not to be refused then the applicant will have to demonstrate that the operation of the premises will not add to the cumulative impact already being experienced.
- 16.8 The licensing authority will expect the applicant to address the issues surrounding cumulative impact in their operating schedule in order to rebut such a presumption. See paragraph 16.17 below for suggested conditions.
- 16.9 However, this presumption does not relieve Responsible Authorities or Interested Parties of the need to make a relevant representation before the licensing authority may lawfully consider giving effect to its cumulative impact policy in a particular case.
- 16.10 After receiving representations in relation to a new application or a variation of a licence or certificate, the licensing authority will consider whether it would be justified in granting a licence or variation in the light of the individual circumstances of the case. The impact can be expected to be different for premises with different styles and characteristics. For example, while a large nightclub or high capacity public house might add to problems of cumulative impact, a small restaurant or a theatre may not.
- 16.11 The licensing authority will consider the individual merits of any application, together with the relevant representations made and, where it considers that, to grant the application would be unlikely to add significantly to the cumulative impact having regard to the licensing objectives, the authority will grant the application.
- 16.12 If the licensing authority decides that an application should be refused, it will still need to show that the grant of the application would undermine the promotion of one of the licensing objectives and that necessary conditions would be ineffective in preventing the problems involved.
- 16.13 If there are no representations, the licensing authority must grant the application in terms that are consistent with the operating schedule submitted.
- 16.14 Where an application for a review is received by the licensing authority, the cumulative impact policy will not be used as a ground for revoking an existing licence or certificate. The cumulative impact on the promotion of the licensing objectives of a concentration of licensed premises should only give rise to relevant representations where an application for the grant or material variation of a premises licence or certificate is being considered. A review must relate to individual premises and by its nature, cumulative impact is related to the concentration of many licensed premises in one area.

- 16.15 The licensing authority will regularly monitor the impact of this cumulative impact policy to assess whether it is no longer needed or needs to be modified or expanded.

Suggested additions to operating schedules

- 16.16 If an application for a licence is made for a premises within the defined area of the cumulative impact policy the licensing authority will expect the applicant to demonstrate, in their operating schedule, the steps that they will take to prevent problems relating to nuisance and public safety and the steps to be taken to promote the reduction of crime and disorder.
- 16.17 A range of measures that the licensing authority would wish to be included on a premises licence application within the cumulative impact area would depend on the nature and type of premises within the application and would need to be individual to that premises, examples are:-
- CCTV at the premises to be properly maintained.
 - Security Industry Authority (SIA) door staff.
 - Toughened or plastic glass, no bottles.
 - Free calls to taxi firms for departing customers at the end of the night.
 - Outside areas to be cleared at a reasonable time (time to be stated)
 - Signs to be displayed at each exit to encourage patrons to minimise noise and not to congregate in the street at close
 - To contribute to the street marshal scheme.
 - To be a member of the local Pub watch.
 - No open containers of alcohol to leave the premises.
 - To supervise entry and exit of the customers from the premises at busy times.
 - Facilities for people to dispose of cigarette ends and provisions for reducing noise from people smoking outside the premises.
 - A limit on the number of customers permitted on the premises at one time.
 - A requirement that the public spaces in the premises should be predominately seated.

This list is not exhaustive, and is only intended to provide a brief description and guide to applicants.

- 16.18 The Bath Night Watch scheme is a culmination of Bath and North East Somerset Council, Bath Pub Watch and the Police working together to promote the four licensing objectives as one co-ordinated stakeholder group.

The Licensing Authority will expect all licensed premises within the Cumulative Impact Area to take a socially responsible approach by participating in schemes like 'Bath Night Watch', or similar, which improve issues of alcohol-associated anti-social behaviour in and around city centre licensed premises at night.

The Licensing Authority also encourages all premises, outside the cumulative impact area, to take a similar approach, which would improve the issue of alcohol-associated anti-social behaviour outside the city centre at night.

Other mechanisms for controlling cumulative impact

- 16.19 The licensing authority will encourage the use of other mechanisms for controlling problems caused by customers behaving badly and unlawfully once away from licensed premises. For example:-
- Planning controls.
 - Positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the Council.
 - The provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols.
 - The Council has a Designated Public Places Order for Bath as a place where alcohol may not be consumed publicly except where permission has been granted i.e tables and chairs permit.
 - Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices for relevant offences.
 - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk.
 - The confiscation of alcohol from adults and children in designated areas.
 - Police powers to close down instantly, for up to 24 hours, any licensed premises or temporary event on grounds of disorder, the likelihood of disorder or noise emanating from the premises causing a nuisance.
 - The power of the police, other responsible authorities or a local resident or business to seek a review of the licence or certificate in question.

ADMINISTRATION OF LICENSING FUNCTIONS

17 Applications

- 17.1 Incomplete applications will not be accepted. Applications will only be considered where the relevant documentation and the fee accompany them.
- 17.2 The operating schedule will form part of the completed application form for a Premises Licence and should include information which is necessary to enable any responsible authority or interested party to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 17.3 In preparing an operating schedule, the Secretary of State recommends that applicants should be aware of the expectations of the Licensing Authority and the responsible authorities about the steps that are necessary for the promotion of the licensing objectives.
- 17.4 Liaising with interested parties prior to submitting applications is good practice. The Licensing Authority recommends applicants discuss any new proposals with neighbours or any relevant community group such as a local residents'

association, or where the application is in Bath city centre Pubwatch or other such groups, as may be appropriate.

- 17.5 The Licensing Authority encourages applicants to liaise with the relevant authorities prior to submitting their applications, e.g. police or fire authority, when compiling their operating schedules.

18 Licensing Hours

- 18.1 With regard to licensing hours the Licensing Authority will consider each case on its individual merits.
- 18.2 The Licensing Authority recognises that fixed closing times in certain areas can lead to peaks of disorder and disturbance on the streets when large numbers of people tend to leave licensed premises at the same time. Longer licensing hours regarding the sale of alcohol may therefore be considered as an important factor in reducing friction at late night food outlets, taxi ranks and other sources of transport in areas where there have already been incidents of disorder and disturbance.
- 18.3 The Licensing Authority will give due regard to the Guidance in relation to terminal hours and would not wish to inhibit the development of safe evening and night-time local economies.
- 18.4 It is not intended that the Licensing Authority's overall approach to licensing hours will include any form of zoning. Experience in other areas shows that this can lead to the significant movement of people across boundaries in search of premises opening later, and puts greater pressure on communities than is necessary.
- 18.5 Shops, stores and supermarkets should generally be permitted to sell alcohol for consumption off the premises during the normal hours they intend to open for shopping purposes. However, where relevant representations are substantiated in respect of individual shops, a limitation on licensing hours may be appropriate.

19 Vicinity

- 19.1 The term "vicinity" is used in this document, the Act and the Guidance on a number of occasions, but its meaning is not defined in the Act. Whether incidents can be regarded as being "in the vicinity" of licensed premises is a question of fact and will depend upon the particular circumstances of the case. In cases of dispute the question will ultimately be decided by the Courts.
- 19.2 In addressing this matter, the Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living or working in the vicinity.
- 19.3 It should be noted that Licensing functions under the Act are only one means of promoting the delivery of the licensing objectives.

- 19.4 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from the licensed premises and therefore beyond the direct control of the individual, club or business holding the licence, certificate or authorisation concerned. Nonetheless it is a key aspect of such control and will always be part of a holistic approach to the management of the evening and night-time economy in town and city centres.
- 19.5 The Licensing Authority will endeavour to work in partnership with others to promote common objectives.

20 Conditions

- 20.1 The Licensing Authority **may not** impose conditions on or refuse to grant/vary a Premises Licence or Club Premises Certificate **unless** it has received a relevant representation in respect of the application. There will be no standard conditions.
- 20.2 If no relevant representations are received, the application must be granted on the terms sought, i.e. on terms that are consistent with the operating schedule submitted, and no additional conditions can be imposed.
- 20.3 Conditions may only be imposed on licences and certificates where they are necessary for the promotion of one or more of the four licensing objectives. Conditions may not be imposed on licences and certificates for other purposes.
- 20.4 One of the key concepts underscoring the Act is for conditions to be attached to licences and certificates which are tailored to the individual style and characteristics of the premises and events concerned.
- 20.5 Conditions will be applied to licences that are proportionate and appropriate to the business, organisation, or individual premises concerned. The Licensing Authority will principally draw upon the pool of model conditions issued by the Department of Culture, Media and Sport, and attach conditions relative to the given circumstances of each individual case and which are necessary in order to promote one or more of the licensing objectives. The model conditions referred to can be found in the Annexes to the Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act.

21 Enforcement

- 21.1 Enforcement will be in accordance with the Public Protection Service enforcement policy, which is based around the principles of consistency, transparency and proportionality, as set out in the Government's Enforcement Concordat.
- 21.2 The enforcement policy (available on request) proposes that a graduated response is taken where offences against legislation are found, or where licence conditions have been contravened. An isolated administrative offence such as

failing to maintain records may be dealt with purely by way of a written warning. More serious offences which have either been committed over a period of time, or which jeopardise public safety, such as keeping exit routes clear or failing to maintain fire extinguishers properly, may result in the issue of a Formal Caution, or a referral for prosecution.

- 21.3 The Licensing Authority will seek to work actively with the Police in enforcing licensing legislation. The Licensing Authority expects the police to share information about licence holders and licensed premises, under the Crime and Disorder Act 1998 and its common law powers, and to consult closely with the Licensing Authority when any enforcement action may be required.
- 21.4 The Licensing Authority will employ Licensing Enforcement Officers to investigate allegations of unlicensed activities and ensure that licence conditions imposed by the Licensing Authority are met.

22 Drugs Policy

- 22.1 The Licensing Authority recognises that drug use by young people in a club environment is not something that is relevant to all licensed premises.
- 22.2 The Licensing Authority recognises the importance of guidance such as that contained in the document entitled “Safer Clubbing”. “Safer Clubbing” concerns drugs and nightclubs. The Home Office, in conjunction with the Department of Health and the Department for Culture, Media and Sport, produced the Safer Clubbing Guide to provide comprehensive advice for nightclub owners, dance event promoters and existing local authority licensing departments on how to ensure the health and safety of anyone attending dance events in England. The Guide can be viewed in full on www.drugs.gov.uk.
- 22.3 Although “Safer Clubbing” has been directly aimed at late night club venues which have been associated with drug misuse, the safety of people attending events at all licensed premises, which can now operate the type of events at which people are more likely to take drugs, must be ensured.
- 22.4 The Licensing Authority recommends this document to applicants wishing to provide the type of event at which people are more likely to take drugs. It is hoped that the document will be modified to refer to the provisions of the Licensing Act 2003.
- 22.5 Information regarding Safer Clubbing has been reproduced at Annex E of the Guidance issued under Section 182 of the Act.
- 22.6 Where relevant applicants for Premises Licences or Club Premises Certificates should be able to demonstrate that they have had regard to “Safer Clubbing” in preparing operating schedules.

23 Operating Schedules

- 23.1 Applicants for Premises Licences, Provisional Statements and Club Premises Certificates should be aware of the guidance issued by the Licensing Authority in relation to Operating Schedules when submitting their applications.
- 23.2 The Licensing Authority considers the effective and responsible management of the premises, including instruction, training, and supervision of staff and the adoption of best practice to be amongst the most essential control measures for the achievement of all the licensing objectives. For this reason, the Licensing Authority **recommends** that these elements should be specifically considered and addressed within an applicant's Operating Schedule.
- 23.3 The selection of control measures should be based upon a risk assessment of the premises, plus the events, activities and customers expected to attend (e.g. their age, number etc.). Whilst the Licensing Authority cannot require such risk assessments to be documented (other than where required by other legislation), it considers such documentation to be good practice and a useful tool in the management of the premises.
- 23.4 The operating schedule should be prepared by or on behalf of the applicant, in relation to the premises for which a licence is being sought, taking into account the individual style and characteristics of the premises/events.
- 23.5 **The Operating Schedule must include the following:**
- a. details of the relevant licensable activities to be conducted on the premises;
 - b. the times during which it is proposed that the relevant licensable activities are to take place (including any specific non standard timings or seasonal variations);
 - c. any other times when the premises are to be open to the public;
 - d. where the licence is required only for a limited period, that period;
 - e. where the licensable activities include the supply of alcohol, the name and address of the individual to be specified as the Designated Premises Supervisor;
 - f. where the licensable activities include the supply of alcohol, whether the alcohol will be supplied for consumption on or off the premises, or both;
 - g. the steps which the applicant proposes to take to promote the licensing objectives such as the provision of street marshals etc.
 - h. any other prescribed matters.

- 23.6 The Guidance produced by the Secretary of State under Section 182 of the Act recommends that applicants should be aware of the expectations of the Licensing Authority regarding the steps that are necessary for the promotion of the licensing objectives. The following information is provided by way of guidance only in order to assist applicants in the preparation of their Operating Schedules. Such steps should be both realistic and within the control of the applicant/management of the premises.
- 23.7 The Licensing Authority is committed to the **prevention of crime and disorder**.
- 23.8 To this end, applicants will be expected to demonstrate in their operating schedules that suitable and sufficient measures have been identified and will be implemented and maintained to ensure the prevention/reduction of crime and disorder relevant to the individual style and characteristics of their premises and events.
- 23.9 When addressing the issue of crime and disorder, an applicant should demonstrate that the factors that impact on crime and disorder have been considered, for example:
- adoption of best practice guidance (e.g. 'Safer Clubbing', the 'National Harm Reduction Strategy Toolkit', 'Security in Design', and 'Drugs and Pubs');
 - acceptance of proof of age cards e.g. PASS or locally approved schemes;
 - provision of effective CCTV in and around the premises and the availability to the Licensing Authority/Police for the purposes of enforcement of any recordings made;
 - employment of Security Industry Authority (SIA) staff;
 - provision of toughened or plastic drinking vessels;
 - provision of secure deposit boxes for confiscated items such as drugs;
 - provision/maintenance of litter bins;
 - the use of banning procedures where appropriate.
- 23.10 The Licensing Authority is committed to ensuring that the safety of any person visiting or working in licensed premises is not compromised.
- 23.11 To this end, applicants will be expected to demonstrate in their Operating Schedules that suitable and sufficient measures have been identified and will be implemented and maintained to ensure **public safety** relevant to the individual style and characteristics of their premises and events.
- 23.12 When addressing the issue of public safety, an applicant should demonstrate that the factors that impact on the standards of public safety have been considered.

These may include:

- the occupancy capacity of the premises
- the age, design and layout of the premises, including means of escape
- the nature of the licensable activities that are provided
- customer profile.

- 23.13 The following examples of control measures are given to assist applicants who may need to take account of them in their Operating Schedules:
- whether any risk assessment, management procedures and certificates relating to fire safety, public health and safety, and any other technical risk assessments are required/have been made available;
 - whether the premises have/require a licence specifying the maximum number of people that can attend it or be present;
 - whether there are procedures proposed to record and limit the number of people on the premises;
 - whether patrons can travel safely to and from the premises;
 - whether music and dance venues, and performance venues will use equipment or effects which may impact on public safety (e.g. strobe lights, smoke machines etc);
 - whether in applying for music and dance venues due account has been given to the measures outlined in 'Safer Clubbing'.
- 23.14 Applicants will be expected to demonstrate in their Operating Schedules that suitable and sufficient measures have been identified and will be implemented and maintained to prevent **public nuisance**, relevant to the individual style and characteristics of their premises and events.
- 23.15 When addressing the issue of prevention of public nuisance, the applicant should be able to demonstrate that those factors which impact on the likelihood of public nuisance have been considered. These may include:
- Whether Operating Schedules contain adequate measures to prevent noise, smells and vibration generated from within the premises or outside it causing disturbance to people in the surrounding area.
 - Whether applicants include measures in the Operating Schedule that make adequate provision to:
 - a) restrict the generation of noise and smell;
 - b) limit the escape of noise and smell;
 - c) minimise and control noise from customers arriving at the premises, outside it and departing from it.
 - In relation to eating and drinking outside the premises, consideration is given to:
 - a) whether the premises are under or near to residential accommodation;
 - b) whether the sales consist of open containers or drinking vessels;
 - c) whether there are measures in place to collect drinking vessels;
 - d) the areas proposed for the consumption of food and drink;

- e) whether there is a need for door supervisors.
- f) whether it is proposed to use toughened glass or plastic drinking vessels.
- g) the provision of suitable ashtrays and/or bins for people smoking outside premises.

23.16 The Operating Schedule should also consider other public nuisance issues including litter, street fouling, light pollution, queuing and the use of CCTV, door supervisors and/or street marshals.

23.17 Applicants will be expected to demonstrate in their Operating Schedules that suitable and sufficient measures have been identified and will be implemented and maintained to **protect children from harm**, relevant to the individual style and characteristics of their premises and events. These may include:-

- Processes to ensure that alcohol is not sold or provided to children or young people.
- Not allowing adult entertainment when children or young people are present.

24 Premises Licences

24.1 A Premises Licence will be required for the use of any premises, part of premises, or place for the following licensable activities:

- a) the sale of alcohol;
- b) the provision of regulated entertainment;
- c) the provision of late night refreshment

24.2 When making an application to the Licensing Authority, the applicant must also send copies of the application to all the responsible authorities, namely:

- a) Police
- b) Fire Brigade
- c) Trading Standards
- d) Local Safeguarding Children's Board
- e) Environmental Health Department
- f) Local Planning Authority

and where relevant

- g) Health and Safety Executive (e.g. for educational establishments)
- h) Maritime Agency (e.g. for boats)

24.3 In the case of online applications the requirement to send copies to the responsible authorities will pass to the Licensing Authority.

25 Provisional Statements

- 25.1 Where premises are being or are to be constructed for the purpose of being used for one or more licensable activities, or are being or about to be extended, or otherwise altered for that purpose, a person may apply for a Provisional Statement if they have an interest in the premises, and, if they are an individual, that they are aged 18 years or older.
- 25.2 An application for a Provisional Statement must be accompanied by a schedule of works that includes details of the licensable activities for which the premises will be used; a plan of the premises; and such other information as may be prescribed.
- 25.3 Applications for Provisional Statements will be dealt with in a similar manner as applications for a Premises Licence. See also paragraph 23 relating to Operating Schedules.
- 25.4 Where relevant representations are made in relation to an application for a provisional statement the Licensing Authority must decide whether, if the premises were constructed or altered in the way proposed in the schedule of works and if a Premises Licence was sought for those premises, it would consider it necessary for the promotion of the licensing objectives to attach conditions (subject to the provisions of paragraph 20), rule out any of the licensable activities applied for, or to reject the application.

26 Club Premises Certificates

- 26.1 Club Premises Certificates will be issued to qualifying Clubs as defined in the Act, which carry out the following recognized activities:
- a. the supply of alcohol by or on behalf of the Club to, or to the order of, a member of the Club,
 - b. the sale by retail of alcohol by, or on behalf of a Club to a guest, or a member of the Club, for consumption on the premises where the sale takes place, and,
 - c. the provision of regulated entertainment, where that provision is by, or on behalf of a Club; for members of the Club, or for members of the Club and their guests.
- 26.2 Besides making an application to the Licensing Authority, the applicant must also send copies of the application to all the responsible authorities, namely:
- a) Police
 - b) Fire Brigade
 - c) Trading Standards
 - d) Local Safeguarding Children's Board
 - e) Environmental Health Department
 - f) Local Planning Authority

and where relevant

- g) Health and Safety Executive (e.g. educational establishments)
- h) Maritime Agency (e.g. boats)

- 26.3 In the case of online applications the requirement to send copies to the responsible authorities will pass to the Licensing Authority.
- 26.4 A Club operating schedule should also be submitted with the application and also, a copy of the club rules must be included. See also paragraph 23 above relating to Operating Schedules.

27 Personal Licences

- 27.1 General Requirements - Personal Licences will be granted if the applicant can demonstrate each of the following:
- a. they are 18 years of age or over;
 - b. they possess an appropriate licensing qualification, or are a person of a prescribed description; i.e. a person of a description prescribed by Secretary of State by Regulations.
 - c. no Personal Licence held by the applicant has been forfeited in the period of five years ending with the day the application was made;
 - d. the applicant has not been convicted of any relevant offence, or any relevant foreign offence.
- 27.2 **The Authority will reject any application where points a, b or c above are not met.**
- 27.3 Applicants with unspent criminal convictions for relevant offences set out in Regulations made under the Act are encouraged to first discuss their intended application with the Council's Licensing Officer and/or Police Licensing Officers before making an application. Guidance in relation to unspent criminal convictions can be found in the Licensing Authority's Guidance Notes for Applicants

28 Designated Premises Supervisors

- 28.1 Because of its wider impact on the community the sale of alcohol carries with it greater responsibility than that associated with the provision of entertainment and late night refreshment. The main purpose of having a Designated Premises Supervisor is to ensure that there is a specified individual that can be readily identified at the premises. The Designated Premises Supervisor therefore will occupy a pivotal role in terms of management and supervision of the premises, and may be given day to day responsibility for running the premises.

- 28.2 The Designated Premises Supervisor can authorise another personal licence holder in his/her place and that this authority needs to be put in writing for there to be meaningful and proper authorisation.
- 28.3 A joint interview between the Licensing Authority, Police and applicant may be arranged where the police are minded to object to the transfer of a designated premises supervisor on the grounds that such transfer may undermine the Crime Prevention objective.
- 28.4 The exception to the above is to allow certain community premises which have, or are applying for a premises licence, that authorise the sale of alcohol, to apply the alternative licence condition instead of the usual mandatory conditions. The effect of the alternative licence condition is that the licence holder, i.e. the management committee which runs the community premises, is responsible for the supervision and authorisation of all alcohol sales.

29 Temporary Event Notices

- 29.1 Temporary Event Notices are subject to the following limitations:
- a. **duration** – they are limited to events lasting up to 96 hours;
 - b. **scale** – they cannot involve the presence of more than 499 people at any one time;
 - c. **use of the same premises** – the same premises cannot be used more than 12 times in a period of 12 months, or more than 15 days a calendar year (January – December);
 - d. **the number of notices given** – a Personal Licence holder is limited to 50 notices in one year and an ordinary person to five notices in a similar period.
- 29.2 In any other circumstances, a temporary event at which licensable activities are to take place would require a Premises Licence if the premises or place where the event is to take place is unlicensed.
- 29.3 Temporary Event Notices do not involve the Licensing Authority in giving permission for the event to take place. This is a notification procedure in which only the Police may intervene to prevent such an event, or to modify the arrangements for such an event. The Licensing Authority will only intervene if the limits on the number of notices given in the various circumstances outlined above are exceeded.
- 29.4 The Act requires an organiser of a temporary event to give the Licensing Authority a minimum of 10 working days' notice. This is the absolute legal minimum period of notification and in reality would not allow sufficient time for consultations with the Police.

- 29.5 Ten working days' notice means ten working days exclusive of the day on which the event is to start, and exclusive of the day on which the notice is given. A "working day" is defined as any day other than a Saturday, a Sunday, Christmas Day, Good Friday, or a day which is a bank holiday under the Banking and Financial Dealings Act 1971 in England and Wales.
- 29.6 The Licensing Authority therefore recommends a minimum notice period of one calendar month before the date of the event taking place.
- 29.7 The Licensing Authority will not attach any terms or conditions to such events other than those set down in legislation. The Council will however, provide on request advice on health and safety matters, noise nuisance and the building of temporary structures.

OPERATIONAL MATTERS

30 Variation of Licences

- 30.1 Applications to vary a Premises Licence will be dealt with in a similar manner to applications for a new Premises Licence. When the Licensing Authority receives an application for a variation of a Premises Licence, it must determine whether the application has been properly made. Among other things the Licensing Authority will consider whether the application has been properly advertised.
- 30.2 Where an application has been lawfully made and provided that no relevant representation has been made by any responsible authority or interested party, then no hearing will be required and the application will be granted in the terms sought, subject only to conditions which are consistent with the Operating Schedule and any mandatory conditions required.
- 30.3 The Licensing Authority must consider whether any representations received are relevant. If relevant representations are made and not withdrawn, the Licensing Authority will hold a hearing, and at that hearing the Licensing Authority may:
- a) modify the conditions of the Licence; or
 - b) reject the whole, or part of the application.
- 30.4 If the Licensing Authority considers that the representations are not relevant then a hearing will not be required and the application will be granted. The aggrieved Interested Party may challenge the Licensing Authority's decision by way of judicial review.
- 30.5 The exception to the above procedure concerns applications for minor variations. Where applications for variations which generally amount to:
- a) a minor change to the structure or layout of a premises
 - b) small adjustments to licensing hours

- c) the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions
- d) the additional of certain licensable activities

that will not impact adversely on the licensing objectives, they are subject to a simplified 'minor variations' process. Interested Parties may still make representations and the Licensing Authority is entitled to seek the views of any of the responsible authorities when determining such applications. There is no right to a hearing and officers have delegated powers to determine applications under this process.

31 Transfer of Premises Licences

- 31.1 In the vast majority of cases it is expected that a transfer will be a very simple administrative process. This is to ensure that there should be no interruption to normal business at the premises.
- 31.2 Notice of the application must be given to the Police. If the Police raise no objection about the application the Licensing Authority will transfer the licence in accordance with the application, amend the licence and return it to the new holder.
- 31.3 In exceptional circumstances the Police may consider that the granting of the application would undermine the crime prevention objective. In these circumstances the Licensing Authority must hold a hearing and consider the objection, they will not be able to consider any other matters. The Committee will give reasons for the decision made.

32 Interim Authority Notices

- 32.1 Generally a licence will remain in force for as long as the licence holder continues to operate the business, unless it is revoked, or it is specified that it has effect for a limited period and that period expires. However, if the holder of a Premises Licence dies, becomes mentally incapable or becomes insolvent, then the licence will lapse.
- 32.2 If, within a 7 day period of such circumstances, a person who had an interest in the premises concerned, or is connected to the person who held the Premises Licence immediately before it lapsed, gives the Licensing Authority an Interim Authority Notice, the licence will be reinstated for a two-month period.
- 32.3 At the end of the two months it will lapse unless an application for a transfer of the licence is made.
- 32.4 A person is connected to the former holder of a Premises Licence if, and only if:

- a. the person is the personal representative in the event of the holder's death;
- b. in respect of someone who has become mentally incapable, the person is acting under section 6 of the Enduring Powers of Attorney Act 1985; or,
- c. in the event of insolvency, the person is acting as an Insolvency Practitioner.

32.5 Interim Authority Notices must also be served on the Police. If the Police consider that the grant of an Interim Authority Notice would undermine the prevention of crime objective, the Licensing Authority will arrange a hearing to consider the Notice.

PREVENTION OF CRIME AND DISORDER OBJECTIVE

33 Applications

- 33.1 Under Section 17 of the Crime and Disorder Act 1998, the Council/Licensing Authority has a duty to do all that it reasonably can to prevent crime and disorder in the area. The fear of crime created by disorder, including drunkenness, is as damaging to public confidence and the quality of life as crime itself. The Council's Community Safety Plan aims to reduce crime, disorder, nuisance and the fear of crime, making Bath and North East Somerset a safer place to live, work and visit.
- 33.2 The Council has introduced measures to assist in this including the provision of community wardens and taxi rank marshals and the installation of CCTV cameras. Joint working with the police is ongoing, and the Council would expect this partnership approach to be embraced by the licensing trade. This would include participation in local radio link, Pubwatch, the street marshal scheme and other initiatives such as Bath Night Watch.
- 33.3 The Licensing Authority will consider whether the grant of an application will result in an increase in crime and disorder.
- 33.4 Applicants are encouraged to consider crime prevention procedures in their premises before making a formal application. Applicants are encouraged to work in partnership with other licence holders in order to reduce crime and disorder in their area.
- 33.5 The Licensing Authority will continue to play an active part in the development of Pubwatch and other such schemes.
- 33.6 The Licensing Authority recognises that no matter how well managed the premises are, crime and disorder can occur, particularly outside the premises. Therefore in considering whether the crime and disorder objective is met, the Licensing Authority will normally take into account the criteria set out below.

33.7 In considering licence applications, the following will be taken into account:

- whether the design, layout, lighting and fittings of the premises have been considered with a view to restricting conflict and minimising opportunities for crime and disorder;
- whether the applicant has included in the Operating Schedule appropriate management measures to prevent/reduce crime and disorder;
- the training given to staff in crime prevention measures appropriate to those premises;
- physical security features installed in the premises. This may include matters such as the position of cash registers; where alcohol is stored in 'off-licences', or the standard of CCTV installed, and the use of toughened drinking glasses in pubs and clubs;
- the likely exit times from the premises and the demands upon and the capacity of public transport at those times;
- any other such measures as may be appropriate, such as participation in Pubwatch or other such schemes, 'music wind-down policies', restrictions on 'happy hours' and the availability of seating to discourage vertical drinking;
- the measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;
- where premises are subject to age-restrictions, the procedures in place to conduct age verification checks;
- the likelihood of any violence, public order or policing problems if the licence is granted;
- the applicant's willingness to work in partnership with neighbouring licence holders in order to reduce crime and disorder.
- the policy on cumulative impact.

33.8 The Licensing Authority would also recommend that all Designated Premises Supervisors undergo additional training and have experience commensurate with the nature and style of entertainment provided and capacity of the premises.

PUBLIC SAFETY OBJECTIVE**34 Inspection of Premises**

- 34.1 The Licensing Authority has established protocols with the local police on enforcement issues to enable a more efficient deployment of Licensing Authority staff and police officers who are engaged in enforcing licensing law and the inspection of licensed premises.
- 34.2 This protocol also provides for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run.
- 34.3 Inspections are not undertaken routinely but only when they are judged necessary. This ensures that resources are more effectively concentrated on problem premises. The Act enables the Licensing Authority through its officers to exercise discretion in relation to inspections and does not require annual inspections to take place. The Licensing Authority, therefore, does not intend to carry out annual inspections unless the assessed risks make such inspections necessary.
- 34.4 From time to time premises are inspected by Council Officers, the Police and/or the Fire Service for purposes of ascertaining compliance with the Act or associated Legislation or Regulations.
- 34.5 During the application period the Responsible Authorities might decide to carry out their own inspections.

35 Operational Considerations

- 35.1 Crime, disorder and anti-social behaviour threaten public safety and affect perceptions of public safety. The Licensing Authority must try to ensure the safety of people visiting and working in licensed premises. The Licensing Authority will need to satisfy itself that measures to protect the public including setting safe capacities, adequate means of escape, and the provision of fire fighting equipment and CCTV etc. are put in place and maintained if this is not adequately provided for by other regulatory regimes.
- 35.2 Licensed premises present a mixture of Health and Safety risks, some of which are common to many premises, and others unique to single premises. It is essential that premises are constructed, or adapted, so as to safeguard occupants against such risks.
- 35.3 Where relevant representations are made in relation to imposing a maximum number of persons resorting to premises at any one time for example, to ensure the safety of persons in the premises, and safe escape in the case of an emergency, the Licensing Authority will consider the imposition of occupancy limits by way of condition where it is considered necessary in relation to the promotion of one or more of the licensing objectives.

PREVENTION OF PUBLIC NUISANCE OBJECTIVE**36 Local Amenity**

- 36.1 The Licensing Authority is concerned to protect the amenity of residents and businesses in the vicinity of licensed premises.
- 36.2 Licensed premises have a significant potential to adversely impact on communities through public nuisances that arise from their operation. The Licensing Authority intends to maintain and protect the amenity of residents and other businesses from the potential adverse consequences of the operation of licensed premises whilst recognising the valuable cultural, social and business importance that such premises provide.
- 36.3 In considering an application for a Premises Licence/Club Premises Certificate, the Licensing Authority will consider the adequacy of measures proposed to deal with the potential for nuisance and/or anti-social behaviour having regard to the circumstances of the application.
- 36.4 The Licensing Authority will consider in particular:
- the proximity of noise sensitive residential and commercial premises, the steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices;
 - the steps to be taken or proposed to be taken by the applicant to prevent litter and smell nuisance from the premises;
 - the steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises;
 - the steps taken or proposed to be taken by the applicant to prevent queuing (either by pedestrian or vehicular traffic). If some queuing is inevitable, then queues should be diverted away from neighbouring premises or be otherwise managed to prevent disturbance or obstruction;
 - whether there is sufficient provision of public transport (including taxis and private hire vehicles) for patrons;
 - the installation of any special measures where licensed premises are, or are proposed to be, located near sensitive premises such as nursing homes, hospitals, hospices or places of worship;
 - the requirement of any interested party for a quieter Sunday evening and night;
 - the use of gardens and other open-air areas;

- the position or proposed position of external lighting, including security lighting that is installed inappropriately;
 - whether the premises would lead to increased refuse storage or disposal problems, or additional litter (including fly posters and illegal placards) in the vicinity;
 - The steps taken or proposed by the applicant with particular regard to the recycling of glasses, bottles and cans from their premises.
- 36.5 In certain areas the increased concentration of entertainment uses and longer hours may affect local residents. Commercial occupiers of premises have a legitimate expectation of an environment that is attractive and sustainable for their businesses.
- 36.6 The role of the Licensing Authority is to maintain an appropriate balance between the legitimate aspirations of the entertainment industry and the needs of the residents. The Licensing Authority will need to satisfy itself that adequate measures are in place to prevent public nuisance.

PROTECTION OF CHILDREN FROM HARM OBJECTIVE

37 Access to Licensed Premises

- 37.1 The wide range of premises that require licensing means that children can be expected to visit many of these, often on their own, for food and/or entertainment.
- 37.2 It is hoped that family friendly premises will thrive, but the risk of harm to children remains a paramount consideration when determining applications.
- 37.3 Whilst the Act allows children access to licensed premises, the Licensing Authority recognises that limitations may have to be considered where it appears necessary to protect children from harm.
- 37.4 The general relaxation in the Act giving accompanied children greater access to licensed premises is a positive step, aimed at bringing about a social change in family friendly leisure. Clearly this relaxation places additional responsibilities upon licence holders. However, it is also recognised that parents and others accompanying children also have responsibilities.
- 37.5 The Licensing Authority recognises the Local Safeguarding Children's Board as the responsible authority to advise it on matters relating to the protection of children from harm.
- 37.6 The Licensing Authority will judge the merits of each application before deciding whether to impose conditions limiting the access of children to individual premises.

- 37.7 The following are examples of premises that will raise concern:
- where entertainment or services of an adult or sexual nature are commonly provided;
 - where there have been convictions of members of the current staff at the premises for serving alcohol to minors, or with a reputation for underage drinking;
 - where there is a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
 - where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.
- 37.8 The Licensing Authority may consider limiting the access of children where it is necessary for the prevention of harm to children. The following conditions may be considered appropriate:
- limitations on the hours when children may be present;
 - the exclusion of children under certain ages when particular activities are taking place;
 - limitations on the parts of premises to which children might be given access;
 - requirements for an accompanying adult;
 - full exclusion of people under 18 from the premises or parts of the premises when any licensable activities are taking place.
- 37.9 No conditions will be imposed requiring that children be admitted to any premises and where no limitation is imposed this will be left to the discretion of the individual licence holder.
- 37.10 The Act details a number of offences designed to protect children in licensed premises and the Licensing Authority will work closely with the police to ensure the appropriate enforcement of the law, especially relating to the sale and supply of alcohol to children.
- 37.11 The Licensing Authority recommends that where appropriate, applicants familiarise themselves with the Drinkwise and Portman Group Codes of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks. The codes seek to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years or older.

38 Access to Cinemas

- 38.1 Films cover a vast range of subjects, some of which deal with adult themes and/or contain for example, scenes of horror or violence that may be considered unsuitable for children within certain age groups.
- 38.2 The Licensing Authority will expect licence holders or clubs to include in their Operating Schedules arrangements for restricting children from viewing age-restricted films classified according to recommendations of the British Board of Film Classification (or the Licensing Authority itself) to satisfactorily address safety issues including the supervision of children.
- 38.3 The Act also provides that it is mandatory for a condition to be included in all Premises Licences and Club Premises Certificates authorising the exhibition of films for the admission of children to the exhibition to be restricted in accordance with the recommendation given either by the British Board of Film Classification or the Licensing Authority itself.

39 Children and Public Entertainment

- 39.1 Many children go to see and/or take part in an entertainment arranged especially for them, for example, children's film shows and dance or drama school productions, and additional arrangements are required to safeguard them while at the premises.
- 39.2 The Licensing Authority will expect the Operating Schedule to satisfactorily address safety issues including the supervision of children.
- 39.3 The Licensing Authority will consider attaching conditions to licences and permissions to prevent harm to children, and these may include conditions drawn from the Pool of Model Conditions relating to the Protection of Children from Harm which can be found in Annex D to the Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act.

COMPLAINTS AGAINST LICENSED PREMISES

40 How complaints will be dealt with

- 40.1 The Licensing Authority will investigate complaints against licensed premises with regard to matters relating to the four licensing objectives. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.
- 40.2 Where an interested party (such as a local resident or residents' association) has made:
- valid representations about licensed premises, or
 - a valid application for a licence to be reviewed

the Licensing Authority encourages parties to arrange a conciliation meeting to address and clarify the issues of concern where practicable.

- 40.3 Nothing in this Policy shall restrict the right of an interested party or responsible authority to call for a review of a licence or make relevant representations in accordance with the Act.

DECISION MAKING

41 Licensing Committee Terms of Reference

- 41.1 The Committee's terms of reference will be set out in the Council's Constitution. The terms of reference have been guided by Regulations issued under the Act.

42 Allocation of Decision making Responsibilities

- 42.1 These responsibilities will be set out in the Council's Constitution. The table on page 36 indicates how the delegation of functions has been allocated.

43 Relevant Representations

- 43.1 'Relevant representations' are the following;
- a) representations about the effect of the Premises Licence/Club Premises Certificate on the promotion of the licensing objectives;
 - b) representations made by an interested party or a responsible authority, which have not been withdrawn, and, in the case of representations made by an interested party, are not, in the opinion of the officer charged with this role, frivolous, repetitive or vexatious.
- 43.2 'Interested Party' means any of the following:
- a) a person living in the vicinity of the premises;
 - b) a body representing persons who live in that vicinity;
 - c) a person involved in a business in that vicinity; or
 - d) a body representing persons involved in such a business.
 - e) an elected Member in any Ward in the Council's area

43.3 'Responsible Authority' means any of the following:

- a) Police;
- b) Fire Brigade;
- c) Trading Standards;
- d) Local Safeguarding Children's Board;
- e) Environmental Health Department;
- f) Local Planning Authority;
- g) Health and Safety Executive;
- h) Maritime Agency;
- i) Any other authority as may be prescribed by Regulations.

44 Other Considerations

44.1 The Licensing Authority will give reasons for its decisions. The Licensing Authority will also address the extent to which the decision has been made with regard to the Act, its Statement of Licensing Policy, the Guidance issued by the Secretary of State under the Act and the Human Rights Act 1998.

45 Reviews

45.1 The process for reviewing Premises Licenses/Club Premises Certificates is seen as representing a key protection for the community where problems associated with any of the four licensing objectives are occurring. Licensing Authorities are encouraged to apply a 'light touch' to the grant and variation of Premises Licenses. The provision of the review mechanism to deal with concerns relating to the licensing objectives arising later in respect of individual premises is integral to this.

45.2 The Licensing Authority cannot itself initiate a review of the licence, but at any stage following the grant of a Premises Licence/Club Premises Certificate a responsible authority or an interested party may apply to the Licensing Authority to review a licence because of a matter arising at the premises in connection with one or more of the four licensing objectives.

45.3 Additionally a review of the licence will normally follow any action by the Police to close the premises on grounds of disorder or public nuisance.

45.4 The application must relate to particular premises for which a Premises Licence/Club Premises Certificate is in existence and must be relevant to one or more of the licensing objectives.

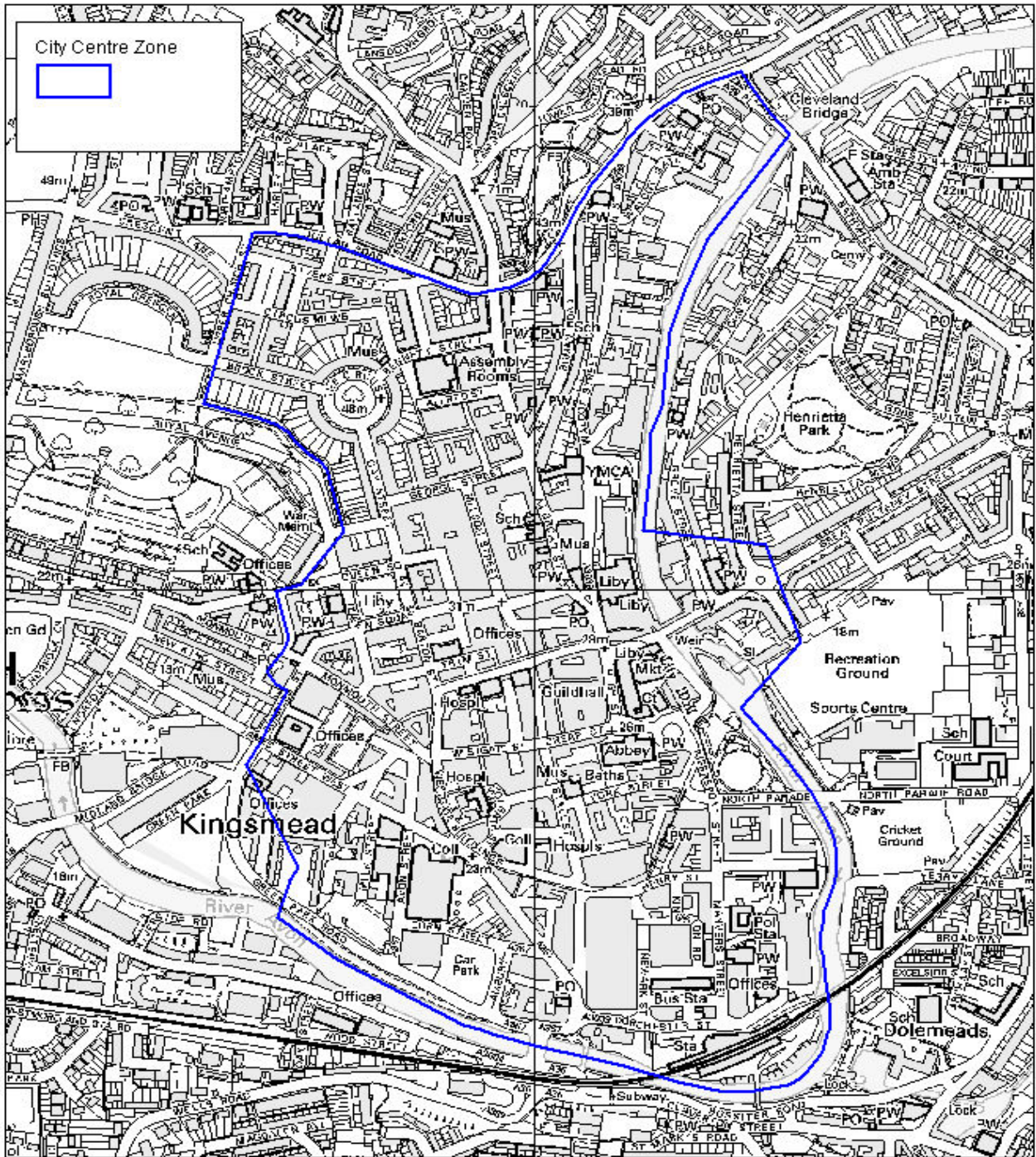
- 45.5 Sufficient information or evidence should be contained within the application to enable the holder of the Premises Licence/Club Premises Certificate or any representative of the holder of a Premises Licence/Club Premises Certificate to prepare a response.
- 45.6 Where the application for a review is from an interested party the Licensing Authority must consider whether it is irrelevant, vexatious, frivolous or repetitious.
- 45.7 Where a relevant application is received the Licensing Authority will then arrange a hearing.
- 45.8 The Licensing Act 2003 provides the Licensing Authority with a range of powers on determining a review that it may exercise where it considered necessary for the promotion of one or more of the licensing objectives.

TABLE OF DELEGATIONS OF LICENSING FUNCTIONS

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB COMMITTEE	OFFICERS
Approval of Policy and annual review	All cases		
Application for Personal Licence		If a police objection is made	If no objection made
Application for Personal Licence, with unspent convictions		If a police objection is made	If no objection made
Application for Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application for Provisional Statement		If a relevant representation is made	If no relevant representation is made
Application to vary Premises Licence/Club Premises Certificate		If a relevant representation is made	If no relevant representation is made
Application to vary Designated Premises Supervisor		If a police objection is made	All other cases
Request to be removed as Designated Premises Supervisor			All cases
Application for transfer of Premises Licence		If a police objection is made	All other cases
Application for interim authorities		If a police objection is made	All other cases
Application to review Premises Licence/Club Premises Certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application		All cases	
Determination of a police objection to a Temporary Event Notices		All cases	
Determination of Minor Variation applications for premises licences and for club premises certificates.			All cases
Determination of the removal of a Designated Premises Supervisor or Personal Licence Holder at community premises.		If a relevant representation is made.	All other cases

MATTER TO BE DEALT WITH	FULL COUNCIL	SUB COMMITTEE	OFFICERS
Applications for the classification of unclassified films		All cases	

OUTLINE OF CUMULATIVE IMPACT POLICY FOR BATH CITY CENTRE



FURTHER INFORMATION

Further information about the Act and this Statement of Licensing Policy can be obtained from:

Licensing
Bath and North East Somerset Council
9-10 Bath Street
BATH BA1 1SN

Tel: 01225 477536
Fax: 01225 477596
Email: licensing@bathnes.gov.uk
Website: www.bathnes.gov.uk

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

Tel: 020-7211 6200
Email: enquiries@culture.gov.uk
Website: www.culture.gov.uk

The Guidance issued under Section 182 of the Act can also be viewed on this site.

Information in relation to large events is available from the Council's Event Safety Co-ordinator:

Public Protection
Bath and North East Somerset Council
9-10 Bath Street
BATH BA1 1SN

Tel: 01225 477563
Fax: 01225 477596
Email: Public_Protection@bathnes.gov.uk
Website: www.bathnes.gov.uk

The Licensing Act 2003 can be viewed online at:

www.opsi.gov.uk/acts/acts2003/ukpga_20030017_en_1

National Pubwatch is an entirely voluntary organisation set up to support existing Pubwatches and encourage the creation of new Pubwatch schemes with the key aim of achieving a safe, secure social drinking environment in all licensed premises throughout the UK helping to reduce drink-related crime. Their website can be found at:

www.nationalpubwatch.org.uk/

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Bath & North East Somerset Council		
MEETING:	Licensing Committee	
MEETING DATE:	5th October 2010	AGENDA ITEM NUMBER
TITLE:	Approval of an Application Pack for the Grant of a Premises Licence for a Small Casino in Bath and Appointment of Advisory Panel	
WARD:	ALL	
AN OPEN PUBLIC ITEM		
List of attachments to this report:		
Annex A; Copy of responses received from the consultation exercise, including officer comments and recommendations.		
Annex B; Copy of a proposed Application Pack including the proposed changes from the consultation document.		

1 THE ISSUE

- 1.1 Bath and North East Somerset Council, as the Licensing Authority, have been granted permission to issue a premises licence for a small casino under The Gambling (Geographical Distribution of Casino Premises Licences) Order 2007. Council has resolved to take the necessary steps to issue the licence within its area, pursuant to those Regulations, Part 8 and Schedule 9 of the Gambling Act 2005 (“the Act”) and The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008. The latter Regulations require that the licensing authority must produce an application pack (“the pack”) and stipulate what should be contained within it.
- 1.2 As authorised by Council, officers have produced a draft pack for prospective applicants. The purpose of this pack is to inform applicants of the rules and procedures applicable to the application process. The pack will be published to conform to the requirements set by Parliament, and the Secretary of State, and to ensure an application process which is both transparent and fair. The Government has published a Code of Practice which provides a suggested procedure to be followed, by a licensing authority, in determining such applications.
- 1.3 Details of the proposed pack have been circulated for comment and the responses considered. Where necessary, changes have been made to the draft documents.
- 1.4 It is proposed that an Advisory Panel be appointed to assist the Committee on the competing bids and to enable it to arrive at a determination upon the application that is likely to offer the greatest benefit to the Council’s area.

2 RECOMMENDATION

The Licensing Committee is asked to agree that:

- 2.1 The Committee note the responses to the consultation exercise and agree that the officer recommendations should be incorporated into the revised pack.
- 2.2. The draft pack, provided in Annex B, is adopted.
- 2.3 Delegated authority is provided to the Divisional Director, Environmental Services, in consultation with the Chair of the Licensing Committee to appoint the members of the Advisory Panel.

3 FINANCIAL IMPLICATIONS

- 3.1 The cost of carrying out the consultation exercise and developing the application pack has been met from within existing budgets.

4 THE REPORT

- 4.1 The Act created a new system of licensing and regulation for commercial gambling. Amongst other changes, it gave to local authorities new and extended responsibilities for licensing premises for gambling. In some cases (such as gaming machine arcades), those build on existing responsibilities. In other major areas, including betting, casino gaming and bingo, they transferred to local authorities responsibilities which previously lay with local licensing justices.
- 4.2 Certain functions under the Act are delegated to the Licensing Committee including the award of a premises licence for a small casino. In order to award the premises licence the Council must follow a two stage process. The first stage is a regulatory process under which the Council grants a provisional statement/premises licence to any applicant that meets the licensing objectives. An application for Stage 1 should be determined by the appropriate Licensing Sub-Committee. If more than one applicant meets the objectives, then they proceed to Stage 2 which is the competition stage.
- 4.3 An application for Stage 2 is determined by the full Licensing Committee. At Stage 2, the Committee must award the provisional statement/premises licence to the applicant whose application is likely to result in the greatest benefit to the area. The Council sets out, in its Statement of Principles (which is its policy with regard to exercising its functions under the Act) the principles that it will take into account in making an assessment of which application will result in the greatest benefit to its area. The detailed criteria in the pack have been produced by officers and have been included in a scoring matrix to assist in the analysis and evaluation of the bids.
- 4.4 A copy of the proposed pack has been circulated for comment and a revised copy, including suggested officer recommendations following the consultation, is provided in Annex B.
- 4.5 The Committee is being asked to consider the officer recommendations and agree to their inclusion in the revised pack.

4.6 Counsel has advised that the appointment of the Advisory Panel needs to be made by the Licensing Committee. It is recommended that the Committee delegate authority to the Divisional Director, Environmental Services, in consultation with the Chair of the Licensing Committee to appoint the panel.

5 RISK MANAGEMENT

5.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

6 EQUALITIES

6.1 The equality groups have been included within the consultation exercise and the consultation was carried out in accordance with the equalities requirements for consultations.

7 CONSULTATION

7.1 Chair of the Licensing Committee; Section 151 Finance Officer; Monitoring Officer.

7.2 The consultation on the proposed Application Pack has been carried out in accordance with the Council's consultation policy and has included all Councillors, the Police, PCT, local residents associations, local businesses, Gambling Commission and support agencies, B&NES services including Development Control and Child Protection, and various gambling agencies.

8 ISSUES TO CONSIDER IN REACHING THE DECISION

8.1 Social Inclusion; Young People; Human Rights, Public Safety.

9 ADVICE SOUGHT

9.1 The Council's Monitoring Officer (Council Solicitor) and Section 151 Officer (Strategic Director - Support Services) have had the opportunity to input to this report and have cleared it for publication.

Contact person	<p>Andrew Jones, Environmental Monitoring and Licensing Manager.</p> <p>Tel: 01225 477557</p>
Background papers	<p>The Gambling Act 2005</p> <p>The Gambling (Geographical Distribution of Casino Premises Licences) Order 2007</p> <p>The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008</p> <p>Code of Practice - Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos dated 26 February 2008</p> <p>Guidance to Licensing Authorities issued by the Gambling Commission dated May 2009.</p>
<p>Please contact the report author if you need to access this report in an alternative format</p>	

1. Letter from Federation of Bath Residents Association (FoBRA).

Dear Mr Jones,

Thank you for giving FoBRA an opportunity to comment on this proposal. I understand there will be other opportunities as well, later in the process, once any specific organizations emerge, with site(s) in which they propose to operate a casino; and that it will be possible to examine (and comment on) these proposals too, through the Planning Application procedure. I was present at the Council meeting on 1st Oct 09 when the intention to seek operators for a small casino in B&NES was approved so it is not a surprise to me that this proposal has appeared. The industry is highly regulated in UK, and several similar casinos already operate responsibly and (presumably) profitably in nearby Bristol. However, if a casino is proposed for Bath (which seems likely), our residents will want certain assurances, safeguards and associated benefits; and will need to know how the Council proposes to obtain them. Examples are:

- Support for gambling addiction support agencies such as GamCare (or local equivalents).
- Better control of antisocial behaviour at night (e.g. funding of Street Marshals, police, etc.,).
- Better street cleanliness.
- Subsidised late night transport.

Robin Kerr



Secretary, Federation of Bath Residents' Associations
3 Lansdown Place East
Bath BA1 5ET

robin.kerrconsulting@uwclub.net
www.bathresidents.org.uk
01225 311549, 07767 788366

OFFICER COMMENTS

The examples highlighted by FoBRA may be taken into account during the evaluation of the bids by the Council at stage 2 of the application process. It is right to say that local residents will not have the opportunity to comment on applications at Stage 2 of the licensing process, because the system does not allow for this; instead the Council is obliged to maintain the confidentiality of the Stage 2 bids. However, local residents will have an opportunity to participate in any planning process for the sites in question.

2. E-mail from Bath Police

Andrew,

I have looked through the Gambling information that you circulated there are no issues the Police wish to raise.

Martin Purchase, Avon and Somerset Licensing Bureau

OFFICER COMMENTS

No comment

3. Letter from Joelson Wilson on behalf of Rank Group

Dear Sir,

RE: SMALL CASINO UNDER THE GAMBLING ACT 2005 ("GA 2005"), BATH AND NORTH EAST SOMERSET COUNCIL – APPLICATION PACK AND ACCOMPANYING DOCUMENTS

As you are aware, we act on behalf of Rank Group Plc ("Rank"). Further to Rank's response to the Council's Draft Statement of Licensing Principles, we welcome the opportunity, on behalf of Rank, to comment upon the Draft Application Pack and accompanying documents.

1. Applications for grant of a small casino premises licence – application pack

No Casino Resolution

We note that incorporated in paragraph 3, page 3 of the above document it is stated "if there is only one successful applicant, the licence ... will be awarded to that applicant unless the Council decides to terminate the process by adopting a no casino resolution". Rank suggests consistent wording ought to be adopted with the relevant wording under paragraph 4 "Stage 1 of the application process", page 6 and paragraph 20.18 of the proposed Statement of Principles which make it clear that a no casino resolution may only be adopted in circumstances where there is only one successful applicant at the conclusion of Stage 1 of the competition.

Rank's reason for this assertion arises from Schedule 9 to GA 2005. Paragraph 4 of Schedule 9 provides that, at the first stage of the bidding process, the Licensing Authority shall consider in respect of each application whether they would grant such an application under s.163 of GA 2005. Paragraph 5 of Schedule 9 then provides that if the Licensing Authority determines under paragraph 4 that they would grant a number of competing applications, then they shall determine which of those applications to grant (see paragraph 5(2) of Schedule 9) and in reaching that decision they shall determine which of the competing applications would, in their opinion, be likely, if granted, to result in the greatest benefit to the Authority's area (see paragraph 5(3) of Schedule 9). _____

It therefore follows that, if more than one bid is successful at Stage 1, the Licensing Authority is obliged to enter Stage 2 of the application process and is obliged to consider which of the competing applications would in their opinion be likely, if granted, to result in the greatest benefit to the Authority's area and to grant a licence accordingly. These requirements are mandatory. It appears to follow that, in these circumstances, a "no casino resolution" would be in conflict with the statutory provisions which are triggered by a "provisional" decision to grant more than one licence at Stage 1. By contrast, the power to pass a "no casino resolution" by virtue of s.166 of GA 2005 will only arise, once the application process has commenced, if only one bid emerges as successful at the end of Stage 1, since there is no mandatory requirement imposed by GA 2005 to grant a licence if there is only one successful applicant at Stage 1.

OFFICERS COMMENTS

Paragraph 20.18 in the current Statement of Principles states that a no casino resolution may be only be adopted in circumstances where there is only one applicant at the conclusion of Stage 1 of the competition. Therefore the Council is not bound to adopt a no casino resolution in these circumstances.

Furthermore, s.166 of the Gambling Act gives the Council wide discretion to adopt a no casino resolution at any time. The Council is therefore not obliged, where there is more than one successful bid at Stage 2 of the competition process, to determine which bid would provide the most benefit to the area. The requirements, in Schedule 9 of the Act, are not mandatory, given the provision in s.166.

Hearing

Rank notes that the application pack provides for hearings to be held at Stage 1 of the application process. As stated in its response to consultation dated the 28 August 2009, Rank should be grateful for clarification in relation to the omission of any reference to hearings at Stage 2 of the process, particularly since it is envisaged that at Stage 2 conditions may be attached to any licence. This is made clear at paragraph 5 "Stage 2 of the application process" on page 7, when reference is made to the possibility of conditions being attached to give effect to the agreement entered into between the successful applicant and the Council to ensure delivery of benefits, but also at Part 2 "Plans", page 2 of the "Stage 2 Application Form – Notes for Guidance", where references are made to the possible imposition of conditions relating to provision of low or no stakes gambling and in relation to hours and regularity of overall entertainment etc. to include any proposals to avoid irresponsible alcohol consumption.

As referred to in Rank's letter of 28 August, SI Number 173 of 2007 ("the hearings regulations") applies to proceedings of the Licensing Committee in the exercise of its functions under GA 2005 and a hearing compliant with these regulations is required when the Licensing Authority intends to impose conditions on a licence under GA 2005 s.169. Rank would be grateful to receive clarification as to how it is proposed that appropriate and enforceable conditions will be identified and drafted to give effect to the agreement that will be entered into between the Authority and the applicant, and who, *inter alia*, will be responsible for identifying and drafting those conditions.

OFFICERS COMMENTS

Neither the Act nor the Code of Practice contemplates a hearing at Stage 2. All matters contained in part 8 of the Act do not evidently apply to the Stage 2 procedure. If Part 8 did apply, which the Authority does not accept, then all those matters will be dealt with at Stage 1. A hearing will not be required to be held where the condition requiring compliance with the written agreement as this will have been offered by the applicant as part of its Stage 2 application. **To the extent necessary, the authority will invite the winning applicant to waive a hearing at Stage 2.**

Admission of new information when making representations about scoring

At paragraph 5 "Stage 2 of the application process", page 10, it is stated that the evaluation panel will supply a draft evaluation to the relevant applicant to enable the relevant applicant to correct factual errors or to make representations as to the scoring which has been applied. It is stated that at this stage no new information will be accepted. Rank believes that there may be circumstances in which it will be necessary to admit new information in order to support and justify representations made about scoring or evaluation. Provisions should be made for this in the procedure note, provided any new information admitted is of direct relevance to the representations.

OFFICERS COMMENTS

Applicants have ample opportunity to discuss, clarify and amend their bids under the evaluation process before the panel issues its draft evaluation. After this stage, no new information will be permitted.

The final determination

Rank would welcome confirmation that the same Licensing Committee members consider and determine all applications at Stage 2.

OFFICERS COMMENTS

The Licensing (Gambling and Licensing) Sub Committee will determine all applications at Stage 1 of the process. This Committee consists of 3 Members. The Licensing Committee will consider all evaluations at Stage 2 of the process. This Committee consists of 10 Members.

The Draft AgreementContinuing Obligations

Clause 5.4 of the draft agreement state that "in the event of the transfer of the licence or provisional statement, the licensees covenants herein shall continue unless and until the Council agrees in writing to cancel this deed". Rank does not believe that it will be possible for any licensee to ensure compliance with the obligations in the agreement by its successor licensee following the transfer of the premises licence and would therefore suggest that this clause be struck out of the agreement.

OFFICERS COMMENTS

The Council considers that it is prudent to ensure that all obligations, by any successor on transfer of the licence, are complied with and therefore this clause will be retained.

Determination of the issue of the greatest benefit

Under paragraph 5, "The Final Determination" at page 10, a list of the documentation that will be supplied by the Evaluation Panel to the Licensing Committee is provided, which will assist it in determining the issue of greatest benefit. It is clearly important that the decision relating to the greatest benefit should be properly identifiable as a decision of the Licensing Committee in the exercise of its own judgement. Rank would be grateful for clarification as to the length of time that the Licensing Committee will be given in order to study the documentation listed. The documentation will be extensive and if sufficient time is not given for the Licensing Committee to consider it thoroughly, it might be thought that the ultimate decision as to which of the competing applications would be likely, if granted, to result in the greatest benefit to the Authority's area, was not independently made by the Authority itself, upon proper consideration of all the materials before it.

Further under the same section, the draft application pack envisages that "the Committee will be unlikely to need to interview applicants or seek further evidence or representations". As stated previously, Rank has concerns relating to how conditions might be identified and imposed on a licence in the absence of a hearing at Stage 2 and seeks clarification in this regard. This section also envisages that, if the Committee does decide to interview applicants the same facility will be offered to all applicants to ensure equality of treatment. Rank would welcome clarification of what is meant by "the same facility". If, for example, the Licensing Committee had concerns relating to one applicants evidence of its ability to fund the proposed development but did not have similar concerns in connection with other applicants, Rank would not expect an interview or hearing to be held for all applicants to address the Committee on funding. However, Rank would expect all applicants to be treated equally in terms of their opportunity each to address the Committee upon any particular concerns the Committee might have about their individual application. Rank would welcome confirmation that this is what is meant by "the same facility".

OFFICERS COMMENTS

As too the length of time for consideration of the Stage 2 papers, the authority will ensure that the Committee has all the time it needs to come to a proper determination. If, as part of the Committee's consideration it decides that it needs to interview an applicant, it will take such steps as are necessary to ensure that the principle of equality of opportunity is observed. It is not possible in advance to determine precisely what that principle will require, because this will be dependent on the facts and circumstances of the individual case. The outcome, however, will ensure that all applicants have an equal opportunity to present their submission.

Confidentiality

Rank would welcome confirmation that the confidentiality obligations of members of the Advisory Panel and Licensing Committee will also extend to officers of the Licensing Authority.

OFFICERS COMMENTS

The Council confirms that the officers of the Local Authority are also bound by the obligation as to confidentiality.

Paragraph 4 - operating issues

The following matters relate to operational issues arising out of the paperwork referred to in each instance.

Stage 2 Application Form – Notes for Guidance

Rank seeks clarification as to whether the CD referred to should include digital versions of all attachments, such as annual reports and company manuals (or extracts)?

OFFICERS COMMENTS

An applicant can submit digital versions of documentation if so desired.

Paragraph (unnumbered) paragraph 2 on page 2 of the Stage 2 Application Form – Notes for Guidance

Reference is made to the requirement for an applicant to provide an indication of the times and numbers of low or no stakes gaming tables which would be involved in the proposal. Rank seeks clarification as to whether "the times" refers to the hours of operation of the low limit tables or whether it relates to how often these tables will be open?

Is the Licensing Authority able to provide an assurance that materials supplied by Rank as part of the bidding process, such as extracts or complete copies of manuals, policies and company strategies, will not be shared with, shown or exposed to the winning applicant in the event that Rank's bid is not successful?

Thank you for your assistance in relation to this matter, should you have any queries, please do not hesitate to contact Suzanne Davies of these offices. We look forward to hearing from you.

OFFICERS COMMENTS

This part of the application pack has been amended to read,

'..... if there is a proposal to offer low – or no – stakes gambling, the applicant should give details of the provision, including the days and times the tables will be operated, the numbers of tables involved,

It is not the intention of the Council to share with, show or expose any of the materials supplied by any losing bidder to the winning applicant.

GAMBLING ACT 2005
APPLICATION FOR THE GRANT OF A
SMALL CASINO PREMISES LICENCE

Contents	Section
Regulations and Guidance from DCMS	1
DCMS Code of Practice on Determinations of Applications Relating to Large and Small Casinos	2
B&NES Gambling Act 2005 Statement of Principles	3
B&NES Invitation to Apply for a Small Casino Licence and Guidance for Applicants	4
Application for a Premises Licence (Stage 1) and Guidance Notes	5
Application for a Small Casino Licence (Stage 2) and Guidance Notes	6
Legal Agreement and Information Guide	7
Bath Casino Competition Map	8
Scoring Matrix and Principles and Weighting	9

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STATUTORY INSTRUMENTS

2008 No. 469

BETTING, GAMING AND LOTTERIES, ENGLAND AND WALES

The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008

Made - - - - 25th February 2008

Laid before Parliament 26th February 2008

Coming into force - - 18th March 2008

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 355 of and paragraph 2 of Schedule 9 to the Gambling Act 2005(a).

Citation and commencement

1. These Regulations may be cited as the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and shall come into force on 18th March 2008.

Interpretation

2. In these Regulations—

“application” means—

(a) an application under section 159 for a large or small casino premises licence, or

(b) an application under section 204 for a provisional statement in respect of a large or small casino, and a reference to an “applicant” shall be construed accordingly,

“application pack” has the meaning given in regulation 3(1)(b),

“closing date” has the meaning given in regulation 5(1)(b),

“invitation” has the meaning given in regulation 3(1)(a), and

“the licensing authority”, in relation to an invitation, application pack or application means the licensing authority—

(a) who publish the invitation,

(b) who make the application pack available to a member of the public on request, or

(c) to whom the application is made.

(2) A reference in these Regulations to a section or Schedule is a reference to a section of or Schedule to the Gambling Act 2005.

(a) 2005 c. 19.

Invitations for competing applications and application packs

3.—(1) Before considering an application, a licensing authority must—

(a) publish an invitation calling for applications (“invitation”), and

(b) make arrangements for the provision, free of charge, of a copy of information about an invited application (“application pack”) to a person on request, until the closing date stated in the invitation to which the application pack relates.

(2) An invitation must—

(a) be published in a manner that complies with regulation 4, and

(b) contain the information required by regulation 5.

(3) An application pack must contain the information required by regulation 6.

Manner of publication of invitation

4.—(1) An invitation must be published in a manner which the licensing authority consider is most likely to bring it to the attention of as many potential applicants in the United Kingdom and abroad as possible.

(2) Without prejudice to the generality of paragraph (1), an invitation must be published at least once in a trade newspaper, journal or similar publication which the licensing authority consider is likely to be read by persons in the United Kingdom and abroad who are potential applicants.

Information to be included in invitation

5.—(1) An invitation must state—

(a) whether the licensing authority propose to issue a casino premises licence for a large or small casino,

(b) the latest date by which an application must be made in order to be considered by the licensing authority (“closing date”),

(c) the place from which a person may obtain an application pack, and

(d) such other information as the licensing authority consider appropriate.

(2) The closing date may not be earlier than the date which is 3 months after the later of—

(a) the date on which the invitation is last published, and

(b) the date on which the application pack is first available to a person on request.

Information to be included in application pack

6.—(1) An application pack must include—

(a) a statement that—

(i) an application must be made in the form and manner prescribed by the application regulations, and

(ii) no information, other than information required by the application regulations, may be included in or submitted with an application,

(b) a statement of the procedure that the licensing authority propose to follow to determine whether to grant or reject an application,

(c) a statement that, in making any determination required by paragraph 4 of Schedule 9, the licensing authority will not take into account information which is relevant to a determination under paragraph 5 of that Schedule unless that information is also relevant to the determination under paragraph 4,

(d) a statement of the principles that the licensing authority propose to apply in making any determination required by paragraph 5 of Schedule 9,

(e) the dates by which the licensing authority expect to make—

3

(i) the determination under 163 (if the licensing authority only receives one application), or

(ii) the determination under paragraph 4 of Schedule 9 and any determination under paragraph 5 of that Schedule that may be required (if the licensing authority receives more than one application), and

(f) such other information as the licensing authority consider appropriate.

(2) The statement required by paragraph (1)(b) must, in particular, include information about the two-stage consideration procedure under paragraphs 4 and 5 of Schedule 9.

(3) In this regulation “the application regulations” means the regulations made under section 159(6)(a)—

(a) in relation to applications to licensing authorities in England and Wales, by the Secretary of State, and

(b) in relation to applications to licensing authorities in Scotland, by the Scottish Ministers.

Timing

7.—(1) A licensing authority may not consider an application before the closing date stated in the invitation to which the application relates (“the relevant closing date”).

(2) A licensing authority are not required to consider an application that is made after the relevant closing date.

(3) For the purposes of the Act and any regulations made under it, an application that is made before the relevant closing date shall be treated as if it were made on the relevant closing date.

Andy Burnham

Secretary of State

25th February 2008 Department for Culture, Media and Sport

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations make provision about inviting applications under the Gambling Act 2005 (“the Act”) for—

— large and small casino premises licences, and

— provisional statements in respect of a large or small casino,

(together referred to as “applications”; and “applicant” means a person who makes an application).

Paragraph 2 of Schedule 9 to the Act requires a licensing authority to invite applications where a limit is specified in relation to the relevant category of casino premises licence under section 175 of the Act.

Regulation 3 provides that, before considering an application, a licensing authority must—

— publish an invitation calling for applications (“invitation”) that accords with regulations 4 and 5, and

— make arrangements for the provision, free of charge, of information about an invited application (“application pack”) to be provided to a person on request until the latest date by which an application must be made in order to be considered by the licensing authority (“closing date”). The application pack must accord with regulation 6.

Regulation 4 provides for the manner in which an invitation must be published.

Regulation 5 sets out the information that must be included in an invitation. This information includes the closing date.

Regulation 6 sets out the information that must be included in an application pack.

Regulation 7(1) and (2) provides that—

— a licensing authority may not consider an application before the closing date stated in the invitation to which the application relates (“the relevant closing date”), and

— a licensing authority are not required to consider an application that is made after the relevant closing date.

Regulation 7(3) provides that an application that is made before the relevant closing date shall be treated, for the purposes of the Act and regulations made under it, as if it were made on the relevant closing date. This will mean, for example, that the period within which a person may make representations in relation to an application (prescribed by regulation 15 of the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 (SI 2007/459)) will begin from the relevant closing date rather than the date that the application was actually made.

£3.00

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E2016 2/2008 182016T 19585

EXPLANATORY MEMORANDUM TO

THE GAMBLING (INVITING COMPETING APPLICATIONS FOR LARGE AND SMALL CASINO PREMISES LICENCES) REGULATIONS 2008

2008 No. 469

1. This explanatory memorandum has been prepared by the Department for Culture, Media and Sport and is laid before Parliament by Command of Her Majesty.
2. **Description**
 - 2.1 These regulations make provision for licensing authorities to invite applications for large and small casino premises licences and provisional statements in respect of large and small casinos under the Gambling Act 2005 (“the Act”).
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1 None.
4. **Legislative Background**
 - 4.1. This instrument has been made as part of the implementation of the Act.
 - 4.2. The Act establishes a new system for the regulation of all gambling in Great Britain, other than the National Lottery and spread betting. It repeals the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968 and the Lotteries and Amusements Act 1976. It provides for local authorities in England and Wales and licensing boards established under Scottish legislation – together called “licensing authorities” in the Act – to license premises within their areas which are used to provide facilities for commercial gambling.
 - 4.3. The Act also introduces a unified regulator for gambling – the Gambling Commission (“Commission”). The Commission will license and regulate virtually all commercial gambling in Great Britain, including all casinos.
 - 4.4. The Act sets out the following three licensing objectives, which licensing authorities are required to consider in licensing premises under the Act and which the Commission is also required to pursue:
 - To prevent gambling from being a source of crime and disorder;
 - To ensure that gambling is conducted in a fair and open way; and
 - To protect children and vulnerable persons from being harmed or exploited by gambling.
 - 4.5. As part of the new licensing regime it introduces, the Act provides for the following three main types of licence:
 - 4.5.1. Premises licences. These will be held by people who wish to use premises to provide facilities for commercial gaming and betting and, in general, it will be an offence to use premises for such a purpose without a premises licence. There are different kinds of premises licences for the different kinds of gambling premises (for example, casino premises licences, bingo premises licences, betting premises

licences, etc.). Premises licences may only be issued to a person who holds a valid operating licence (see below). They will be issued and overseen by licensing authorities.

- 4.5.2. Operating licences. These will be held by people who wish to provide facilities for commercial gambling and, in general, it will be an offence to provide such facilities without an operating licence. Operating licences will be issued and overseen by the Gambling Commission.
- 4.5.3. Personal licences. These licences will also be issued and overseen by the Gambling Commission and will be held by people who hold specified “management offices” in relation to an operating licence or who perform specified “operational functions” in relation to such a licence.
- 4.6. The Act also provides for licensing authorities to issue provisional statements in respect of prospective gambling premises. Different, less onerous, rules apply to applications for premises licences by people who have already been issued with a provisional statement in respect of the premises.
- 4.7. The Act provides for three different kinds of casino – 1 regional, 8 large and 8 small – and for different premises licences (and provisional statements) for each kind. These regulations deal only with large and small casino premises licences and provisional statements. The Secretary of State has decided not to provide for a regional casino at this time and such provision will not be given further consideration until after an assessment of the social and economic impact of the 16 large and small casinos has been carried out. This assessment will not be carried until at least three years after the first new casinos have begun operating. The assessment is not expected to be completed until 2013.
- 4.8. Section 175 of the Act prescribes limits on the number of casino premises licences that may have effect at any time. There may only be eight large and eight small casino premises licences in effect at any time. Section 175(4) provides for the Secretary of State, after consultation with the Scottish and Welsh Ministers,¹ to specify by order:
 - 4.8.1. which licensing authorities may issue each kind of casino premises licence; and
 - 4.8.2. the number of casino premises licences of each kind issued by each authority that may have effect at any time.
- 4.9. The Secretary of State laid before Parliament a draft order under section 175(4) of the Act at the same time as laying these regulations.
- 4.10. Where a limit is specified under section 175 of the Act in relation to a kind of casino premises licence, Schedule 9 to the Act provides for each licensing authority who may issue that kind of licence (or related provisional statement) to run a two-stage competition for those licences and statements. Paragraph 2 of Schedule 9 provides for the Secretary of State to make regulations about inviting applications as part of those competitions. These are the first regulations made under that provision. A licensing authority must comply with them before considering an application for a casino premises licence or a provisional statement in respect of a casino.

¹ Section 175(4) refers to the National Assembly for Wales rather than the Welsh Ministers. However, the function of the National Assembly for Wales in section 175(4) was transferred to the Welsh Ministers by paragraph 30 of Schedule 11 to the Government of Wales Act 2006 (2006 c.32). Under paragraph 32 of Schedule 11 to that Act, the reference to the National Assembly for Wales in section 175(4) is to be construed as being a reference to the Welsh Ministers.

- 4.11. Paragraph 6 of Schedule 9 to the Act provides for the Secretary of State to issue a code of practice about the two-stage competition that a licensing authority must run before issuing a casino premise licence or provisional statement in respect of a casino. The Secretary of State issued a code of practice in relation to large and small casinos on the same day as these regulations were laid before Parliament.

5. Territorial Extent and Application

- 5.1 This instrument extends to Great Britain.

6. European Convention on Human Rights

- 6.1 As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy background

- 7.1 The Act gave effect to the Government's proposals for reform of the law of gambling. As noted above, it contains a new regulatory system to govern the provision of all gambling in Great Britain, other than the National Lottery and spread betting. It replaces the existing legislation that governs gambling in Great Britain: the Betting, Gaming and Lotteries Act 1963, the Gaming Act 1968, and the Lotteries and Amusements Act 1976.
- 7.2 Through the licensing objectives set out in section 1 (see paragraph 4.4 above), the Act places the protection of children and other vulnerable people at the heart of the regulation of gambling. All casinos – both the existing estate and the new casinos permitted by the Act – will be required to abide by new rules relating to social responsibility that are to be put in place under the Act.
- 7.3 The Act provides for the licensing of eight large and eight small new casinos. The areas in which new large and small casinos should be located were recommended to the Secretary of State by an independent panel, following submissions made to it by a number of licensing authorities against certain criteria.
- 7.4 New casinos will differ from existing casinos in a number of ways: they will be able to offer more gaming machines and they will be able to offer new combinations of gambling facilities. The operators of existing casinos licensed under the Gaming Act 1968 will, like any other person, be able to apply for the new casino licences. Existing operators have also been able to apply to convert their existing licences into new licences issued under the Act. Where they have done so, they have retained their current entitlement to 20 jackpot gaming machines.
- 7.5 The limits on the number of new casino premises licences that may have effect at any time reflect the Government's cautious approach to this reform. They allow the Government to assess whether the introduction of new casinos leads to any increase in problem gambling. The Government will also evaluate new casinos' economic and regeneration impact. A team led by Lancaster University advised the government on the methodology for this assessment and undertook a scoping study for this work. The assessment of the impact of the new casinos will not start until at least three years after the first new casinos have begun operating. It is anticipated that the assessment will not be completed until 2013.
- 7.6 The procedure for inviting and considering applications for casino premises licences (and provisional statements in respect of casinos) is prescribed by Schedule 9 to the Act, under which these regulations are made.

- 7.7 Before a licensing authority may consider any applications it must comply with these regulations, which are about inviting competing applications. In making the regulations, the Secretary of State has prescribed the minimum requirements with which licensing authorities must comply. They must publish an invitation calling for applications so that as many potential casino operators, both in the United Kingdom and abroad, have the chance to apply. The Secretary of State decided not to stipulate the actual publications in which an invitation must be published as this could vary from area to area, and licensing authorities are best placed to assess which is the best publication at the time they issue the invitation.
- 7.8 In addition to publishing an invitation, licensing authorities must make an application pack publicly available (and refer to the application pack in their published invitation). The pack will provide further useful information about applications.
- 7.9 Paragraphs 5 and 6 of the regulations prescribe the information to be included in an invitation and application pack. They set out the minimum requirements with which a licensing authority must comply, and ensure consistency between different licensing authorities.
- 7.10 If, having complied with the regulations, a licensing authority receives more than one application, it must then apply the two-stage consideration process required by Schedule 9 to the Act.
- 7.11 During the first stage, a licensing authority will consider applications in the manner in which it considers any application for a premises licence under the Gambling Act 2005. Regulations governing this application stage have already been made – the Gambling Act (Premises Licence and Provisional Statement) Regulations 2007 (SI 2007/459). Applicants must use the relevant form prescribed in those regulations and submit it with the relevant fee and a plan of the premises. The plan must show that the premises meet the mandatory conditions attached to a premises licence. The maximum fees for applications for premises licences have also been prescribed in regulations – the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (SI 2007/479); and the Gambling (Premises Licence Fees) (Scotland) Regulations 2007 (SSI 2007/197). As these regulations set the maximum fees, it is for individual licensing authorities to determine their own fees, on a full cost recovery basis.
- 7.12 If more than one application makes it through the first stage of the application process, the second stage requires the licensing authority to determine which of the applications would result in the greatest benefit to their area. For that purpose, a licensing authority may enter into an agreement with an applicant. An agreement may, for example, provide for an applicant, if successful, to pay a proportion of its casino profits to the licensing authority for the purposes of the treatment of problem gambling in the authority's area. The application that gives rise to the greatest benefit (and only that application) will be granted.
- 7.13 Paragraph 6 of Schedule 9 allows the Secretary of State to issue a code of practice about the two-stage consideration process, with which licensing authorities must comply. Although this code is not made by statutory instrument and is not subject to Parliamentary scrutiny, the Department consulted on it at the same time as the regulations. The code of practice contains more detail about the two-stage procedure licensing authorities will apply in considering applications. It has been developed taking into account comments from respondents to the consultation and may be revised in the future in the light of licensing authorities' practical experience of the consideration process. The code currently provides details about the following:
- Steps that licensing authorities should take to ensure that the consideration process is fair to all applicants.

- Matters which a licensing authority may (and may not) consider during the first stage of the consideration process, and what they may consider during the second stage.
- Guidance on the matters about which licensing authorities should consult local people.
- Factors that a licensing authority may wish to have regard to in determining whether an application would provide the greatest benefit to their area.
- Guidance on the discussions and negotiations that licensing authorities may have with applicants.

Consultation

- 7.14 The Department consulted widely on these regulations and as regards its new casino policy in general.
- 7.15 The formal consultation process for these regulations ran from 21st February 2007 (when a consultation document was published) to 2nd May 2007. A summary of responses was published on the DCMS's website on 2nd August 2007. A total of 21 responses were received from the industry, licensing authorities and community groups. There was overall agreement to the approach the Department proposed (i.e. to lay "light touch" regulations). Although these regulations concern the invitation process only, the Department chose to consult on the Code of Practice at the same time, to ensure that this guidance would be user friendly and relevant to all parties.
- 7.16 Aspects of the draft Regulations and code of practice were changed as a result of the consultation. The initial proposal for the content of the invitation required a great deal of information to be included in the published invitation. This could have been expensive for licensing authorities. Accordingly, the draft Regulations were amended to provide for basic information only to be included in the invitation, with more detailed information included in an application pack to be made publicly available by licensing authorities. The draft Regulations were also amended to provide that applications are, for the purpose of the Act and regulations made under it, to be treated as if they were made on a common date. This has the effect, for example, that representations from interested parties in relation to multiple applications for one licence will all be due on the same date.

Guidance

- 7.17 As we have noted above, paragraph 6 of Schedule 9 to the Act enables the Secretary of State to issue a code of practice. This code supports the application process and gives useful guidance to applicants and licensing authorities alike.
- 7.18 Ongoing discussions between the Department and those licensing authorities who will be authorised to issue casino premises licences have highlighted the need for the Department to provide further guidance in the form of a 'frequently asked questions' document. This document will answer questions about practical matters which cannot be dealt with through the Regulations or the code of practice.

8. Impact

- 8.1 An Impact Assessment is attached to this memorandum.
- 8.2 The impact on the public sector is as follows. Licensing authorities who are authorised, and wish, to issue a casino premises licence (or provisional statement in respect of a casino) will be required to comply with these regulations and invite applications for

licences and statements. Where more than one such application is received they will be required to run competitions in accordance with Schedule 9 to the Act. The Act provides for the payment of a fee to a licensing authority on application for a premises licence or provisional statement. The Secretary of State and Scottish Ministers have provided by Order for licensing authorities to determine the amount of those fees, subject to maximum fees specified in the Orders (see SI 2007/479 and SSI 2007/197). In determining the amount of fees, licensing authorities are required by section 212(2)(d) of the Act to aim to ensure that their income from fees as nearly as possible equates to their costs. Accordingly, the fiscal impact to licensing authorities of inviting applications for casino premises licences, running any competition, and issuing the licences should be neutral.

9. Contact

Peter Doogan at the Department for Culture, Media and Sport Tel: 020 7211 6486 or e-mail: peter.doogan@culture.gsi.gov.uk can answer any queries regarding the instrument.

Summary: Intervention & Options

Department /Agency: Department for Culture, Media and Sport	Title: Impact Assessment of The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008	
Stage: final	Version: 1	Date: 25 February 2008
Related Publications: Code of Practice on Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos		

Available to view or download at:

<http://www>.

Contact for enquiries: Peter Doogan DCMS

Telephone: 0207 211 6486

What is the problem under consideration? Why is government intervention necessary?

These regulations are made under paragraph 2 of Schedule 9 to the Gambling Act 2005. Schedule 9 governs the process that licensing authorities must follow when inviting, considering and granting or rejecting applications for a casino premises licence (or a provisional statement in respect of casino premises). The process is divided into two principal stages by the Act: a "regulatory test" stage and a "greatest benefits test" stage. These regulations govern the inviting, by authorities, of applications and are made as part of the implementation of the Act.

What are the policy objectives and the intended effects?

The broad objective is to ensure that licensing authorities run fair competitions for casino premises licences. The process for competitions must be transparent and clearly understood by interested parties. Further, licensing authorities must be able to maximise the benefits accruing to their local area from the licensing of a new casino. The regulations require authorities to publish open invitations for casino applications and to make information about such applications publicly available.

What policy options have been considered? Please justify any preferred option.

The regulations are part of the casino licensing process with which authorities must comply, so not making them is not an option. An alternative option would be to make more prescriptive regulations about the content and publication of invitations, but the DCMS consider authorities are sufficiently experienced at tendering exercises, with which the Schedule 9 competitions will be broadly similar, to make this unnecessary. The regulations therefore prescribe minimum requirements consistent with the objective of ensuring a fair competitive process.

When will the policy be reviewed to establish the actual costs and benefits and the achievement of the desired effects? The code of practice will be kept under review and will be developed over time, as necessary. An assessment of the impact of the new casinos will be carried out no earlier than three years after the issue of the first casino premises licence.

Ministerial Sign-off For Impact Assessments:

I have read the Impact Assessment and I am satisfied that, given the available evidence, it represents a reasonable view of the likely costs, benefits and impact of the leading options.

Signed by the responsible Minister:

.....Page 81..... Date:

Summary: Analysis & Evidence

Policy Option:	Description:
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C O S T S	ANNUAL COSTS	Description and scale of key monetised costs by 'main affected groups'
	One-off (Transition) Yrs	
	£	
	Average Annual Cost (excluding one-off)	
	£	Total Cost (PV) £
Other key non-monetised costs by 'main affected groups'		

B E N E F I T S	ANNUAL BENEFITS	Description and scale of key monetised benefits by 'main affected groups' These regulations should help maximise those benefits, albeit in an unquantifiable way, by helping to ensure that the opportunity to apply for a licence is brought to the attention of the widest possible range of interested parties.
	One-off Yrs	
	£	
	Average Annual Benefit (excluding one-off)	
	£	Total Benefit (PV) £
Other key non-monetised benefits by 'main affected groups'		

Key Assumptions/Sensitivities/Risks Authorities will need to run a transparent, fair and open competition for casino premises licences, or risk challenges from the industry.

Price Base Year	Time Period Years	Net Benefit Range (NPV) £	NET BENEFIT (NPV Best estimate) £
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What is the geographic coverage of the policy/option?	Great Britain				
On what date will the policy be implemented?	March/April 2008				
Which organisation(s) will enforce the policy?					
What is the total annual cost of enforcement for these organisations?	£				
Does enforcement comply with Hampton principles?	Yes				
Will implementation go beyond minimum EU requirements?	No				
What is the value of the proposed offsetting measure per year?	£ n/a				
What is the value of changes in greenhouse gas emissions?	£ n/a				
Will the proposal have a significant impact on competition?	No				
Annual cost (£-£) per organisation (excluding one-off)	<table style="width: 100%; border: none;"> <tr> <td style="width: 25%; text-align: center;">Micro none</td> <td style="width: 25%; text-align: center;">Small none</td> <td style="width: 25%; text-align: center;">Medium none</td> <td style="width: 25%; text-align: center;">Large none</td> </tr> </table>	Micro none	Small none	Medium none	Large none
Micro none	Small none	Medium none	Large none		
Are any of these organisations exempt?	<table style="width: 100%; border: none;"> <tr> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">No</td> <td style="width: 25%; text-align: center;">N/A</td> <td style="width: 25%; text-align: center;">N/A</td> </tr> </table>	No	No	N/A	N/A
No	No	N/A	N/A		

Impact on Admin Burdens Baseline (2005 Prices)		(Increase - Decrease)
Increase of £	Decrease of £	Net Impact £

Key: Annual costs and benefits: Constant Prices (Net) Present Value

Evidence Base (for summary sheets)

[Use this space (with a recommended maximum of 30 pages) to set out the evidence, analysis and detailed narrative from which you have generated your policy options or proposal. Ensure that the information is organised in such a way as to explain clearly the summary information on the preceding pages of this form.]

Section 175 of the Gambling Act 2005 provides for three new categories of casinos and imposes a limit on the number of each. There may be a maximum of 17 new casinos: one regional, eight large and eight small. These regulations relate only to the 16 large and small casinos, because the Secretary of State has decided not to make provision for a regional casino at this time. The areas in which new large and small casinos should be located were recommended to the Secretary of State by an independent panel, following submissions made to it by a number of licensing authorities against certain criteria. A local licensing authority will only be able to award a casino premises licence if one has been identified for its area.

Policy Background :

The 16 new large and small casinos can offer more gaming machines and new combinations of gaming. The Act therefore provides the industry with some opportunity to expand, although the number of licences available is limited. This limit reflects the Government's cautious approach to gambling reform, as it allows for the Government to examine the impact of new casinos and, in particular, whether there is any association between the new casinos and increased problem gambling. This supports the main objectives of the Act, which are:

- Preventing gambling being a source of crime or disorder
- Ensuring that gambling is conducted in a fair and open way; and
- Protecting children and the vulnerable from being harmed or exploited by gambling

Options

The procedure for inviting, and granting or rejecting applications for new casino licences is prescribed in Schedule 9 to the Act. The Secretary of State must make regulations that provide for:

- The manner and timing of the publication of invitations
- The timing of responses.

The Department considered three options.

1. Make no regulations.

This option was not realistic. The Secretary of State is required to make regulations to enable licensing authorities to start taking applications for new casino premises licences. Without these regulations being in place, casino operators would be prevented from being able to take advantage of the new licences permitted by the Act.

2. Make detailed regulations related to the publication of the invitation and what it should contain.

The Government considers that licensing authorities are better placed to decide what their local priorities are, and how these are communicated in the invitation to apply. The competitions for the new casino licences are not tendering exercises but there are parallels to be drawn between the two processes. Local authorities have extensive experience of conducting tendering exercises and can draw on this to run the competition process. The Government regards this as preferable to inflexible and detailed regulations for a single premises licence competition.

3. Making less prescriptive regulations, allowing licensing authorities freedom to decide what will work in their areas.

This remains the Government's preferred option. These regulations provide the minimum standards which are consistent with the objective of providing fair and open competitions and maximising the benefits that licensing authorities are able to secure for their local areas.

These regulations are made under paragraph 2 of Schedule 9. The Department consulted on a number of suggestions for the invitation itself. These included that:

- the invitations should be publicised by a licensing authority in such a manner whereby it is brought to the attention of as many potential bidders as possible;
- bidders must be given at least three months to submit applications;
- the invitation must include the timetable for the competition process, and details of the criteria a Licensing Authority will take into account at each stage; and
- applications for the first stage will follow the procedure laid out in Part 8 of the Act and use forms prescribed under that Part.

The Department has consulted with a view to prescribing the minimum requirements a licensing authority must comply with in inviting applications, so as not to be over burdensome, but at the same time to ensure consistency among the authorities concerned.

Consultation:

The Department published its formal consultation document on 21st February 2007, the consultation period ended on 2nd May 2007. A summary of responses was published on the DCMS's website on 2nd August 2007. A total of 21 responses were received from the industry, licensing authorities and community groups. The Department also undertook some informal consultation meetings within the Department's industry liaison group, community liaison group and with licensing authorities through LACORS (Local Authorities Coordinators of Regulatory Services).

There was overall agreement to the approach the Department had taken (i.e. to lay "light touch" regulations). For example, the majority of respondents agreed that three months was sufficient time in which applications should be made. Although these regulations concern the invitation process only, the Department chose to consult on a Code of Practice relating to casino premises licence competitions at the same time, to ensure that this guidance would be user friendly and relevant to all parties. As a result of the consultation, a number of changes were made to the regulations and the Code of Practice. The regulations now provide that it is mandatory for a licensing authority to make clear in the advertisement the category of casino it proposes to issue licences for (either large or small).

The regulations now provide for an invitation to be published in a manner which ensures it is brought to the attention of as many potential applicants as possible. Licensing authorities have the scope to find publications relevant to their market and area. This must include a trade publication which is likely to be read both within the United Kingdom and abroad.

Respondents indicated that there was some concern over lack of clarity between the first and second stages of the application process. The Code of Practice now contains information on how the licensing authority should treat information which is incorrectly submitted in the first stage of the application process. The Code also offers advice to those authorities who may have entered into contracts or agreements with operators prior to these regulations being made.

Costs and Benefits

Costs

The costs of publishing an invitation, making an application pack available and running a competition are paid by the licensing authority and recovered through application fees set by licensing authorities under the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (SI 2007/479) and Gambling (Premises Licence Fees) (Scotland) Regulations 2007 (SSI 2007/197). Licensing Authorities can draw on their experience of existing procurement systems which should help to ensure that the costs of running the competition are kept to a minimum.

The application process begins with a licensing authority publishing an invitation calling for applications. Any applications received are put through a two-stage consideration process. During the first stage, a licensing authority will consider the applications in the manner in which they consider all premises licence applications as prescribed in Part 8 of the Gambling Act and the Gambling Act (Premises Licence and Provisional Statement) Regulations 2007 (SI 2007/459). Applicants must use the relevant form prescribed in those regulations and submit it with the relevant fee and a plan of the premises. The plan must show that the premises meet the mandatory conditions attached to a premises licence. This application procedure is already in place and both licensing authorities and the industry are becoming accustomed to it. The process is designed to present as little burden to the industry, whilst being compliant with the Act.

Benefits

If more than one application makes it through the first stage, a second, 'greatest benefit' stage will apply. During this stage, applicants will be asked to demonstrate what benefits their application would have for the authority's area and the authority must determine which of the competing applications would provide the greatest benefit. In determining the benefits that an application would have for an area, authorities can enter into agreements with applicants (under which, for example, an applicant could agree to invest in a problem gambling treatment scheme, if their application were granted). Authorities must also compare competing applications to determine which application would bring most to their area in terms of employment and development. This stage will provide the industry with opportunities to demonstrate how it can play a useful role in a local community and enhance their reputation by working with local authorities. It also gives local authorities the chance to secure investment for their areas.

By not prescriptively defining the factors that are relevant to determining 'greatest benefit', the Government has allowed licensing authorities and the industry to be imaginative about the contributions a casino can make to the local community. Licensing authorities will also be able to decide what suits their particular community best. For example, an applicant could agree to implement a recycling and waste management scheme which supports the authority's environmental policy, or to invest directly in the regeneration of the area. Both the authority and the applicant can enter into a flexible, locally-focused agreement which can be reviewed as needs change.

Competition assessment

This regulation is fundamentally about maximising competition. Each authority must publish an invitation calling for applications so that as many potential casino operators, both in the United Kingdom and abroad, have the chance to apply. Competition is not restricted to any particular classes of people and therefore applications can be made by any person. The Secretary of State chose not to stipulate the actual publications in which an invitation must be published as this may vary from area to area, and licensing authorities are best placed to assess which is the best publication at the time they issue the invitation. In addition to publishing an invitation, licensing authorities must make an application pack publicly available (and refer to that pack and the place where it may be obtained in their published invitation). The pack will provide further useful information about applications.

Small firms impact test

Requiring licensing authorities to publicise the invitation in the manner proposed should ensure that it comes to the attention of companies, of whatever size and they will be able to consider applying for the new casino premises licenses.

Implementation and delivery

These regulations are being laid alongside the geographical distribution of large and small casinos order, which will specify the licensing areas in which the new casinos will be located. If that is approved by Parliament, the licensing authorities concerned will be able to begin the competition.

Paragraph 6 of Schedule 9 allows the Secretary of State to issue a Code of Practice about the two-stage consideration process, with which licensing authorities must comply. Though this Code is not subject to Parliamentary scrutiny and is not made by statutory instrument, the Department consulted on it at the same time as the regulations. The Code of Practice contains more detail about the two-stage procedure licensing authorities will apply in considering applications and thus provides useful support in the context of a new process. The document will be formally released as these regulations are made. At the heart of both the regulations and the Code of Practice is the aim to provide an application process which is fair. Industry will have access to that guidance, which ensures that the consideration process is transparent.

The Code of Practice was developed with reference to the comments received in the consultation responses, and can be revised to take into account the practical experience of licensing authorities once the system is up and running. Once these regulations have been approved by Parliament, the licensing authorities will be permitted to take applications for casino premises licenses. LACORS have established a casino network which will provide the authorities with a forum in which to discuss issues as they arise. The Department will continue to provide advice to licensing authorities by producing answers to 'frequently asked questions' which the authorities themselves will collate once the new application process has begun.

Application forms have already been made available to licensing authorities using word templates, under the Premises Licences and Provisional statement regulations.

Post Implementation Review

The Government will evaluate new casinos' economic and regeneration impact. A team led by Lancaster University advised the government on the methodology for this assessment and undertook a scoping study for this work. The assessment of the impact of the new casinos will not start until at least three years after the first casino has begun trading. It is not anticipated that the assessment will be completed until 2013.

Specific Impact Tests

The Department carried out preliminary health assessment of the impact of this policy, which indicated that a full assessment was not necessary as the three indicator questions all provoked negative responses. The Government is introducing a strict licensing regime for these new casinos, has limited the number of licences which can be issued initially and will assess the impact on problem gambling before deciding whether or not to propose any further casinos.

Similarly, initial assessment for the Carbon Impact Test demonstrated that the proposed policy would not have a significant impact as the policy does not affect any of the sectors/activities identified by DEFRA as being key sources of emissions of greenhouse gasses (Energy, Industrial Processes, Agriculture, Land Use/Forestry, Agriculture, or Waste). Therefore a full test is not required.

According to the 13 questions set by DEFRA to determine a policy's impact on rural areas, no work is required to "rural proof" this policy. The regulations are of a technical nature and do not of themselves have an impact, neither positive nor negative, on rural communities/areas, or an impact which is different to urban areas.

Again, these regulations cover a technical issue which, in itself, does not have any direct impact on any individuals, therefore initial assessments of the impact Race, Gender or Disability showed that a full assessment was not required.

Finally, these regulations do not require their legal aid impact to be assessed as they do not impose new criminal or civil penalties.

Specific Impact Tests: Checklist

Use the table below to demonstrate how broadly you have considered the potential impacts of your policy options.

Ensure that the results of any tests that impact on the cost-benefit analysis are contained within the main evidence base; other results may be annexed.

Type of testing undertaken	<i>Results in Evidence Base?</i>	<i>Results annexed?</i>
Competition Assessment	Yes	No
Small Firms Impact Test	Yes	No
Legal Aid	No	No
Sustainable Development	No	No
Carbon Assessment	Yes	No
Other Environment	No	No
Health Impact Assessment	Yes	No
Race Equality	No	No
Disability Equality	No	No
Gender Equality	No	No
Human Rights	Yes	No
Rural Proofing	Yes	No

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Extract from Gambling Commission Guidance Notes to Local Authorities – May 2009

The process for issuing casino premises licences

- 17.7** As a first step in licensing a casino, the licensing authority will have to invite applications for any casino premises licences that it may issue. Regulations set out how the process of inviting applications is to be done.³³
- 17.8** It is possible that the number of applications that the relevant licensing authorities will receive will exceed the number of licences available. The Act lays down a framework for a two-stage process for considering applications in these circumstances.
- 17.9** As with all deliberations in premises licences, the authority should not confuse planning and building regulation considerations with the matter before it.
- 17.10** Licensing authorities whose areas have been chosen for the new casinos should, in their Licensing Authority Statement of Policy, set out the principles they intend to apply when determining the ‘winner’ of a premises licence competition.
- 17.11** Authorities should think carefully before entering into any agreements or arrangements with potential casino operators which might be perceived to affect their ability to exercise their stage two functions objectively and without having prejudged any of the issues. If any such agreements or arrangements are entered into, it will be important that authorities are able to demonstrate (for example, through having obtained independent and impartial advice on the competing applications) that any decision they reach is objectively based and is not affected by the arrangements.

Stage one

- 17.12** If more applications are received than the number of available licences, the authority must determine whether each application would be granted a licence if there were no limit on the number of licences that the authority could grant. Each application must be considered separately and no reference made to the other applications received.
- 17.13** During this process each of the other applicants will be considered an ‘interested party’ and may make representations. The consideration of representations should be the same as that for normal applications for premises licences (see part 7 of this Guidance).
- 17.14** This process will result in one or more provisional decisions to grant a premises licence.
- 17.15** As with other decisions on premises licences, the decision of the authority may be appealed against. Until all appeals are determined the licensing authority may not proceed to stage two.

Stage two

- 17.16** The second stage of the process only applies where the number of applications which the licensing authority would provisionally grant under the stage one process exceeds the number of available casino premises licences.
- 17.17** Under the second stage of the process the authority has to decide between the competing applications and grant any available licences to those applications which in their opinion will result in the greatest benefit to its area. The principles which the licensing authority are going to apply in determining the stage two competition must be included in the authority's policy statement and therefore should be available to potential applicants before the authority invites applications for the available casino premises licence(s). The unsuccessful applicants must be informed of the result of the competition.
- 17.18** There is no right of appeal against the grant or refusal at stage two (other than by way of judicial review).
- 17.19** The Secretary of State has issued a code of practice about the procedure to be followed by licensing authorities in making determinations at both stage one and stage two, and also about the matters authorities are to take into account in making such determinations. The Act requires licensing authorities to comply with any code of practice issued by the Secretary of State.
- 17.20** Where an authority invites applications, those applications may be in the form of an application for a provisional statement as well as in the form of an application for the grant of a full casino premises licence. Where an application is made in the form of a provisional statement it is to be treated in the same way as an application for a casino premises licence and included in any two-stage determination process that the authority is required to carry out. If an application for a provisional statement is successful in that process, then it is not necessary for a further two-stage licensing process to be held when a casino premises licence application is eventually made by the operator to whom the statement has been issued.
- 17.21** Where a licensing authority issues a provisional statement following a two-stage determination process, they may limit the period of time for which the statement has effect. This is so that the authority can control the period within which the full casino premises licence application has to be made. Under Schedule 9 to the Gambling Act the authority is allowed to extend the period for which the provisional statement has effect if the person to whom it is issued applies to have it extended.



department for
**culture, media
and sport**

Code of Practice

Determinations under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos

Issued by the Secretary of State for Culture, Media and Sport
on 26th February 2008

Our aim is to improve the quality of life for all through cultural and sporting activities, support the pursuit of excellence, and champion the tourism, creative and leisure industries.

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Section 1: Introduction

- 1.1 This Code of Practice is issued by the Secretary of State for Culture, Media and Sport under paragraph 6 of Schedule 9 to the Gambling Act 2005. It should be read alongside Part 8 of and Schedule 9 to that Act.
- 1.2 This Code of Practice is about:
 - 1.2.1. the procedure to be followed by a licensing authority in making any determinations required by paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005; and
 - 1.2.2. matters to which a licensing authority should have regard in making those determinations.
- 1.3 Under paragraph 6(2) of Schedule 9 to the Gambling Act 2005, a licensing authority must comply with this Code of Practice.

Section 2: Definitions

2.1 In this Code of Practice:

the Act means the Gambling Act 2005,

application, unless the contrary intention appears, means:

- (a) an application under section 159 of the Act for a large or small casino premises licence, or
- (b) an application under section 204 of the Act for a provisional statement in respect of a large or small casino,

and a reference to an **applicant** shall be construed accordingly,

the invitation regulations means the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008¹ and a reference to an **application pack** or **invitation** means an application pack made available or invitation published under those regulations,

second stage applicants has the meaning given in paragraph 5.4.1 below,

the Schedule means Schedule 9 to the Act, and

the second stage means the second stage of the two-stage consideration procedure under the Schedule, by which a licensing authority makes the determination required by paragraph 5 of the Schedule.

¹ S.I. 2008/469

Section 3: General Principles to Govern Procedure

- 3.1 A licensing authority must ensure that the procedure they follow in making any determinations required by paragraphs 4 and 5 of the Schedule is fair, having regard to the provisions of the Act.
- 3.2 Subject to the provisions of the Act, the procedure must allow any person to make an application. It must also ensure that each application is determined by the licensing authority according to criteria which are:
 - 3.2.1. the same for all applications;
 - 3.2.2. made known to all applicants; and
 - 3.2.3. not pre-selected to favour a particular applicant or application.
- 3.3 A licensing authority must ensure that any pre-existing contract, arrangement or other relationship they have with any person does not affect the procedure so as to make it unfair (or appear unfair) to any applicant. In particular, a licensing authority must:
 - 3.3.1. in determining the principles that they propose to apply in making the determination under paragraph 5 of the Schedule, disregard any such contract, arrangement or other relationship;
 - 3.3.2. before publishing an invitation, put in place arrangements to ensure that any such contract, arrangement or other relationship does not, actually or apparently, prejudice their ability to conduct the procedure fairly; and

- 3.3.3. after the closing date (as defined in the invitation regulations) but before considering an application, prepare a register of interests disclosing their interest in any contract, arrangement or other relationship with an applicant or a person connected or associated with an applicant.
- 3.4 A copy of the information in the register of interests referred to in paragraph 3.3.3 above must be provided by the licensing authority free of charge to each applicant and to any other person who requests it.
- 3.5 For the purposes of paragraph 3.3.3 above:
- 3.5.1. a person is “connected with” an applicant if, were the applicant a director of a company, the person would be connected with the applicant within the meaning of section 252 of the Companies Act 2006; and
- 3.5.2. a person is “associated with” an applicant if the applicant is a body corporate and the person is an associated body corporate under section 256 of the Companies Act 2006.
- 3.6 Paragraph 3.3 above does not apply to an agreement between a licensing authority and an applicant entered into during the second stage under paragraph 5(3)(b) of the Schedule.
- 3.7 Licensing authorities should bear in mind section 210 of the Act, which provides that:
- 3.7.1. in making a decision in respect of an application, a licensing authority shall not have regard to whether a not a proposal by the applicant is likely to be permitted in accordance with the law relating to planning or building; and
- 3.7.2. a decision in respect of an application shall not constrain any later decision by the authority under the law relating to planning or building.

Section 4: The First Stage of the Consideration Procedure

- 4.1 In making any determination required by paragraph 4 of the Schedule, a licensing authority must apply the procedure for assessing applications for premises licences which they ordinarily apply to such applications, subject to the modifications of that procedure noted in paragraph 4.2 below. That procedure is governed by Part 8 of the Act, including statutory instruments made under that Part.² Section 153 of the Act sets out the principles to be applied by a licensing authority in exercising their functions under Part 8.
- 4.2 For the purposes of making any determination under paragraph 4 of the Schedule, Part 8 of the Act is modified by paragraph 4(2)(b) and (c) of the Schedule. Paragraph 4(2)(b) provides that each competing applicant is an interested party in relation to each of the other competing applications.
- 4.3 In making any determination required by paragraph 4 of the Schedule, a licensing authority must not take into account any matters which they would not ordinarily take into account in determining an application for a premises licence. In particular, a licensing authority must comply with paragraph 4(2)(a) of the Schedule, which provides that an authority must not have regard to whether any of the competing applications is more deserving of being granted.

² In particular, in relation to applications in England and Wales, the Gambling Act 2005 (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (S.I. 2007/459); and in relation to applications in Scotland, the Gambling Act 2005 (Premises Licences and Provisional Statements) (Scotland) Regulations 2007 (S.S.I. 2007/196)

- 4.4 Regulation 6(1)(a) of the invitation regulations requires that an application pack include a statement that no information, other than information required by the regulations that govern the making of applications,³ be included in or submitted with an application. Where any such information (including information which is relevant to a determination under paragraph 5 of the Schedule but is not also relevant to the determination under paragraph 4) is nevertheless included in or submitted with an application, the licensing authority must:
- 4.4.1. disregard it in making the determination required by paragraph 4 of the Schedule; and
 - 4.4.2. if possible, return it to the applicant.
- 4.2 Regulation 6(1)(b) and (2) of the invitation regulations requires that an application pack include a statement of the procedure the licensing authority propose to follow in making any determination required by paragraph 4 of the Schedule (together with the procedure the authority propose to follow in making any determination required by paragraph 5). As noted in paragraph 4.1 above, the procedure to be followed under paragraph 4 of the Schedule is the procedure for assessing applications for premises licences which a licensing authority ordinarily apply to such applications, subject to the modifications of that procedure noted in paragraph 4.2 above.

³ That is, the regulations referred to in footnote 2.

Section 5: The Second Stage of the Consideration Procedure

- 5.1 Before publishing an invitation, a licensing authority must determine:
 - 5.1.1 the procedure they propose to follow, and
 - 5.1.2 the principles they propose to apply,

in making any determination required by paragraph 5 of the Schedule.
- 5.2 Regulation 6(1)(b), (d) and (2) of the invitation regulations requires that statements of:
 - 5.2.1 that procedure (together with the procedure the authority propose to follow in making the determination required by paragraph 4 of the Schedule), and
 - 5.2.2 those principles,

be included in an application pack.
- 5.3 In addition, section 349(7) of the Act requires that those principles be included in the licensing policy statement published by a licensing authority under that section.
- 5.4 The procedure a licensing authority propose to follow in making any determination required by paragraph 5 of the Schedule must provide for the following:
 - 5.4.1 Where a licensing authority determine under paragraph 4 of the Schedule that they would, if they were able, grant more than one application, the applicants who made those

applications (“the second stage applicants”) must be invited to participate in the second stage.

- 5.4.2. During the second stage, each of the second stage applicants must be given an equal opportunity to demonstrate to the licensing authority how their application would, if granted, result in the greatest benefit to the authority’s area.
 - 5.4.3. At the outset of the second stage, each of the second stage applicants must be invited to submit information to the authority about how their application would, if granted, benefit the authority’s area.
 - 5.4.4. A licensing authority may engage in discussions or negotiations during the second stage with each second stage applicant with a view to the particulars of an application being refined, supplemented or otherwise altered so as to maximise the benefits to the authority’s area that would result from it (were it granted).
 - 5.4.5. A licensing authority may not, during the second stage, discuss the details of a person’s application with the other competing applicants without the person’s permission.
 - 5.4.6. A licensing authority must put in place a protocol governing the storage of confidential information submitted to them during the second stage, so as to maintain the confidentiality of that information.
- 5.5 In determining the procedure, licensing authorities should bear in mind that, under paragraph 5(3)(b) of the Schedule, they may enter into a written agreement with an applicant during the second stage. Under paragraph 5(3)(d), a licensing authority may take any such agreement into account in determining, under paragraph 5(3)(a), which application would be likely if granted to result in the greatest benefit to the authority’s area.

- 5.6 The power under paragraph 5(3)(b) of the Schedule is a broad one: an agreement may be “as to the provision of services in respect of an authority’s area or otherwise”. An agreement may, for example, record the outcome of the discussions or negotiations referred to in paragraph 5.4.4 above and may be conditional on a licensing authority granting a casino licence to the applicant that is party to the agreement. Licensing authorities should consider the effect (if any) of other legislation (for example the Public Contracts Regulations 2006) on an agreement proposed or entered into under paragraph 5(3)(b) of the Schedule.
- 5.7 In determining the principles they propose to apply in making any determination required by paragraph 5 of the Schedule a licensing authority:
- 5.7.1. must consider what aspects of an application will be relevant to determining which of the applications would if granted be likely to result in the greatest benefit to the authority’s area;
 - 5.7.2. should consider local issues and priorities;
 - 5.7.3. must consult a person or people who appear to represent the interests of local people and businesses, although if they have already consulted about a related matter (for example, in relation to their licensing policy statement published under section 349 of the Act) they need not engage in further consultation, as long as the views expressed in the earlier consultation are taken into account; and
 - 5.7.4. may wish to pay particular regard to the following:
 - (a) the provision that is made in an application for protecting children and other vulnerable people from harm or exploitation arising from gambling, whether in the proposed casino or the wider community,
 - (b) the provision that is made in an application for preventing gambling from being a source of crime or

disorder, being associated with crime or disorder or being used to support crime,

- (c) the provision that is made in an application for ensuring that gambling is conducted in a fair and open way,
- (d) the likely effects of an application on employment and regeneration within the authority's area,
- (e) the design and location of the development proposed in the application,
- (f) the range and nature of non-gambling facilities to be offered as part of the development proposed in the application, and
- (g) the financial and other contributions a second stage applicant proposes to make to the authority's area, whether pursuant to an agreement under paragraph 5(3)(b) of the Schedule or otherwise.



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STATEMENT OF PRINCIPLES

Gambling Act 2005

February 2010

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Background Information

Bath and North East Somerset Council (the Council), is the Licensing Authority for Bath and North East Somerset under the Gambling Act 2005 (the Act). This means that the Council has responsibility for granting premises licences and various permits with respect to gambling activities in the area and will be responsible for processing Temporary and Occasional Use Notices.

The Act creates a new system of licensing and regulation for commercial gambling. Amongst other changes, it gives to local authorities new and extended responsibilities for licensing premises for gambling. In some cases, such as gaming machine arcades, those build on existing responsibilities. In other major areas, including betting, casino gaming and bingo, they transfer to local authorities responsibilities which previously lay with local licensing justices.

Under the Act, each licensing authority is required to develop, consult on and publish a statement of its licensing principles. The statement must set out the principles, which the Authority proposes to apply in exercising its licensing functions under the Act.

The Gambling Commission has issued Guidance to all local authorities on the manner by which they are to exercise their functions under the Act and the principles to be applied when exercising those functions. The principles are set out in Parts A – E of this document and have been developed in accordance with the requirements of the Guidance.

The Act requires that Licensing Authorities carry out consultation of their proposed principles and that all of the following parties are 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.
- 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.

In addition to the above, the following have also been consulted: a wide range of organisations including voluntary and community organisations working with children and young people, organisations including those that work with people who are problem gamblers, Primary Care Trust, and advocacy organisations such as the Citizen's Advice Bureau.

There has also been consultation with other tiers of local government such as planning, economic development, environmental health, and local businesses who are, or will be, holders of premises licences.

The list of persons who have been consulted is deliberately wide. This has enabled the Licensing Authority to undertake a comprehensive consultation exercise with anyone who may be affected by or otherwise have an interest in the licensing policy statement.

Copies of this Statement of Principles can be found on the Council's web site (www.bathnes.gov.uk/licensing) or hard copies can be obtained from Licensing Services at the address listed below.

Licensing Services

Bath & North East Somerset Council
9-10 Bath Street
Bath
BA1 1SN

Or via email to licensing@bathnes.gov.uk.

Or you can telephone us on 01225 477536 for further information.

This document can be made available in a range of languages, large print, Braille, audio, electronic and other accessible formats. Please use the above contact details if you would like any further information. Glossary of Terms

GLOSSARY OF TERMS

Within this Statement of Principles, the following words and terms are defined as stated:

Act:	The Gambling Act 2005		
The Authority	Bath and North East Somerset Council		
Better Regulation Executive	The Better Regulation Executive (BRE) is part of the Department for Business, Enterprise and Regulatory Reform (BERR) and is responsible for the regulatory reform agenda across government.		
Betting Machine:	This is a machine which has been designed or adapted for use to bet on future real events, such as horse racing and used as a substitute for placing a bet over the counter.		
CCTV:	Closed Circuit Television		
Code of Practice:	Means any relevant code of practice under section 24 of the Gambling Act 2005		
Council:	Bath & North East Somerset Council		
Council area:	The area of Bath and North East Somerset administered by Bath & North East Somerset Council (Map appended at Appendix A)		
DCMS:	Department for Culture, Media and Sport		
Default Condition:	Means a specified condition provided by regulations to be attached to a licence, unless excluded by Bath & North East Somerset Council		
FEC	(Unlicensed) Family Entertainment Centre		
GamCare:	This is a registered charity that has a commitment to promote responsible attitudes to gambling and to work for the provision of proper care for those who have been harmed by gambling dependency.		
Gaming Machine:	Category	Maximum Stake	Maximum Prize
	A	Unlimited	Unlimited
	B1	£2	£4,000
	B2	£100	£500
	B3	£1	£500
	B3A	£1	£500
	B4	£1	£250
	C	£1	£ 70

D Cash Prize	10p	£ 5
D Non Monetary	30p	£ 8
Crane Grab Machine	£1	£50
Coin Pusher Machine	10p	£15

Guidance:	Guidance issued to Licensing Authorities by the Gambling Commission as required by section 25 of the Gambling Act 2005, Dated May 2009.
LACORS:	Local Authorities Co-ordinators of Regulatory Services
Licensing Authority:	Bath & North East Somerset Council
Mandatory Condition:	Means a specified condition provided by regulations to be attached to a licence
Notifications:	Means notification of Temporary and Occasional Use Notices
Premises:	Any place, including a vehicle, vessel or moveable structure
PSIA:	Private Security Industry Act 2001
Regulations:	Regulations made by the Secretary of State under the Gambling Act 2005
Regulators Compliance Code	A statutory code that local authorities must have regard to when carrying out enforcement duties - issued by the Local Better Regulation Office
Responsible Authority:	With regard to the Act and the Gambling Commission's guidance, the following are responsible authorities in relation to premises: The Licensing Authority in whose area the premises are wholly or mainly situated ("Bath & North East Somerset Council"); The Gambling Commission; Avon & Somerset Constabulary; Avon Fire and Rescue Service; Bath & North East Somerset Council; Development Control Manager, Planning Dept. Environmental Protection Team, Policy & Performance Manager, Social Services, HM Customs and Excise.

PART A - INTRODUCTION

Gambling Act 2005

“Gambling” is defined in the Act as either gaming, betting or taking part in a lottery.

- Gaming means playing a game of chance for a prize
- Betting means making or accepting a bet on the outcome of a race, competition or any other event; the likelihood of anything occurring or not occurring or whether anything is true or not
- A lottery is where persons are required to pay in order to take part in an arrangement, during the course of which one or more prizes are allocated by a process which relies wholly on chance

The Act provides for 3 categories of licence

- Operating licences
- Personal licences
- Premises licences

The Licensing Authority will be responsible for issuing premises licences. The main functions of the licensing authority are to:

- Licence premises for gambling activities
- Grant permits for gaming and gaming machines in clubs
- Regulate gaming and gaming machines in alcohol licensed premises
- Grant permits to family entertainment centres for the use of certain lower stake gaming machines
- Grant permits for prize gaming
- Consider notices given for the temporary use of premises for gaming
- Consider occasional use notices for betting at tracks
- Register small society lotteries

It should be noted that:

- Spread betting is regulated by The Financial Services Authority;
- Remote (on line) gambling is dealt with by the Gambling Commission
- The National Lottery is regulated by the National Lottery Commission

This document sets out the policies that the licensing authority will apply when making decisions on applications or notifications for;

- Premises Licences
- Temporary and Occasional Use Notices
- Permits as required under the Act
- Regulations under the Act

This Statement of Principles relates to all those licensable premises, notices, permits and registrations identified as falling within the provisions of the Act, namely.

- Casinos
- Bingo Premises
- Betting Premises
- Tracks
- Adult Gaming Centres
- Family Entertainment Centres
- Club Gaming and Club Machine Permits
- Prize Gaming and Prize Gaming Permits
- Temporary Use Notices
- Registration of small society lotteries

1 The Licensing Objectives

1.1 In exercising most of their functions under the Act, this Licensing Authority will have regard to the licensing objectives as set out in Section 1 of the Act.

The licensing objectives are:

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

1.2 The Licensing Authority will, when making decisions about premises licences and Temporary Use Notices, 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 and/or DCMS
- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives (subject to the above) and
- In accordance with the authority's statement of licensing policy (subject to the above).

2 Introduction

- 2.1 Bath & North East Somerset Council (the Council) is situated in North East Somerset, and runs from the outskirts of Bristol, south into the Mendips and east to the Southern Cotswolds and Wiltshire border. Its 220 square miles, two thirds of which is green belt, combine Areas of Outstanding Natural Beauty with some of the most significant historical treasures found anywhere in Europe.
- 2.2 Approximately half the population lives in the City of Bath, the largest settlement and a UNESCO World Heritage Site famed for its Georgian splendour and its Roman antiquities. Bath and North East Somerset is also home to vibrant high technology and multi media business sectors. Keynsham is the largest town in North East Somerset, and occupies a key position in this respect. It represents an important commercial and cultural centre, including a number of strategic industrial sites.
- 2.3 There are also important residential and commercial centres at Midsomer Norton and Radstock in the south. This area also boasts its own unique industrial heritage, being the site of the former Somerset coalfield.
- 2.4 The Council is responsible for serving the needs of this unique area and its 170,000 population, and as a Unitary Authority, is charged with the delivery of all Local Authority services – from education to recycling, from planning to social services, from libraries to roads.
- 2.5 A map of the Council area is shown at Appendix A.
- 2.6 Licensing Authorities are required, by 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 and must also be reviewed from “time to time” and any amended parts re-consulted upon.
- 2.7 This is the second of the policy statements and the Council has consulted widely upon this before finalising and publishing.
- 2.8 The Act requires that the following parties are consulted by Licensing Authorities:
 - The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority’s area;
 - 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.

3 Declaration

- 3.1 In producing its final Statement of Principles, this Licensing Authority declares that it will have had regard to the licensing objectives of the Act, the Guidance issued by the Gambling Commission, any relevant Codes of Practice and any responses from those consulted on the policy statement.

4 Responsible Authorities

- 4.1 Responsible Authorities are public bodies that must be notified of all applications and are entitled to make representations to the licensing authority if they are relevant to the licensing objectives. Section 157 of the Act defines those as:-

- a licensing authority in whose area the premises is situated
- the Gambling Commission
- The Police
- The Fire Service
- The Local Planning Authority
- The Environmental Protection Team
- A body designated by the local authority to advise about the protection of children from harm
- HM Revenue and Customs

The Licensing Authority will apply the following principles when designating 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.
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group etc.

- 4.2 In accordance with the Gambling Commission's Guidance for Local Authorities this Authority designates the Local Safeguarding Children Board for this purpose.

- 4.3 Section 211 (4) of the Act provides that in relation to a vessel, but to no other premises, responsible authorities should also include navigation authorities within the meaning of section 221 of the Water Resources Act 1991 that have functions in relation to the waters where the vessel is usually moored or berthed or in any waters where it is proposed to be navigated at a time when it is used for licensable activities. These would include:-

- The Environment Agency
- The British Waterways Board
- The Secretary of State acting through the Maritime and Coastguard Agency

4.4 The contact details of all the Responsible Authorities under the Act are available via the Council's website at: www.bathnes.gov.uk/licensing

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 as someone who, in the opinion of the Licensing Authority,

- 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 In determining whether someone lives sufficiently close to a particular premise so as to be affected, the licensing authority will take into account, among other things:

- The size of the premises
- The nature of the premises
- The distance of the premises from the person making the representation
- The potential impact of the premises

5.3 In determining whether a person has a business interest which could be affected the licensing authority will consider, amongst other things:

- The size of the premises
- The catchment area of the premises and
- Whether the person making the representations has business interests in the catchment area that might be affected

5.4 Business interests will be given a wide interpretation and could include, for example, partnerships, faith groups and medical practices

5.5 Each case will be decided upon its merits. This Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Local Authorities. Larger premises may be considered to affect people over a broader geographical area compared with smaller premises offering similar facilities.

5.6 The Gambling Commission has recommended that the Licensing Authority states that interested parties include trade associations, trade unions and residents' associations. This Authority will not, however, generally view these bodies as interested parties unless they have a member who can be classed as one under the terms of the Act, e.g. lives

sufficiently close to the premises to be likely to be affected by the activities being applied for.

- 5.7 Interested parties can be persons who are democratically elected such as Councillors and MPs. No specific evidence of being asked to represent an interested party will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these persons, this Authority will generally require written evidence that a person 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.8 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact Licensing Services via e-mail at licensing@bathnes.gov.uk. or by telephone on 01225 477536.
- 5.9 Details of those persons making representations will be made available to applicants. In the event of a hearing being held such details will form part of a public document, unless it can be shown by the persons making representations that they are in fear of reprisals from the applicant.

6 Exchange of Information

- 6.1 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Act in its exchange of information between itself and the gambling Commission, which includes the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission to Local Authorities on this matter as well as any relevant regulations issued by the Secretary of State.

7 Enforcement

- 7.1 In general, the Gambling Commission will take the lead role on the investigation and, where appropriate, the prosecution of illegal gambling.
- 7.2 The Gambling Commission is the enforcement body for the Operator and Personal Licences. Any concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission. The Gambling Commission will be responsible for compliance as regards unlicensed premises
- 7.3 The main enforcement and compliance role for this Licensing Authority in terms of the Act will be to ensure compliance with the Premises Licences and other permissions, which it authorises.

7.4 This Licensing Authority's principles with regard to the inspection of licensed premises are that:-

The Licensing Authority will be guided by the Gambling Commission's Guidance for Local Authorities and it will endeavour to be:

- Proportionate: regulators should only intervene when necessary, remedies should be appropriate to the risk posed, and the 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: regulations should be kept simple and user friendly; and
- Targeted: regulation should be focused on the problem and minimise side effects.

7.5 The Licensing Authority will endeavour to avoid duplication with other regulatory regimes as far as possible.

7.6 This Licensing Authority will also adopt a risk-based inspection programme. This would include targeting high-risk premises that require greater attention so that resources are more effectively concentrated on problem premises.

7.7 This Licensing Authority will also keep itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities. The Website for the Better Regulation Executive can be viewed on:

www.cabinetoffice.gov.uk

7.8 The Licensing Authority will have regard to the Regulators Compliance Code and will take account of any guidance issued by the Local Better Regulation Office (LBRO).

The Licensing Authority will also follow the principles set out in its Environmental Services Enforcement Policy, which proposes that a graduated response is taken where offences against legislation are found or where licence conditions have been contravened. An isolated administrative offence, such as failing to maintain certain records, may be dealt with by way of a written warning. More serious offences may result in a referral to Sub-Committee, the issue of a formal caution or a referral for prosecution.

7.9 The Licensing Authority intends to use appropriate enforcement to promote the licensing objectives. Once licensed, it is essential that premises are monitored to ensure that they are run in accordance with their operating schedules, in compliance with the specific requirements of the Act and in compliance with any licence conditions. It will also be important to monitor the area for unlicensed premises.

- 7.10 The Licensing Authority will seek to work actively with the police in enforcing licensing legislation and intends to establish protocols with the Avon and Somerset Constabulary, the Avon Fire and Rescue Service, and other Council bodies such as Environmental Health, Trading Standards and Child Protection on enforcement issues to ensure an efficient deployment of officers.
- 7.11 According to the principle of transparency, this Licensing Authority's enforcement policy will be available upon request from:

Licensing Services
9-10 Bath Street
Bath
BA1 1SN

Tel: 01225 477536
E-mail: licensing@bathnes.gov.uk

8 Licensing Authority Functions

- 8.1 The Licensing Authorities' functions under the Act are to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
 - Issue Provisional Statements
 - Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - Issue Club Machine Permits to Commercial Clubs
 - Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
 - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) of the use of two or fewer gaming machines
 - Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required
 - Register small society lotteries below prescribed thresholds
 - Issue Prize Gaming Permits
 - Receive and Endorse Temporary Use Notices
 - Receive Occasional Use Notices
 - Provide information to the Gambling Commission regarding details of licences issued (see Section 6 above "Exchange of Information")
 - Maintain registers of the permits and licences that are issued under these functions.
- 8.2 The Council will comply with all requirements set out in the Gambling Act 2005 (Proceedings of Licensing Committees (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 with regard to hearings to be held under the Act.

8.3 It should be noted that the Local Licensing Authority will not be involved in licensing remote gambling at all. This will fall to the Gambling Commission via Operator Licences.

9 Gambling Commission Functions

9.1 The Gambling Commission regulate gambling in the public interest. It does so by keeping crime out of gambling by ensuring that gambling is conducted fairly and openly, and by protecting children and vulnerable people.

9.2 The Commission provides independent advice to the government about the manner in which gambling is carried out, the effects of gambling and the regulation of gambling generally.

9.3 The Commission has issued Guidance under Section 25 of the Act regarding the manner in which Local Authorities exercise their licensing functions under the Act and, in particular, the principles to be applied by local authorities.

10 Legislation

10.1 In undertaking its licensing function under the Act, the Council is also bound by other legislation including:-

- s.17 of the Crime and Disorder Act 1988
- Human Rights Act 1998
- Health and Safety at Work Act 1974
- Environmental Health Act 1990
- The Anti Social Behaviour Act 2003
- The Race Relations Act 1976 (as amended)

10.2 However, the policy is not intended to duplicate existing legislation and regulation regimes that already place obligations on operators and employers.

PART B – PREMISES LICENCES - GENERAL

11 Premises Licences

- 11.1 Premises Licences will be subject to the permissions/restrictions set out in the Act and Regulations, as well as specific mandatory and default conditions. Licensing Authorities are able to exclude default conditions, and also attach others, where it is believed to be appropriate to achieve the licensing objectives.
- 11.2 The Licensing Authority is aware that, in making decisions about premises licences, it should aim to permit the use of premises for gambling in so far as it thinks it is:
- In accordance with any relevant code of practice issued by the Gambling Commission
 - In accordance with any relevant guidance issued by the Gambling Commission
 - Consistent with the licensing objectives (subject to the above) and
 - In accordance with the Authority's Statement of Principles (subject to the above).
- 11.3 Premises is defined in the Act as "any place" but the Act prevents more than one premises licence applying to any one place. A single building could be subject to more than one premises licence provided they are for different parts of the building and those parts can genuinely be regarded as different premises.
- 11.4 There are particular requirements for entrances and exits from parts of a building covered by one or more licences to be separate and identifiable so that the separation of different premises is not compromised and that people do not 'drift' into a gambling area." The Gambling Act (Mandatory and Default Conditions) Regulations 2007 set out the access provisions for each different type of premises.
- 11.5 This Licensing Authority will also pay particular attention to applications where access to the licensed premises is through other premises (which themselves may be licensed or unlicensed).
- 11.6 The Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises, but that considerations in terms of the licensing objectives can. The Licensing 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 of Principles 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 any concerns raised can be overcome.

- 11.7 The Licensing Authority will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. This Licensing Authority will not consider whether a licence application is likely to be awarded planning or building consent, in its consideration of it. This Licensing Authority will listen to, and consider carefully, any concerns about conditions, which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 11.8 Premises licences which are granted by the Council must be reasonably consistent with the licensing objectives. With regard to these objectives, this Licensing Authority has considered the Gambling Commission's Guidance to Local authorities.

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

- 12.1 The Council places considerable importance on the prevention of crime and disorder, and will fulfil its duty under s.17 of the Crime and Disorder Act 1998 to do all it reasonably can to prevent crime and disorder in the area. A high standard of control is therefore expected to be exercised over licensed premises.
- 12.2 The Licensing Authority will, when determining applications, consider whether the grant of a Premises Licence will result in an increase in crime and disorder.
- 12.3 Applicants are encouraged to discuss the crime prevention procedures in their premises with the Council's Licensing Officers and Avon and Somerset Constabulary before making a formal application.
- 12.4 In considering licence applications, the Local Authority will particularly take into account the following:
- 1 The location of the premises;
 - 2 The design and layout of the premises;
 - 3 The training given to staff in crime prevention measures appropriate to those premises;
 - 4 Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed;
 - 5 Where premises are subject to age restrictions, the procedures in place to conduct age verification checks;
 - 6 The likelihood of any violence, public order or policing problem if the licence is granted.

13 Ensuring that gambling is conducted in a fair and open way

- 13.1 The Gambling Commission does not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be a matter for the management of the gambling business, 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.
- 13.2 As betting tracks operators do not need a separate licence from the Commission, the local authority may, in certain circumstances, consider whether the premises licence may need to contain conditions to ensure that the environment in which betting takes place is suitable.

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

- 14.1 Apart from one or two limited exceptions, the intention of the Act is that children and young persons should not be allowed to gamble and should therefore be prevented from entering gambling premises which are “adult only” environments.
- 14.2 In practice steps will generally be taken to prevent children from taking part in or being in close proximity to gambling or being attracted to take part in gambling, such as may be caused by advertising.
- 14.3 This Licensing Authority will pay particular attention to the Code of Practice issued by the Gambling Commission as regards this licensing objective in relation to specific premises such as casinos. The Code provides that licencees of casinos must:
- Put into place policies and practices for the prevention of under age gambling and monitor these.
 - Designate a supervisor at each entrance to the premises
 - A Supervisor must check the age of customers who appear to be under age and refuse entry to those who cannot provide satisfactory documentation as to their age
 - Take action to remove from the premises any person who is under age
 - Ensure that any under aged persons accompanying adults are not permitted entry
 - Ensure that gambling is not promoted in such a way as to appeal to children and young persons, i.e. by being linked to youth culture
- 14.4 The Act does not define the term “vulnerable people” but the local authority considers that this group includes people who gamble more than they want to, people who gamble beyond their means, and people who may not be able to make informed or balanced decisions about gambling perhaps due to a learning disability, mental health issues, alcohol or drugs.

15 Licence Conditions

15.1 There are three types of conditions that may be attached to premises licences:-

- Mandatory – Conditions prescribed in regulations which are made by the Secretary of State and must be attached
- Default - Conditions prescribed in regulations which are made by the Secretary of State which will be attached unless specifically excluded by the local authority
- Conditions imposed by the local authority

15.2 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;
- enforceable; and
- reasonable in all other respects

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

15.4 It is noted that there are conditions which the Licensing Authority cannot attach to premises licences. These are:

- Any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- Conditions relating to gaming machine categories, numbers, or method of operation;
- Conditions which provide that membership of a club or body be required (the 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, winnings or prizes.

15.5 An application for a premises licence can only be made by a person who either holds an operating licence authorising him to carry on the activity in respect of which a premises licence is sought, OR has made an application for an operating licence, which has not yet been determined.

- 15.6 **Applications for the grant, transfer or variation of a licence are not required to be accompanied by an operating schedule. However, the Licensing Authority would expect an applicant to provide a written statement, demonstrating how the licensing objectives would not be undermined by the operation of the premises, where appropriate and relevant**
- 15.7 The level of detail should be proportionate to the scale and nature of the application made.
- 15.8 Definitions of “Responsible Authorities” and “Interested Parties” who are able to make representations under this Act can be found in the Glossary of Terms.
- 15.9 This Licensing Authority, in determining whether to grant a premises licence, will not have regard to the expected demand for the facilities which it is proposed to provide.
- 15.10 Conditions will be applied to licences that are proportionate and appropriate to the business, organisation and/or individual concerned. The Licensing Authority will draw upon the advice issued by the Gambling Commission and attach conditions relative to the given circumstances of each individual case.
- 15.11 Conditions attached to Premises Licences will, so far as possible, reflect local crime prevention strategies. For example, CCTV may be appropriate in certain premises.

16 Door Supervision

- 16.1 The Licensing Authority may consider whether there is a need for door supervisors in terms of the licensing objectives of protection of children and vulnerable persons from being harmed or exploited by gambling and also in terms of preventing premises becoming a source of crime. The Gambling Act 2005 has amended the Private Security Industry Act 2001 (PSIA) so that door supervisors at casinos or bingo premises are exempt from the requirements to be licensed under the PSIA.

This Licensing Authority therefore has specific requirements for door supervisors working at casinos or bingo premises.

- 16.2 This Licensing Authority considers that it is good practice for door supervisors working at bingo and casino premises to be SIA trained and to undergo a Criminal Records Bureau check every three years. This is in recognition of the nature of the work in terms of potential under age customers, searching individuals and dealing with potentially aggressive persons, etc. However, each case will be determined on its merits.

17 Provisional Statements

- 17.1 An applicant may apply for a provisional statement in respect of any premises expected to be constructed, altered or acquired.
- 17.2 Applications will be dealt with in a similar manner to applications for premises licences
- 17.3 In terms of representations about premises licence applications, following the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless they concern matters which could not have been addressed at the provisional statement stage, or they reflect a change in the applicant's circumstances. 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:
- a) which could not have been raised by objectors at the provisional licence stage; or
 - b) which in the Authority's opinion reflect a change in the operator's circumstances.
- 17.4 The Licensing Authority will not have regard to whether or not a proposal by the applicant is likely to be permitted in accordance with planning or building law.

PART C – PREMISES LICENSES (SPECIFIC)

18 Adult Gaming Centres

18.1 Adult gaming centres (AGC's) are a new category of premises introduced by the Act. No one under the age of 18 is permitted to enter an AGC and the persons operating an AGC must hold a gaming machines general operating licence from the Gambling Commission and must seek a premises licence from the Licensing Authority. They will be able to make category B3, B4, C and D gaming machines available to their customers

18.2 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the premises. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- Door Supervisors
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours.
- Measures for training staff etc

This list is not exhaustive and is merely for example.

18.3 As regards the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes and provision of information leaflets/helpline numbers for organisations such as GamCare, whose website can be found at www.gamcare.org.uk, Gamblers Anonymous, National Debtline, local Citizens Advice Bureaux and independent advice agencies

19 (Licensed) Family Entertainment Centres:

19.1 The Act creates two classes of family entertainment centre (FEC). Licensed FEC's provide category C and D machines and require a premises licence. Unlicensed FEC's provide category D machines only and are regulated through FEC gaming machine permits.

19.2 Children and young persons are permitted to enter an FEC and may play on the category D machines. They are not permitted to play on the category C machines and there must be a clear segregation between the

two types of machine, so that children do not have access to category C machines.

19.3 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Licensing Authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas. Appropriate licence conditions may cover issues such as:

- Proof of age schemes
- Door Supervisors
- CCTV
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours.
- Measures for training staff etc

This list is not exhaustive and is merely for example

19.4 With regard to the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes and provision of information leaflets/helpline numbers for organisations such as GamCare, whose website can be found at www.gamcare.org.uk, Gamblers Anonymous, National Debtline, local Citizens Advice Bureaux and independent advice agencies

20 Casinos

20.1 Under the Act Licensing Authorities have been given the new role of issuing premises licences for casinos and monitoring those licences. At a meeting of the Full Council in September 2006 it was **resolved** that the Council: “Agrees that, subject to proper consideration through the licensing process, in accordance with Regulations to be issued by the Government, the Council would be prepared in principle to issue a licence for a small casino in Bath”.

20.2 This Council submitted a proposal for a premises licence for a small casino to the independent Casino Advisory Panel. Small casinos are defined as having a maximum total customer area of 750m². A small casino will be able to offer casino games, betting and gaming machines only insofar as permitted under Section 172 of the Gambling Act 2005.

20.3 Details regarding the Council's submission can be found at www.bathnes.gov.uk or are available on request to:

Economic Development Services
Trimbridge House
Trim Street
Bath
BA1 2DP
Email: economic_development@bathnes.gov.uk

20.4 Following the local elections in May 2007 a report was taken to Council in September that year, where the proposal to issue a small casino licence in Bath was reaffirmed.

20.5 On 15 May 2008 the Categories of Casino Regulations 2008 and the Gaming (Geographical Distribution of Large and Small Casino Premises Licences) Regulations 2008 were published. Bath and North East Somerset was one of the local authorities authorised to issue a small premises licence for a casino.

20.6 This Licensing Authority is aware that where it is permitted to grant a Premises Licence for a small casino, there are likely to be a number of operators who will want to operate the casino. In such situations, the Licensing Authority will stage a 'competition' under Schedule 9 of the Gambling Act 2005 and will run such a competition in line with The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 and DCMS Code of Practice issued by the Secretary of State.

20.7 On 26 February 2008 the Secretary of State issued the Code of Practice on Determinations relating to large and small Casinos. The Licensing Authority will comply with this Code which sets out:

- a) the procedure to be followed in making any determinations required under Paragraphs 4 and 5 of Schedule 9 to the Gambling Act 2005; and
- b) matters to which the Licensing Authority should have regard in making those determinations.

20.8 In accordance with the above regulations the Licensing Authority will publish an invitation calling for applications for the small Casino Premises Licence.

20.9 Where the Licensing Authority receives more than one application for a small Casino Premises Licence, there will be a two stage application process in accordance with the DCMS Code of Practice issued by the Secretary of State.

General Principles

- 20.10 The Council recognises that applicants may either apply for a full Casino Premises Licence or alternatively a Provisional Statement. Applicants for full Premises Licences however must fulfil certain criteria in that they must:
- a. hold or have applied for an Operating Licence issued by the Gambling Commission.
 - b. hold the right to occupy the land that is the proposed site of the Casino.
- 20.11 Unless otherwise specified, any reference to the application and procedures for a 'premises licence' for a casino in the following parts of this document shall also include the application and procedures for a 'provisional statement' for a casino.
- 20.12 In making any decision in respect of an application, the Council shall not take into account whether or not an applicant is likely to be granted planning permission or building regulation approval and any decision shall not constrain any later decision by the Authority under the law relating to planning or building. Any conditions or agreements attached to any planning consents will fall outside of the licensing process.
- 20.13 The Council will not consider unmet demand when considering applications for casino premises licences and each application will be taken on its own merit.
- 20.14 Where more than one application is received for a Casino Premises Licence and succeeds at Stage 1 of the application process the Council will expect the applicant at Stage 2 of the application process (see below under the heading stage 2) to set out and demonstrate the deliverable benefit that their casino will bring to the community, the contribution it will make to the well being of the area, and the steps it will take to minimise and mitigating any dis-benefits.
- 20.15 In such a case, the Council will decide between the competing applications and grant the available licence to the applicant that it considers will bring the greatest benefit to Bath and North East Somerset. Stage 2 of the competition will be judged on a wide range of issues that have been given priority as a result of consulting with the residents and community of Bath and North East Somerset.
- 20.16 In making any determination in relation to competing applications for a Casino Premises Licence the Licensing Authority will pay specific regard to:
- i. Any provision that is made for the protection of children and other vulnerable people from harm or exploitation arising from gambling, whether in the proposed casino or the wider community.
 - ii. Any provision that is made for preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.

- iii. Any provision that is made for ensuring that gambling is conducted in a fair and open way.
- iv. The design and location of the proposed development and the nature/character of the surrounding area.
- v. Range and nature of non gambling facilities to be offered as part of the proposed development; and
- vi. Likely effects of an application on employment, training opportunities and regeneration in the local area (2nd stage only)
- vii. Any financial and other contributions proposed by the applicant (2nd stage only)
- viii. Any steps to be taken by the applicant to monitor the impact of the casino and to mitigate adverse effects and to assess the community benefits (2nd stage only).

20.17 In making a decision on both stages the Licensing Authority will take heed of any Codes of Practice, Regulations and Guidance issued by the Secretary of State, Department of Culture, Media and Sport (DCMS) and Gambling Commission.

20.18 The Council applied to the Government for the right to grant a casino licence under the Gambling Act 2005 in order to realise the benefits offered by casino operators at Stage 2 of the competition. Should there be only one applicant, or should there be only one successful applicant of Stage 1 of the competition, Stage 2 of the competition will not occur and so the applicant will not be bound to offer benefits in order to secure the licence. In such circumstances, the Council's reasons for wishing to grant a casino licence will have been partly or wholly frustrated. Therefore, in circumstances in which there is only one successful applicant at the conclusion of Stage 1 of the competition, the Council reserves the right to terminate the process by adopting a no casino resolution. Applicants are therefore notified that the Council expressly does not guarantee or promise that the casino licensing process will be completed and a licence issued: this will be contingent upon there being more than one applicant at Stage 2 of the competition.

20.19 The Council wishes to ensure that the benefits offered by the successful casino licence applicant are delivered as soon as reasonably practicable by the construction and use of the casino in accordance with the licence. The Council wishes in particular to guard against the successful applicant leaving the licence dormant for whatever reason. Therefore, the Council will require a commitment from applicants to develop their proposed casino within a contractually defined timescale and to provide the benefits, or provide a cash equivalent or liquidated and ascertained damages in lieu of benefits, during any time following the grant when the casino ought to be, but is not, trading".

Casino Application Stage 1

- 20.20 Although an application for a Casino Premises Licence may be made at any time, the Council is not bound to consider any such applications until an invitation has been published and the closing date for the submission of applications has passed. There is a minimum three month period between the issue of the invitation and the closing date for submission.
- 20.21 At Stage 1 of the procedure the licensing authority will consider each application on its own merit. The authority shall not have regard to whether any of the other competing applications is more deserving of being granted.
- 20.22 In addition, the Council recognises that each of the other competing applicants is an 'interested party' in relation to the others and may make representations. The term 'interested party' is defined in Part A of this Policy. Each representation will be considered carefully to ensure they meet the principles set within the Gambling Policy.
- 20.23 At this stage the Council cannot accept any additional information other than the prescribed application form laid down in the Gambling Act 2005 (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007. Any additional information will be disregarded and returned to the applicant.
- 20.24 The Licensing Authority will provide an application pack that will include a Statement of the procedure it proposes to follow in assessing applications for Casino Premises Licences, and the principles they propose to apply in making the determinations.
- 20.25 With regard to Stage 1, the General Principles as stated in Part A of this Gambling Policy shall apply to all casino applications.
- 20.26 It is recognised that the Council's decision may be the subject of an appeal in which case the Council will not proceed to Stage 2 until all appeals have been dealt with.
- 20.27 If more than one application for a Premises Licence results in a decision to grant a Premises Licence, Stage 2 of the licensing procedure will be implemented.
- 20.28 At the outset of Stage 2, each of the successful applicants will be invited to submit information to the Licensing Authority about how their application would, if granted, benefit its area.
- 20.29 Where a Provisional Statement application is successful, the Council may limit the period of time for which the Statement will have effect. This period may be extended if the applicant so applies.

Casino Application Stage 2

- 20.30 At Stage 2, the applicant will be required to state and demonstrate what ultimate benefit they can bring to the residents of Bath and North East Somerset Council and how they can contribute to the well being of the area.
- 20.31 Further details of the council's criteria and an explanation of the proposed evaluation process are provided in Appendix C and will be enclosed in the Application Pack that will be made available to applicants.
- 20.32 The Council may during the second stage engage in discussions or negotiations with each second stage applicant with a view to the application being refined, expanded or altered so as to maximise the benefits to the area. Furthermore, the Council may enter into a written agreement with an applicant and may take such agreement into account in determining which application would result in the greatest benefit to the District. The Council may attach conditions to the casino premises licence to give effect to this agreement. The Council may have regard to the effect of any agreement so entered into in making the determination on the competing applications.
- 20.33 With regard to the Council's preferred location of the Casino, although applicants are able to submit plans for any site within the District which will be judged on their own individual merits, applicants should have regard to the location of the premises with regard to meeting the licensing objectives of the protection of children and vulnerable persons from harm or exploitation arising from gambling.
- 20.34 The applicant will be expected to provide:
- a. a scaled plan which fulfils the requirements of paragraph 4 of The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007
 - b. Detailed numbers of all staff and Personal Licence Holders to be employed, together with a clear management structure;
 - c. Description of all activities carried on at the premises, including any proposals for the provision of late night refreshment and regulated entertainment. With regard to late night refreshment, the Council would wish to have sight of the menu to ensure substantial refreshments and not just bar snacks will be provided;
 - d. An indication of the proposed location of the casino which should be sustainable and appropriate taking into account transport accessibility. Each application will be considered on its own merit assuming it meets this Council's competition criteria. Applicants must provide an indication of the availability of the site chosen, including any matter that may impact on any time restraint that may affect the delivery of the proposal.
 - e. Evidence of availability of funding and an estimated cost of the scheme;

- f. Evidence of financial standing including submission of the applicant's last three financial accounts, together with two financial references confirming that there is sufficient finance in place to ensure delivery of the project;
- g. Two professional references to evidence that the applicant has proven ability and track record within the casino gambling sector;
- h. Submission of a clear and detailed Business Plan supported by a signed agreement in a form that is acceptable to the Council, committing the applicant (in the event that he is granted a licence) to the scheme he has put forward including the community benefit of the proposal;
- i. A timescale for implementation and completion of the works setting out the various project stages of construction. This is to enable the Council to be kept informed of when the project is likely to be completed and that the applicant is on target for final completion;
- j. Evidence that there is ongoing consultation with statutory bodies and responsible authorities to ensure that all statutory requirements are complied with;
- k. Evidence of ongoing consultation with the Avon and Somerset Police in particular with the Crime Reduction Partnership Group in the development and evaluation of scheme proposals to promote the Prevention of Crime and Disorder objective of the Licensing Act 2003. Proposals shall include for example; CCTV, security procedures and relevant policies, provision of Door Supervisors, external and internal lighting and proposals to ensure that where possible opportunities for crime are designed out at an early stage. The Authority will expect the Operator to take responsibility for their own security issues;
- l. Evidence of a robust training plan in place for all employees. Training to cover all matters including awareness of the three Licensing Objectives, in particular the third Licensing Objective, knowledge of gambling legislation, an awareness of problem gambling and all relevant internal procedures. In addition, applicants are required as part of their training plan to evidence customer service training and knowledge of the local area;
- m. The applicant will be expected to provide a Premises Log Book recording all training undertaken and this should be signed by the recipient to acknowledge training was given and understood. All training should be ongoing and based on a two-tier system. This system should demonstrate that staff are trained to their level of responsibility with senior staff trained to a higher level to ensure that they can effectively apply procedures and respond appropriately to any consumer requesting information, or assistance;
- n. The applicant should evidence clearly how it intends to promote the three Licensing Objectives. It should also show evidence of policies and procedures proposed to protect children and vulnerable persons from harm.
- o. A Policy detailing the mechanisms enabling the applicant to identify problem gamblers. This Policy should be incorporated within the Training Plan for all employees. The Policy is likely to set out how advice and support will be provided to those engaged in or affected by problem gambling;

- p. A Policy detailing commitment to educating the community on gambling and problem gambling;
- q. An Admissions Policy incorporating procedures for Door Supervisors to manage the entry of individuals affected by alcohol or other substance abuse, under age persons and any dress code;
- r. Confirmation that all gambling advice is available in languages other than English to cater for regular customers who may not have sufficient command of written English;
- s. A Social Responsibility Policy and casino rules for each gambling activity on offer. In addition, the applicant shall provide within the gaming area a designated, staffed practice area/room that enables any customer to learn how to gamble on the various activities offered without feeling intimidated or embarrassed. Where there is a practice room, there shall be information provided that emphasises the importance of staying in control of their gambling, the steps they can take to achieve this, and where to access help should they become concerned about their gambling. There should be leaflets and information clearly displayed setting out these points in the practice area/room.
- t. An indication on the plan where the separate non gambling refuge area of the premises is located. This area should provide a refuge from gambling and should be by way of a non threatening sound proofed quiet room that is always available for those concerned about their own or someone else's gambling. Within this room there should be installed the facility to telephone national helplines, access to an online counselling facility or contact a local face-to-face counselling service or GamCare. Other such organisations are Gamblers Anonymous, National Debtline, local Citizens Advice Bureaux and independent advice agencies. Leaflets with contact addresses and telephone numbers should be prominently displayed within this room. This is in addition to any information displayed in other non-gambling areas such as toilet or hospitality areas.

20.35 The Council will expect Stage 2 applications to demonstrate how the proposals will address:

- i. Provision of a range of high quality leisure and entertainment facilities.
- ii. Place considerations and location sensitivities.
- iii. Physical environmental and security
- iv. Tackling problem gambling
- v. Preventing access for the young and vulnerable
- vi. Contributing financially to additional community services and facilities
- vii. Preventing crime and antisocial behaviour.
- viii. Control of generating traffic and noise
- ix. Communication and consultation with local communities.
- x. Maximising job and training opportunities for local people.
- xi. Quality of building design and the environment.
- xii. Financial viability.
- xiii. Attracting tourists and other visitors.
- xiv. Monitoring and reporting on the impact of the casino.

21 Bingo Premises

21.1 Bingo is not given a statutory definition in the Act other than that it means any version of the game irrespective of by what name it is described. It is to have its ordinary and natural meaning. Two types of bingo are commonly understood:

- cash bingo, where the stakes paid make up the cash prizes that are won
- prize bingo, where various forms of prizes are won, not directly related to the stakes paid

21.2 It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than the category D gaming machines. The holder of a bingo premises licence may make available for use up to eight category B machines; any number of category C machines; and any number of category D machines. Regulations state that category B machines at bingo premises should be restricted to sub-category B3 and B4 machines, but not B3A lottery machines. Where category C or above machines are available in premises to which children are admitted licensing authorities should ensure that:

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

21.3 This Licensing Authority will take into account any new Guidance issued by the Gambling Commission in relation to the suitability and layout of bingo premises.

22 Betting Premises

22.1 Betting premises is where off-course betting takes place; i.e. betting that takes place other than at a Track in what is currently known as a licensed betting office. Under the Act licensing authorities are responsible for issuing and monitoring premises licences for all betting premises. Children and young persons will not be able to enter premises with a betting premises licence, although special rules apply to Tracks.

22.2 The holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines.

22.3 When considering whether to impose a condition to restrict the number of betting machines in particular premises, the Licensing Authority, amongst other things, will take into account the following:-

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

22.4 Section 177 does not prevent the licensee from permitting the installation of cash dispensers (ATMs) on the premises. Such machines may accept credit cards (and debit cards) and the arrangement is subject to a requirement that the licensee has no other commercial connection in relation to gambling (aside from the agreement to site the machines) with the service provider and does not profit from the arrangement, or receive any payment in connection with the machines. However, the provision of credit by gambling operators and the use of credit cards are separate matters that are managed through operating licence conditions and codes of practice issued by the Commission.

23 Tracks

23.1 Tracks are sites (including horse racecourses and dog Tracks) where races or other sporting events take place. Betting is a major gambling activity on Tracks, both in the form of pool betting (often known as the totalisator or tote), and also general betting, often known as “fixed-odds” betting.

23.2 Tracks are different from other premises in that they may be more than one premises licence in effect and that the Track operator may not be required to hold an operator licence as there may be several premises licence holders at the Track, each of whom will need to hold their own operator licences.

23.3 There may be some specific considerations with regard to the protection of children and vulnerable persons from being harmed or exploited by gambling by way of track betting and this Authority would expect the premises licence applicants 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, although they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

23.4 Appropriate licence conditions may be:

- Proof of age schemes
- CCTV
- Door supervisors
- Supervision of entrances/machine areas
- Physical separation of areas
- Location of entry
- Notices/signage
- Specific opening hours
- The location of gaming machines
- Measures for training staff etc

This list is not exhaustive and is merely for example.

23.5 As regards the protection of vulnerable persons, this Licensing Authority will consider measures such as the use of self-barring schemes and the provision of information leaflets/helpline numbers for organisations such as GamCare, whose website can be found at www.gamcare.org.uk, Gamblers Anonymous, National Debtline, local Citizens Advice Bureaux and independent advice agencies

23.6 A betting premises licence in respect of a Track does not give any automatic entitlement to use gaming machines. However, by virtue of section 172(9) of the Act, if the Track operator who holds the premises licence also holds a pool betting operating licence, then up to four gaming machines may be sited on the Track (of categories B2 to D). The Commission recommends that Track premises licence holders familiarise themselves with the social responsibility policies of betting operators, who will be offering betting facilities on their tracks.

23.7 The Licensing Authority will take into account any Guidance related to where gaming machines can be located on tracks and any special considerations that should apply, e.g. the supervision of such machines and preventing children from playing with them.

23.8 Licensing Authorities have a power under the Act, to restrict the number of betting machines and the nature and circumstances in which they are made available, by attaching a licence condition to a betting premises licence. The Licensing Authority will take into account the size of the premises and the ability of staff to monitor the use of machines by vulnerable people when determining the number of machines permitted. The potential space for such machines at a Track may be considerable, bringing with it significant problems in relation to the proliferation of such machines, the ability of Track staff to supervise them if they are scattered around the Track and the ability of the Track operator to comply with the law and prevent children betting on the machine. This Licensing Authority will therefore consider restricting the number and location of betting machines where necessary and appropriate.

23.9 This Licensing Authority considers that would be preferable for all self-contained premises operated by off-course betting operators on Track to be the subject of separate premises licences. This would ensure that there is clarity between the respective responsibilities of the Track operator and the off-course betting operator running a self-contained unit on the premises.

23.10 This Licensing Authority will consider attaching a condition to Track premises licences requiring the Track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the Track office

24 Travelling Fairs

24.1 A travelling fair is defined as comprising wholly or principally for the provision of amusements and is provided by persons who travel from place to place and is held at a place which has been used for the provision of fairs on no more than 27 days per calendar year. The Licensing Authority will consider whether the applicant falls within the statutory definition of a travelling fair and will work with its neighbouring Authorities to ensure that land, which may cross local authority boundaries, is monitored so that the statutory limits are not exceeded.

24.2 Category D gaming machines and equal chance gaming may be provided without a permit provided that the facilities for gambling amount to no more than an ancillary amusement at the fair.

25 Small Society and Local Authority Lotteries

25.1 The Licensing Authority is responsible for the registration of small society lotteries. These are non-commercial societies, which are:

- For charitable purposes;
- For the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity; or
- For any other non-commercial purpose other than private gain;

and the proceeds of any such lottery must be devoted for those purposes

25.2 The total value of tickets to be put on sale per single lottery must be £20,000 or less, or the aggregate value of the tickets to be put on sale for all their lotteries in a calendar year must not exceed £250,000. If the operator plans to exceed either of these values then they may need to be licensed with the Commission to operate large lotteries instead.

25.3 An application may be refused on the following grounds:-

- An operating licence held by an applicant for registration has been revoked or an application for an operating licence made by the applicant has been refused within the last five years
- The Society in question cannot be deemed to be non-commercial
- A person who will or may be connected with the promotion of the lottery has been convicted of a relevant offence
- Information provided in or with the application for registration is found to be false or misleading

25.4 Registrations run for an unlimited period unless cancelled or revoked

25.5 Licensing Authorities may, if they so choose, promote a lottery for the benefit of their community if they obtain an operating licence from the Commission.

26 Exempt Gaming (Alcohol Licensed Premises)

26.1 Exempt gaming is equal chance gaming generally permissible in any club or alcohol licensed premises. Such gaming should be ancillary to the purposes of the premises. This provision is automatically available to all such premises, but is subject to statutory stakes and prize limits determined by the Secretary of State.

26.2 Equal chance gaming is gaming that does not involve staking against a bank and the chances of winning are equally favourable to all participants. It includes games such as backgammon, mah-jong, rummy, kalooki, dominoes, cribbage, bingo and poker.

26.3 The Secretary of State has set both daily and weekly prize limits for exempt gaming. Different, higher stakes and prizes are allowed for exempt gaming in clubs than in alcohol-licensed premises.

26.4 Exempt gaming should be supervised by a nominated gaming supervisor and comply with any code of practice issued by the Commission under section 24 of the Act..

26.5 A fee may not be levied for participation in the equal chance gaming offered by a club or alcohol-licensed premises under the exempt gaming rules. A compulsory charge, such as charging for a meal, may constitute a participation fee, depending on the particular circumstances.

26.6 In order to qualify as exempt gaming, clubs and alcohol-licensed premises may not charge a rake on games or levy or deduct an amount from stakes or winnings.

26.7 Members' clubs may only be established wholly or mainly for the purposes of the provision of facilities for gaming, if the gaming is of a prescribed kind. The Secretary of State has decided that bridge and whist should be the only prescribed kinds of gaming. So long as it does not provide

facilities for other types of non-machine gaming, a bridge or whist club may apply for a club gaming permit. If gaming is the principal reason for attendance at a club (other than a dedicated whist or bridge club), then it is not exempt gaming under section 269 of the Gambling Act 2005. This would include poker clubs and the like established primarily for the purpose of providing poker or other gaming. Such clubs require operating and premises licences

27 Bingo in Clubs and Alcohol Licensed Premises

- 27.1 Bingo is a class of equal chance gaming permitted on alcohol-licensed premises, and in clubs and miners' welfare institutes, under the allowances for exempt gaming in Part 12 of the Act. There are regulations setting controls on this form of gaming, to ensure that it remains a low stakes and prizes activity.
- 27.2 In addition, new rules are laid down in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners' welfare institutes (see above). Where the level of bingo played in these premises reaches a certain threshold, it will no longer be authorised by these rules and a bingo operating licence will have to be obtained from the Commission for future bingo games. The aim of these provisions is to prevent bingo becoming a predominant commercial activity on such non-gambling premises.
- 27.3 The threshold is that if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded), all further games of bingo played on those premises for the next 12 months will require an operating licence to be legal. This only applies to future games which are over the threshold of £2,000. If, after a single incidence of 'high turnover' bingo, all further games are below the threshold, no operating licence is needed. There is a legal duty on the licensee or club to inform the Commission if they offer high turnover bingo in any seven day period. That allows the Commission to monitor the bingo activity on the premises, and discuss with the relevant licensee or club the need to obtain a bingo operating licence, if required. Where bingo is played in a genuine members club, under a bingo operating licence, no premises licence will be required.
- 27.4 If it comes to the attention of the Licensing Authority that alcohol-licensed premises, or clubs, or institutes, are playing bingo during the course of a week which involves significant stakes and prizes that makes it possible that the £2,000 in seven days is being exceeded, the licensing authority is aware that it should inform the Gambling Commission. To help clubs and institutes to comply with the full range of statutory requirements for gaming the Commission has developed a statutory code of practice which is available on the Commission website.

PART D - PERMITS, TEMPORARY AND OCCASIONAL USE NOTICE

28 Gaming Permits – General

28.1 The Act does not allow applications for new gaming machine permits from premises where children will have free access to such machines. In view of this, and in order to promote the licensing objectives, this Licensing Authority will therefore not accept any applications for new gaming machine permits or applications for the renewal of existing gaming machine permits from existing gaming machine permit holders in relation to such places. This will include the following:

Accommodation Agencies, Art Galleries, Assembly Rooms, Bus Stations, Railway Stations, Cafes, Canteens, Cinemas, Theatres, Schools and Colleges, Youth Clubs, Swimming Pools, Off Licences, Loan Offices, Church Halls, Village Halls, Banks, Car Hire Premises, Employment Agencies, Garden Centres, Hospitals, Museums, Nurseries, Sales Rooms, Showrooms, Surgeries, Hotels, Registered Homes, Garages and Service Stations, Retail Shops and Warehouses, Video Hire/Sale Premises, Shopping Arcades/Centres, Dance Halls/Discotheques, Salons/Hairdressing Premises, Snooker/Billiards and Pool Halls, Taxi and Private Hire Offices and Ranks, Waiting Rooms and Reception Areas, Leisure/Health/Sports/ Community Centres, Restaurants, Take-away Food Premises.

28.2 This is not an exhaustive list and the Licensing Authority reserves the right to refuse applications where the licensing objectives are likely to be undermined.

28.3 Gaming Machines - The Act does not allow applications for new gaming machine permits from premises where children will have free access to such machines. In view of this, and in order to promote the licensing objectives, this Licensing Authority will therefore not accept any applications for new gaming machine permits or applications for the renewal of existing gaming machine permits from existing gaming machine permit holders in relation to such places. This will include the following:

Accommodation Agencies, Art Galleries, Assembly Rooms, Bus Stations, Railway Stations, Cafes, Canteens, Cinemas, Theatres, Schools and Colleges, Youth Clubs, Swimming Pools, Off Licences, Loan Offices, Church Halls, Village Halls, Banks, Car Hire Premises, Employment Agencies, Garden Centres, Hospitals, Museums, Nurseries, Sales Rooms, Showrooms, Surgeries, Hotels, Registered Homes, Garages and Service Stations, Retail Shops and Warehouses, Video Hire/Sale Premises, Shopping Arcades/Centres, Dance Halls/Discotheques, Salons/Hairdressing Premises, Snooker/Billiards and Pool Halls, Taxi and Private Hire Offices and Ranks, Waiting Rooms and Reception Areas, Leisure/Health/Sports/ Community Centres, Restaurants, Take-away Food Premises.

29 Unlicensed Family Entertainment Centre Gaming Machine Permits

29.1 Where a premise does not hold a Premises Licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238 of the Act).

29.2 A FEC can form part of larger premises provided it is separate and identifiable

29.3 In exercising its functions in respect of FEC permits, the Licensing Authority need not, but may have regard to, the licensing objectives and must have regard to any Guidance issued by the Gambling Commission under the Act.

29.4 A licensing authority can grant or refuse an application for a permit, but cannot add conditions however, the authority will consider the following matters in determining the suitability of an applicant for a permit:-

- 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)
- that employees are trained to have a full understanding of the maximum stakes and prizes.

29.5 Applicants will be expected to show that there are policies and procedures in place to protect children from harm e.g. appropriate measures and staff training in:-

- Suspected truant school children on the premises
- Unsupervised young children on the premises
- Children causing problems in or around premises

29.6 Applicants will be required to demonstrate that they have no relevant convictions as set out in Section 7 of the Act.

29.7 This Licensing Authority will only grant a permit if it 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. Relevant considerations to take into account would be the applicant's suitability such as any convictions that they may have that would make them unsuitable to operate a Family Entertainment Centre and the suitability of the premises in relation to their location and issues about disorder.

29.8 The Act provides that Licensing Authorities may adopt a statement of principles with respect to determining the suitability of an applicant (this should not be confused with this Statement of Principles, which is concerned with licensing overall). This Licensing Authority has not

currently adopted such a statement of principles. Should it decide to do so it will be made available from the Licensing Services upon request.

29.9 With regard to renewals of these permits, a Licensing Authority may refuse an application for renewal of a permit only on the grounds that an authorised Local Authority officer has been refused access to the premises without reasonable excuse, or that renewal would not be reasonably consistent with pursuit of the licensing objectives.

30 Alcohol Licensed Premises - Gaming Machine Permits

30.1 Premises licensed to sell alcohol and which contain a bar where alcohol is served without a requirement that it be served only with food are automatically entitled to have two gaming machines of categories C or D. Such premises must notify the licensing authority of its intention to take up its entitlement by completing the requisite application form and pay the prescribed fee. The applicant must also comply with any relevant Code of Practice issued by the Gambling Commission under Section 282 of the Act..

30.2 The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of Section 282 of the Act (i.e. that written notice has been provided to the Licensing Authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

30.3 If a licensed premises wishes to have more than 2 machines, then a permit is required.

30.4 The Licensing Authority must consider an application based upon the licensing objectives and any Guidance issued by the Gambling Commission issued under Section 25 of the Act

30.5 The Licensing Authority may also consider such matters as it thinks relevant. Such matters may be considered on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and the Authority will expect the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to adult only gaming machines.

- 30.6 Applicants will be expected to show that there will be no access for children to such machines and that all adult gaming machines are within sight of the bar, and/or in the sight of staff, who will monitor that the machines are not being used by those under 18. Such measures may include notice and signage. As regards the protection of vulnerable persons is concerned, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare, whose website can be found at www.gamcare.org.uk, Gamblers Anonymous, National Debtline, Citizen's Advice Bureaux and independent advice agencies.
- 30.7 It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. No other conditions can be attached.
- 30.8 The holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.
- 30.9 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would need to be applied for, and dealt with as an Family Entertainment Centre or Adult Gaming Centre premises licence.

31 Prize Gaming and Prize Gaming Permits

- 31.1 Gaming is prize gaming if the prize is not affected by the number of people playing or the amount paid for or raised by the gaming. Certain prize gaming requires a permit and other prize gaming may be offered without a permit.
- 31.2 In making its decision on an application for a permit the Licensing Authority does not need to, but may, have regard to the licensing objectives, but must have regard to any Gambling Commission Guidance.
- 31.3 There are conditions in the Act with which the permit holder must comply, but the Licensing Authority cannot attach conditions of its own. The conditions set out 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 in 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.

32 Club Gaming and Club Machines Permits

32.1 Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit.

32.2 The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B3A, B4, C or D), equal chance gaming and games of chance in accordance with Regulations under the Act (currently pontoon and chemin de fer).

32.3 A Club Gaming Machine Permit will enable Members Clubs and Miners' Welfare Institutions to provide three machines of categories B3A, B4, C or D. Commercial Clubs may apply for a Club Gaming Machine Permit which will enable the premises to provide three machines of categories B4, C or D.

Members clubs must

- have at least 25 members;
- be established and conducted 'wholly or mainly' for purposes other than gaming, unless the gaming is permitted by separate regulations (currently bridge and whist);
- be permanent in nature;
- not established to make commercial profit; and
- be controlled by its members equally.

Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

32.4 The Licensing Authority will need to satisfy itself that the premises meet the requirements of a members' club and may grant the permit if the majority of members are over 18.

32.5 The Licensing Authority may only refuse an application on the grounds that:

- a) the applicant does not fulfil the requirements for a members' club, commercial club or miners' welfare institute, and therefore is not entitled to receive the type of permit for which it has applied;
- b) the applicant's premises are used wholly or mainly by children and/or young persons;
- c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;
- d) a permit held by the applicant has been cancelled in the previous ten years; or
- e) an objection has been lodged by the Commission or the police

32.6 There is also a 'fast-track' procedure available for premises, which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 Paragraph 10 of the Act).

32.7 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.

32.8 The grounds on which an application under the process may be refused are:

- that the club is established primarily for gaming, other than gaming of a prescribed kind (currently bridge and whist)
- that in addition to the prescribed gaming, the applicant provides facilities for other gaming, or
- that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled

33 Temporary Use Notices

33.1 A Temporary Use Notice may only be given by the holder of an operators licence.

33.2 A set of premises may not be the subject of temporary use notices for more than 21 days within a 12 month period.

33.3 The definition of “a set of premises” in relation to such notices will be a question of fact in the particular circumstances of each notice that is given. In determining whether a place falls within the definition of a “set of premises” the licensing authority will take into consideration the ownership/occupation and control of the premises.

33.4 A set of premises will be the subject of a temporary use notice if any part of the premises is the subject of a notice. Operators therefore cannot extend the limits on temporary use notices in respect of large premises by giving separate notices for different parts of the premises. Premises that might be suitable for a temporary use notice would include hotels, conference centres and sporting venues.

34 Occasional Use Notices

34.1 Where betting takes place on a track on eight days or less in a calendar year, betting may be permitted by an occasional use notice without the need for a full premises licence.

34.2 A track includes a horse racing course, a dog track or any other premises on any part of which a race or other sporting event takes place or is intended to take place. This could include a track on agricultural land upon which a point to point takes place. The track does not need to be a permanent fixture.

34.3 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. The Licensing Authority will need to consider the definition of a ‘Track’ and whether the applicant is permitted to avail him/herself of the notice.

PART E - DECISION MAKING, REVIEWS & COMPLAINTS

35 Licensing Committee Terms of Reference

35.1 The Committee's Terms of Reference will be set out in the Council's Constitution. The Terms of Reference have been guided by Regulations issued under the Act.

36 Allocation of Decision Making Responsibilities

36.1 These responsibilities will be set out in the Council's Constitution. The table in Appendix B indicates how the delegation of functions is allocated.

37 Complaints Against Licensed Premises

37.1 The Council will investigate complaints against licensed premises in relation to matters relating to the licensing objectives for which it has responsibility. In the first instance, complainants are encouraged to raise the complaint directly with the licence holder or business concerned to seek a local resolution.

37.2 Where an interested party has made either a valid representation about licensed premises or a valid application for a licence to be reviewed, the Council may initially arrange a conciliation meeting to address and clarify the issues of concern.

37.3 This process will not override the right of any interested party to ask that the licensing committee consider their valid objections or for any licence holder to decline to participate in a conciliation meeting.

37.4 When dealing with a complaint about a licensed premises the Licensing Authority will have due regard to the Environmental Services Enforcement Policy (see paragraph 7.10 above).

38 Reviews

38.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities; however, it is for the Licensing Authority to decide whether the review is to be carried out. This will be on the basis of whether the request for the review is relevant to the matters listed below, as well as consideration as to whether the request is frivolous, vexatious, or will certainly not cause this authority to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

- In accordance with any relevant code of practice issued by the Gambling Commission

- In accordance with any relevant guidance issued by the Gambling Commission
- Reasonably consistent with the licensing objectives; and
- In accordance with the Authority's statement of Gambling Policy.

38.2 Representations may include issues relating to the following use of licensed premises:

- 1 for the sale and distribution of class A drugs and/or the laundering of the proceeds of drugs crimes;
- 2 for the sale and distribution of illegal firearms;
- 3 for prostitution or the sale of unlawful pornography;
- 4 as a base for organised crime activity;
- 5 for the organisation of racist, homophobic or sexual attacks or abuse;
- 6 for the sale of smuggled tobacco or goods;
- 7 for the sale of stolen goods;
- 8 where children and/or vulnerable persons may be put at risk.

38.3 Due consideration will be given to all relevant representations unless they fall within the following categories:

- The grounds are vexatious;
- The grounds are frivolous;
- They would certainly not influence the Authority's determination of the application.

38.4 The Licensing Authority can also initiate a review of a licence on the basis of any reason which it thinks is appropriate.

39 Further Information

39.1 Further information about the Act, this Statement of Licensing Policy or the application process can be obtained from:

Licensing Services
9-10 Bath Street
Bath
BA1 1SN

Tel: 01225 477531
Fax: 01225 477596
Email: licensing@bathnes.gov.uk
Website: www.bathnes.gov.uk

Information is also available from:

Department for Culture, Media and Sport
2-4 Cockspur Street
London
SW1Y 5DH

Tel: 020 7211 6200
Email: Enquiries@culture.gov.uk
Website: www.culture.gov.uk

Gambling Commission
Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 230 6500
Website: www.gamblingcommission.gov.uk

The Gambling Act 2005 can be viewed online at:

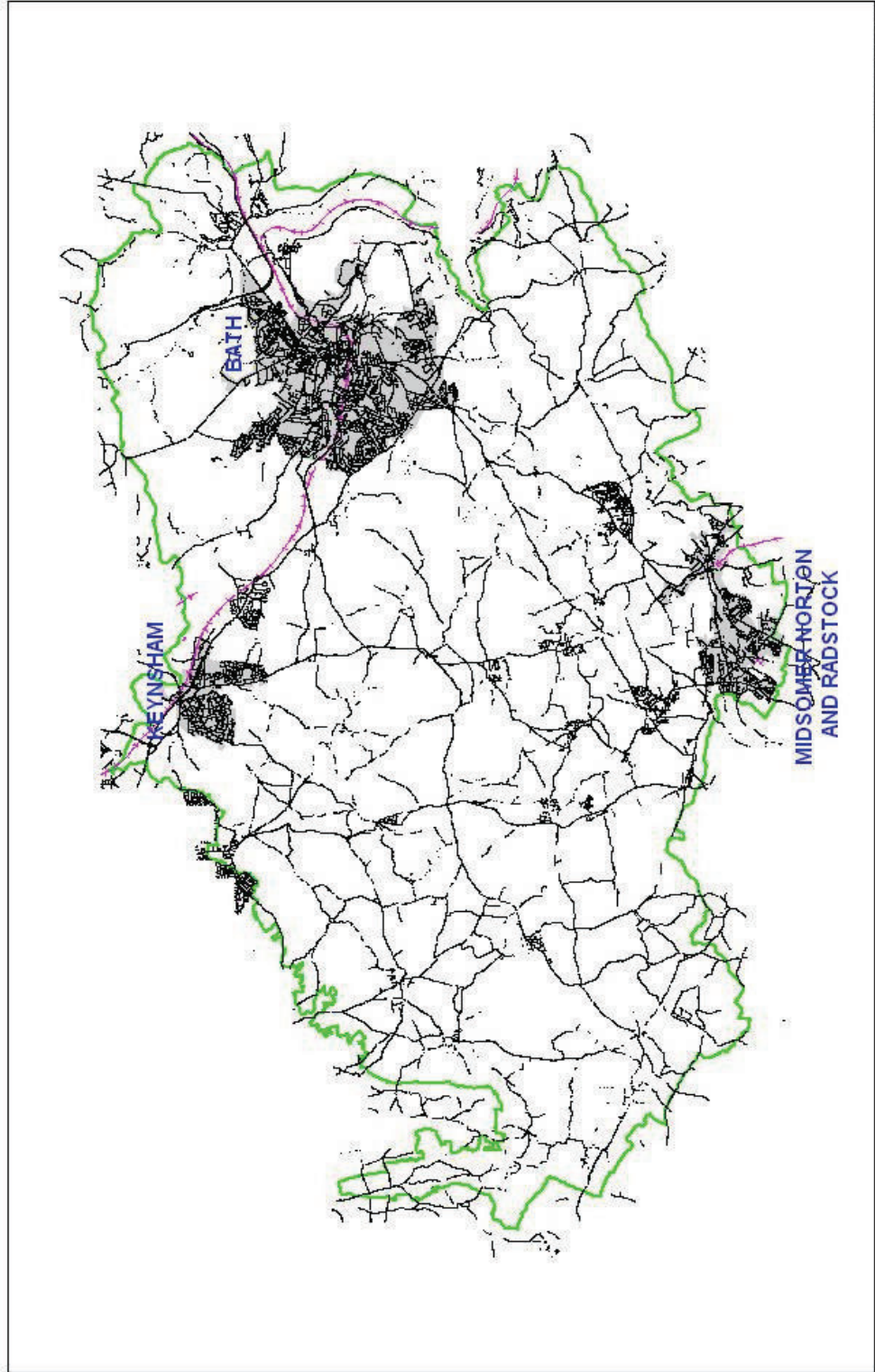
<http://www.gamblingcommission.gov.uk/Client/detail.asp?ContentId=222>

Gamcare: www.gamcare.org.uk

Bath & North East Somerset

Bath & North East Somerset Council
9-10 Bath Street
Bath
BA1 1SN
Tel 01225 477000

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Table of Delegations of Licensing Functions

Matter to be dealt with	Full Council	Licensing Committee	Sub Committee	Officers
Three year licensing policy	X			
Policy not to permit casinos	X			
Fee Setting - when appropriate				X (to be approved by Executive Councillor)
Application for premises licences			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a variation to a licence			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Application for a transfer of a licence			Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn
Review of a premises licence			X	
Application for club gaming /club machine permits			Where representations have been received and not withdrawn	Where no representations received/ representations have been withdrawn

Matter to be dealt with	Full Council	Licensing Committee	Sub Committee	Officers
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	
Consideration of an Occasional Use Notice				X
Designation of "authorised person".				X
Exchange of information between various persons/bodies listed in the Act				X
Decision to initiate criminal proceedings.				X
Power to make Orders disapplying exempt gaming and the automatic entitlement to gaming machines in relation to specified premises.				X
Functions relating to the registration and regulation of small society lotteries.				X
To appoint an advisory panel		X		
Stage 1 of an application for a casino licence			X	
Stage 2 of an application for a casino licence		X		

Application Guidance and Criteria for Casinos

1.0 Introduction

- 1.1 This Appendix outlines the additional criteria which will be used by the Council to assess applications received for a small casino licence. The criteria include general guidance and specific requirements which will be taken into account by the Council in judging the merits of applications. The guidance represents a summary of the objectives of the Council in relation to the development of a small casino.
- 1.2 The guidance aims to advise applicants on how to secure positive impacts for economic, physical and social regeneration from a casino and how to mitigate and minimise any adverse or negative social impact.
- 1.3 The Council wishes to capture, harness and maximise the economic benefits of a casino in the public interest. Therefore, the Council requires the applicant to research the physical, social and economic issues in Bath and develop the casino in a way which addresses local problems and opportunities.
- 1.4 The guidance below advises applicants on the importance or weight to be given to certain regeneration benefits. It provides an indication of local priorities and which issues are likely to provide the greatest benefit to the Council's area and which aspects of the application will be relevant in determining the application.
- 1.5 In particular, the Council has identified a number of non gambling benefits which it is expected the applicant can consider as part of an application. These benefits relate in particular to the need to use the Casino and associated development to modernise the tourism, conference and leisure product and improve overall the tourism infrastructure of the town.
- 1.6 Whilst the guidance sets out a framework for applications, it is not intended to be prescriptive and applicants are encouraged to examine the opportunities currently presented by the town and apply their own expertise and creativity in compiling their submission.
- 1.7 The Council wish to see lasting, tangible and visible public benefits arising from a casino development. Facilities or capital or revenue should not impose future costs or a revenue tail on the community or the Council that is not shown to be capable of being funded by the public or private sector.

2.0 Objectives

2.1 The vision statement for Bath is:-

- Developing safer and stronger communities
- Building prosperous communities
- Creating healthy and vibrant communities
- Creating quality environments
- Improving the Council

2.2 All applicants are required to address the Council's five key aims when considering their applications. A copy is available on the Council's website at www.bathnes.gov.uk. However, some of the key priorities in relation to the casino development are:

- To reduce crime and disorder
- To reduce the incidence of nuisance behaviour
- To encourage economic growth and job creation
- To market the city and improve its image
- To improve the quality of life, health and sense of place, through active participation in leisure and cultural activities
- To address the social and economic needs of disadvantaged neighbourhoods

3.0 Regeneration Needs & Tourism Development

3.1 In 2005, the Council launched "The Future for Bath", a long term Vision for the development and revitalisation of the City. To take forward this Vision Ernst & Young were commissioned to prepare the "Bath Business Plan" identifying the key issues, priorities and opportunities that needed to be addressed. In their findings, Ernst & Young state that while Bath *"is a beautiful city, offering a rich history, fabulous architecture and varied culture"* it *"is not quite the vibrant and wealthy town it once was... The Bath economy, so strongly reliant on tourism, is facing declining visitor numbers. There are few other large private sector wealth creators in the City and yet much of the built environment and public realm is in need of substantial investment. Large parts of the City now fall substantially below what would be expected of a World Heritage City."*

In their conclusions, they state that *"Bath is well placed to attract more visitors"* but that in order to do this, it needs to *"extend its offer"*. They also comment that the City has a *"lack of business tourism space"* – a growing and high value area of the tourism market.

The Business Plan recommends that:-

- Bath continues to strengthen its heritage offer whilst building on other city strengths such as the Spa and Festivals

- A more strategic approach is taken towards marketing to target high spending and growing visitor sectors
- Steps are taken to extend and strengthen both the size and quality of the city's accommodation base
- All options are considered for the provision of suitable conference facilities to facilitate the expansion of business tourism
- New retail developments seek to reinforce not dilute the city's unique retail experience particularly along the north / south retail spine
- Visitor management is improved through enhancement of the public realm and the stimulation of east / west cultural flows in the city

The development of a small Casino in Bath city centre would assist in addressing a number of these aims.

4.0 Location

- 4.1 Although all applications will be considered on their merits, the Council's provisional view is that the proposed casino licence should be allocated to a development within the urban area of the town of Bath.
- 4.2 The Council would seek to locate the casino where it can play a positive role in promoting better connectivity and visitor management in the City Centre and stimulate new investment and public realm improvements. The Council has identified areas of the City which would offer a greater variety of leisure pursuits, increasing the importance of the evening economy. The Council would seek a formal agreement with the chosen casino operator to secure investment in public realm and community support initiatives.
- 4.3 Although the likelihood of obtaining planning permission is statutorily irrelevant, the casino will require planning permission.
- 4.4 Where possible the casino should be located on a site where the site or area is in need of improvement or redevelopment and where, as a consequence, this location lends itself to the development of Casino premises.
- 4.5 The site selected should not only improve the appearance of the site itself but should, together with other direct or indirect investment proposed by the application, generate environmental, townscape or public realm improvements to the image of the surrounding area.

- 4.6 The casino should be located where there is good accessibility, particularly by public transport at night, and address any accessibility difficulties.
- 4.7 The casino should also be located such that it complements existing or proposed retail, leisure or tourist facilities wherever this is possible and should aim to encourage greater vitality, viability and dual trips by being located close or next to these facilities.

5.0 Design and Architecture

- 5.1 Bath is one of the few entire cities in Europe to be designated by UNESCO as a World Heritage Site. This inscription reflects the universal value of Bath's 18th century architecture and urban design, the harmony between the city's built form and its natural landscape setting, and the outstanding heritage and archaeology associated with over two thousand years of spa culture. During 2005, Bath and North East Somerset Council developed a twenty year vision for the revitalisation of the city centre. Entitled 'Future for Bath', the vision seeks to address the evident decline of the local economy by re-establishing Bath's distinctiveness and attractiveness as an international centre for health and wellbeing, fun and enjoyment, creativity, intellectual and 'green' technologies and living heritage.
- 5.2 The primary objective is that the design and impact of the casino should have a positive effect and change the image of the street or locality in which it is located, in order to stimulate other "spin-off" development in that immediate area. The design should respect the scale and ambiance of the street in which it is located. The selection of the site and design should have regard to the location of listed buildings, conservation areas and key views across the town.
- 5.2 The casino building should "fit in" with Bath's street scene but should also be a striking development (which can be modern and either conversion or new build) that represents the town's image.
- 5.3 Facilities which can complement casinos, such as hotel, restaurant, café, bar, nightclub, shops, theatre, cinema, conference centre or leisure/tourist attractions need not be located within a casino building and can be located elsewhere or nearby, thus spreading the regeneration benefits.

6.0 Regeneration and Economic Benefits

- 6.1 The “Vision for Bath” identifies that much of the centre of Bath falls below the standard expected of a World Heritage Site and there is a need to promote new investment. The Council is working on the “Bath Business Plan” to bring forward key regeneration sites within the city and would use the development of a Casino to further this process, building on the opening of the Thermae Bath Spa and investor interest in the expansion of the city’s hotel stock.

The Council wishes to attract a small casino to Bath city centre as this will maximise the benefit to the visitor economy, helping to extend length of stay, increase spend per head and build business tourism creating a less seasonal and more sustainable leisure and tourism sector.

Bath is well placed to accommodate a casino development. Its complimentary employment and skills levels, the relatively large local population, and the strong visitor numbers create a sustainable market for a small casino development.

The high standards and investment in training that such an operator would require would have a beneficial impact on the leisure and tourism sector locally.

The Council is clear that it wishes to use the new Casino licence to assist in the regeneration of the tourism industry in Bath which is currently undergoing a renaissance with the development of improved environments and new facilities. It is believed however given the established character of Bath as a tourist centre that the maximum economic benefit can be gained from a Casino which also delivers a range of tourism and leisure facilities which will complement or improve those currently available within the city. In terms of non-gambling public benefits therefore the applicants should give first priority to assisting the Council with the delivery of the new direction and image for Bath including:

- Improved tourism infrastructure and facilities
- Improved environments

7.0 Tourism

- 7.1 The applicants should also consider the need for more high quality cafes, restaurants, small bars and improvements to the quality of the night time economy but should be conversant with the Council’s Statement of Licensing Policy, under the Licensing Act 2003, which contains a Cumulative Impact Policy.

8.0 Environment

- 8.1 In terms of the public realm, existing buildings and street facades, a casino development should address the redevelopment of poor buildings, the creation of new pedestrian spaces and a higher quality street scene.
- 8.2 There are redevelopment opportunities throughout the town centre and the creation of new retail outlets, apartments and offices may be possible.
- 8.3 The Council would seek to locate the casino where it can play a positive role in promoting better connectivity and visitor management in the City Centre and stimulate new investment and public realm improvements. The Council has identified areas of the City which would offer a greater variety of leisure pursuits, increasing the importance of the evening economy. The Council would seek a formal agreement with the chosen casino operator to secure investment in public realm and community support initiatives.
- 8.4 In terms of the night time economy, applicants should consider how their proposals address the over supply of 'vertical drinking' premises, the need for better and safer parking, public transport and taxi services, better street lighting, CCTV and security measures and in general, help create a more sophisticated and continental night time culture whilst taking into account the Council's Statement of Licensing Policy under the Licensing Act 2003, which contains a Cumulative Impact Policy.

9.0 Marketing

- 9.1 Applicants will be required to set out their proposals on how they intend to market the casino in their Marketing Strategy.

10.0 Arts, Culture and Leisure

- 10.1 The Local Authority recognises the need for high quality activities which not only attract its visitors but also encourage regular usage by local residents together with encouraging the younger community who are unable to participate in licensable activities.
- 10.2 The Local Cultural Strategy (LCS) has been prepared to plan the cultural future of the district. It is the result of much consultation and debate.
- 10.3 The LCS seeks to join together initiatives in Bath & North East Somerset Council, and build partnerships with organisations in the district to promote culture and cultural activity.

10.4 There are many challenges – ensuring quality, promoting wide access, district-wide, to cultural activity, maximising resources, building on local distinctiveness.

10.5 There are five themes:

- Uniqueness – recognising and emphasising local distinctiveness and place
- People taking part – promoting access, participation and enjoyment of cultural activities for all
- Renaissance – culture and cultural activity integrated in economic development, regeneration, community planning
- Environment, city and countryside – making best but sustainable use of green spaces and building links between city, town and country
- Broadening lives and minds – culture in health and lifelong learning

11.0 Job Creation

11.1 Applicants are asked to identify how they propose to secure training and employment for disadvantaged groups. In addition, they will be required to consider proposals for providing training courses leading to relevant nationally accredited awards particularly as they relate to the tourism and leisure sectors.

11.2 Applicants will be asked to identify how their policies and processes encourage local applicants to secure jobs in the new casino, including those currently in receipt of state benefit payments. In addition, relevant training that will be available to applicants that may lead to vocational qualifications should be identified.

The Council is part of the West@Work partnership which operates across the West of England area. The partnership brings together the four Unitary Authorities in the sub-region, the West of England Learning and Skills Council, Business West and Connexions – the youth advisory service.

The Partnership seeks to work with major developers and employers in promoting training opportunities and employment for local people. The Council will require the selected casino operator to enter into an agreement with West@Work which will:-

- Provide local people with the opportunity to apply for jobs created by the casino
- Ensure agreements are in place with local training providers to assist local people in acquiring the skills required for employment in the casino.

11.3 Applicants' proposals to target employment from the local community should be identified.

11.4 Applicants should identify any strategies that they propose to utilise local products and services both in the development of the casino and continuing activities.

11.5 It is anticipated that the factors in this section have the potential to generate an economic benefit for the area and the Licensing Authority reserves the right to have regard to such considerations when evaluating proposals.

12.0 Social Responsibility

12.1 The applicant will be required to detail mechanisms for identifying problem gamblers and restricting their access to the casino.

12.2 The priorities are:

- 1. A permanent fund or programme of practical assistance for problem gambling for local residents**
- 2. Separate area/room to allow customers to familiarise themselves with the rules of the games, how they operate and the dangers of excessive gambling**
- 3. Responsible marketing/refuge advertising and promotional campaigns**

12.3 Other expectations include:

- Staff training on gambling legislation and recognition of problem gambling
- Challenge 21 schemes
- Admission policy
- Allocation of certain staff being trained as counsellors
- Advice and support to those engaged in or affected by problem gambling
- Self exclusion schemes
- Policy on how to deal with problem gamblers
- Gamcare leaflets and designated telephone advice system
- Separate wind down/room
- Responsible drinks promotions

13.0 Cumulative Impact Policy (CIP)

13.1 As the applicant is likely to offer licensable activities listed under the Licensing Act 2003, the applicant must be familiar with the Council's Licensing Policy which incorporates a CIP. If the proposed location is within the CIP boundary the applicant will be required to evidence that the casino will not add to the problems generated by the concentration of licensed premises in that area. In essence, the applicant will be required to volunteer conditions that will counteract these problems and evidence that it will support this Policy by promoting the four Licensing Act licensing objectives.

13.2 The priorities are:

- 1. Prevention of crime and disorder**
- 2. Prevention of public nuisance**
- 3. Public safety**
- 4. Protection of children from harm**

14.0 Financial Contribution

14.1 In the Code of Practice published on 26 February 2008 by the DCMS, it states that a Council should pay particular attention to the following in determining the principles or criteria they propose to apply:

- (a) protection of children and vulnerable persons from harm or exploitation arising from gambling, whether in the proposed casino or wider community
- (b) crime and disorder
- (c) fair gambling
- (d) employment and regeneration
- (e) design and location
- (f) non gambling facilities
- (g) financial and other contributions

14.2 The content of an application and the means of delivery and implementation of the above principles, criteria and guidelines, is a matter for the applicant. The applicant can elect to provide a financial contribution (both capital and revenue) in lieu of facilities. The Council will examine any financial contributions and weigh up the extent of the added value to the community and the fabric and economy of the town in assessing applications.

15.0 Development Agreement

15.1 Where an applicant presents proposals for consideration by the Licensing Authority, that applicant will be required to sign a pro forma agreement committing the applicant to the proposals being made in

advance of consideration by the Licensing Committee. A decision by the Licensing Authority to approve an application will provide the requisite authority for the Council to enter into the Agreement, subject to any legal challenge to the Authority's decision. The form of such pro forma agreement will be available in the application pack. It will be noted that in the event that the successful applicant fails to carry out the proposal in accordance with the pro forma agreement, the Licensing Authority has a right to receive liquidated damages.

16.0 Consultation

16.1 The interpretation of and response to the above guidelines and principles may be the subject of discussion between the Council and the applicant at the second stage of the process with a view to proposals being refined and potential benefits being maximised. General queries about the procedure set out here should be directed to the central point of contact and such information may be shared with other interested parties.

17.0 References

17.1 The applicant is recommended to read the following:-.

- Bath Local Plan.
- Economic Development Strategy for Bath & North East Somerset.
- Regional Spatial Strategy for the South West.
- Bath & North East Somerset Planning Publications and Guidance Notes.
- Bath & North East Somerset Local Cultural Strategy/Arts Development Strategy.
- Future for Bath Vision.
- Corporate Plan for Bath and North East Somerset.
- Bath & North East Somerset Sustainable Community Strategy.
- Bath & North East Somerset Statement of Licensing Policy under the Licensing Act 2003.
- Bath & North East Somerset Local Area Agreement.
- Casino Application Pack

GAMBLING ACT 2005

INVITATION TO APPLY FOR SMALL CASINO LICENCE

Bath & North East Somerset Council (“the Council”), as the licensing authority for the Bath & North East Somerset proposes to issue one premises licence for a small casino within its area pursuant to Part 8 and Schedule 9 of the Gambling Act 2005 and the Categories of Casino Regulations 2008 (SI 2008/1330) and hereby invites applications to be made for the said licence.

Applications must be made by xxxxxxxxxxxx in order to be considered by the Council.

Application packs may be obtained from:

Andrew Jones
Environmental Monitoring and Licensing Manger
Bath & North East Somerset Council
9-10 Bath Street
Bath
BA1 1SN

All inquiries concerning this process must be addressed in writing to Andrew Jones at the above address or by e-mail to andrew_jones@bathnes.gov.uk. Oral inquiries will not be accepted at any stage during the process.

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BATH & NORTH EAST SOMERSET COUNCIL

GAMBLING ACT 2005

**APPLICATIONS FOR GRANT OF SMALL
CASINO PREMISES LICENCE**

APPLICATION PACK

1 INTRODUCTION

In May 2008 Parliament gave Bath & North East Somerset Council (“the Authority”) the right to grant a premises licence for a small casino under the Gambling Act 2005.¹

Before granting such a licence, the Authority must conduct an application process pursuant to Schedule 9 of the Act.

The purpose of this application pack is to inform potential applicants of the rules of the application process. It is published to conform with the requirements set by Parliament and the Secretary of State,² and to ensure an application process which is both transparent and fair.

2 WHAT IS A SMALL CASINO?

The definition of a small casino is set out in the Gambling Act 2005 and in Regulations. Applicants should take advice as to the detailed statutory requirements. What follows is a general guide.

A small casino is a casino³ in which the combined floor area of those parts of the casino which are used to providing facilities for gambling is at least 500 square metres but less than 1,500 square metres.⁴ The table gaming area itself must be at least 500 square metres, and may comprise a number of separate areas, although no area under 62.5 square metres may be taken into account.⁵

The casino may offer gaming machines of categories B, C or D.⁶ The number of machines must be no more than twice the number of gaming tables used in the casino, and must in any case not exceed 80.

The casino may also make facilities available for betting, and also betting on the outcome of a virtual game, race, competition or other event or process.

¹ The Gambling (Geographical Distribution of Large and Small Casino Premises Licences) Order 2008 (SI 2008/1327).

² Gambling Act 2005, Part 8 and Schedule 9; The Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 (SI 2008/469); The Code of Practice for Determinations under Paragraphs 4 and 5 of the Schedule 9 to the Gambling Act 2005 relating to Large and Small Casinos (“Competition Code of Practice”).

³ The definition of a casino is set out in section 7 of the Gambling Act 2005.

⁴ The Categories of Casinos Regulations 2008 (SI 2008/1330).

⁵ Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409).

⁶ Section 172 Gambling Act 2005, The Categories of Gaming Machines Regulations 2007 (SI 2007/2158).

There must one or more non-gambling areas totalling at least 250 square metres. The total area may include, but must not solely comprise, lobby and toilet facilities. Each non-gambling area (other than the lobby and toilet facilities) must offer recreational facilities at all times that gambling facilities are being provided on the premises.⁷

3 THE TWO STAGE APPLICATION PROCESS

Parliament has provided for a two-stage application process.⁸

At Stage 1 applicants must apply for a casino premises licence or provisional statement. Their applications will be judged in the same way as for all other premises licences under the Gambling Act 2005, according to the principles in section 153.

If there is only one successful applicant, the licence (or, as the case may be, the provisional statement) will be awarded to that applicant unless the Council decides to terminate the process by adopting a no casino resolution.

If there is more than one successful applicant, Stage 2 of the application process will be activated. The licence (or provisional statement) will then be awarded to the application which would, in the Authority's opinion, be likely if granted to result in the greatest benefit to the Authority's area.

Further detail of the procedure, including the rules of the application process, are set out below.

4 STAGE 1 OF THE APPLICATION PROCESS

The procedure at Stage 1 of the process is set out briefly below. Applicants should take legal advice on these provisions, if further detail is required.

An application for a premises licence or a provisional statement must be made to the Authority in the form and manner prescribed by the Gambling Act 2005 (Premises Licence and Provisional Statements) Regulations 2007⁹ ("the Application Regulations") and

⁷ Gambling Act 2005 (Mandatory and Default Conditions) (England and Wales) Regulations 2007 (SI 2007/1409).

⁸ Schedule 9 Gambling Act 2005.

⁹ SI 2007/459.

must be accompanied by the prescribed fee.¹⁰ The application must be made by the “closing date” set out in section 9 below.

An application for a premises licence may only be made by a person who:

- i) holds a casino operating licence or has made an application for such an operating licence which has not yet been determined; and
- ii) has a right to occupy the premises to which the application relates.¹¹

If the applicant cannot satisfy these requirements, he may nevertheless apply for a provisional statement.¹²

Following the making of the application, the applicant must give notice to the responsible authorities, advertise the application and display a site notice, all in accordance with the Application Regulations.¹³

It is important to note that an application made before the closing date is to be treated as if it were made on the closing date.¹⁴ Therefore, the period for representations specified in notices to responsible authorities, advertisements and site notices must be calculated from the closing date and not the date when the application was in fact made. Furthermore, in calculating the period within which notice of the application has to be given to responsible authorities, the period within which the application must be advertised, and the period during which site notices have to be displayed, the closing date must again be substituted for the date when the application was actually made.

The effect of this is as follows.

- The last date for representations to be specified in notices to responsible authorities, advertisements and site notices is xxxxxxxx.
- Notice of the application has to be given to responsible authorities by xxxx.
- The application must be advertised by xxxxxxxx.

¹⁰ The prescribed fees are set out in the Gambling (Premises Licence Fees) (England and Wales) Regulations 2007 (SI 2007/479).

¹¹ Section 159 Gambling Act 2005.

¹² Section 204 Gambling Act 2005.

¹³ Sections 159-160 Gambling Act 2005.

¹⁴ Regulation 7(3), Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008.

- A notice must be displayed for at least 28 consecutive days from xxxx.

Representations may be made on the application by responsible authorities and interested parties, as defined by the Act.¹⁵ For this purpose, each competing applicant for the casino premises licence is an interested party and so can make representations in relation to each of the competing applications.¹⁶ The period for representations is 28 days beginning on the closing date, i.e. by xxxxxxxx, as stated above. If the Authority considers a representation to be vexatious, frivolous or certainly not such as to influence its determination of the application, it will disregard it.¹⁷

Unless the applicant and also interested parties or responsible authorities consent to a determination without a hearing, the Authority must hold a hearing to consider each application if:

- a) there remain live representations from interested parties or responsible authorities;
- b) the Authority proposes to attach an individual condition to the premises licence;
- c) the authority proposes to exclude a default condition from the licence.¹⁸

In considering the merits of the application at Stage 1, the Authority will apply the test set out in section 153 of the Gambling Act 2005. In particular, the Authority will aim to permit the use of premises for gambling in so far as the Authority think it:

- (a) in accordance with any relevant code of practice issued by the Gambling Commission;¹⁹
- (b) in accordance with any relevant Guidance issued by the Gambling Commission;²⁰
- (c) reasonably consistent with the licensing objectives²¹ (subject to paragraphs (a) and (b)), and

¹⁵ Sections 157, 158, 161 Gambling Act 2005.

¹⁶ Schedule 9 paragraph 4, Gambling Act 2005.

¹⁷ Section 162 Gambling Act 2005.

¹⁸ Section 162 Gambling Act 2005.

¹⁹ Under section 24 of the Gambling Act 2005. The current codes of practice are obtainable from the Commission's web-site: www.gamblingcommission.gov.uk.

²⁰ Under section 25 of the Gambling Act 2005. The current Guidance is obtainable from the Commission's web-site: www.gamblingcommisison.gov.uk.

²¹ The licensing objectives are: (a) preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime, (b) ensuring that gambling is conducted in a fair and open way, and (c) protecting children and other vulnerable persons from being harmed or exploited by gambling.

- (d) in accordance with the statement published by the Authority under section 349²² (subject to paragraphs (a) – (c)).

In making its determination, the Authority must disregard:

- (1) the expected demand for the proposed facilities;²³
- (2) whether or not the proposal is likely to be permitted in accordance with the law relating to planning or building.²⁴

The determination at Stage 1 will be made by the Authority's Licensing Sub-committee. Any hearing will be conducted in accordance with the appropriate hearings regulations.²⁵ The Licensing Sub-Committee will be drawn from the Members named in the attached document *Members of the Licensing Committee*. If any objection is taken to these Members, the substance of the objection should be stated prior to submission of the Stage 1 application, so that the objection may be considered, and any necessary action taken.

Following the Stage 1 procedure, if there is only one successful applicant, a casino premises licence (or provisional statement as the case may be) will be awarded to that applicant unless the Council decides to terminate the process by adopting a no casino resolution. If there is more than one successful applicant, then all of the successful applicants will be invited to participate in Stage 2 of the process.²⁶

There is a right of appeal against the Authority's decision at Stage 1 of the process. Pending completion of the appeal, Stage 2 of the process will be suspended.²⁷

Extraneous information or material

It is important to note that the only information the Authority can take into account at Stage 1 is information material to the judgment it has to make under section 153 of the Gambling Act 2005. Therefore:

- 1) No information, other than information required by the Application Regulations, may be included in or submitted with an application.²⁸

²² The Authority's Statement of Licensing Policy is obtainable from the Authority's web-site: www.bathnes.gov.uk.

²³ Section 153 Gambling Act 2005.

²⁴ Section 210 Gambling Act 2005.

²⁵ Gambling Act 2005 (Proceedings of Licensing Committees and Sub-Committees (Premises Licences and Provisional Statements) (England and Wales) Regulations 2007 (SI 2007/173).

²⁶ Schedule 9, Gambling Act 2005.

²⁷ Schedule 9, Gambling Act 2005.

²⁸ Regulation 6, the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008 (SI 2008/469) ("the Invitation Regulations").

- 2) In making its determination at Stage 1, the Authority will not take into account any information which is relevant to a determination at Stage 2, unless that information is also relevant to the determination at Stage 1.²⁹
- 3) If extraneous information or material is included with the application, the Authority will disregard it and, if possible, return it to the applicant.³⁰
- 4) The Authority will not have regard to whether any of the competing applications is more deserving of being granted.³¹

5 STAGE TWO OF THE APPLICATION PROCESS

At Stage 2 of the process, the Authority will decide which of the remaining applications would be likely to result in the greatest benefit to the Authority's area. To ensure delivery of benefits, the authority may enter into an agreement with an applicant, whether as to the provision of services or otherwise, may attach conditions to any licence so as to give effect to the agreement, and may take the agreement into account in judging the process. A casino premises licence (or provisional statement, as the case may be) will be awarded to the successful applicant.³²

The decision will be made by the Licensing Committee.

In general, the procedure will follow the Competition Code of Practice.³³ However, the Code leaves individual authorities to determine the detail of their own procedure. The procedure which follows has been determined by the Authority to ensure fairness, equality between applicants and transparency; and also to secure maximum benefits from this process for the area of the Authority.

At the beginning of Stage 2, applicants will be invited to complete a form demonstrating how their application, if granted, would be likely to result in the greatest benefit to the authority's area.

A copy of the form is included in this application pack, together with Guidance Notes for completion of the form.

Applicants will be required to submit a raft of information together with their form, to enable applications to be thoroughly evaluated.

²⁹ Ibid.

³⁰ Paragraph 4, Competition Code of Practice, see note 2 above.

³¹ Schedule 9, Gambling Act 2005.

³² Schedule 9, Gambling Act 2005.

³³ See above.

Attached to the form is a pro forma written agreement, which is intended to secure provision of the benefits offered by the applicant and to ensure that applications are judged on an equal basis. Applicants are invited to complete Schedule 1 to the agreement with the benefits they are offering should they be awarded the casino licence, together with the compensation they are offering should the casino development be delayed or the benefits fail to materialise or cease. The agreement is likely to be made a condition of the licence, so that any breach of the agreement will also be subject to remedies under the Gambling Act 2005. While it is not obligatory for applicants to offer to enter into the agreement, this may affect the Authority's evaluation of the benefit arising from the application.

The form will need to be returned to the Authority within 1 month of the notification of the commencement of Stage 2 of the process.

In determining which application is likely to result in the greatest benefit to the area, the applications will be considered

- a) against the heads of benefit, and according to the weighting, set out in the attached document *Principles and Weighting*;
- b) against the deliverability of the scheme.

As to a), applicants are encouraged to provide as much detail as they can as to the benefit which is proposed under each heading in *Principles and Weighting*.

As to b), the Authority will also pay special attention to the question of delivery. In particular it will wish to consider what legal assurances there are that the proposed development will be delivered in time, and that the promised benefits will both materialise and be maintained. Relevant factors may include (but will not be limited to) the applicant's financial standing, track record of delivery, the terms offered in the legal agreement and any third party guarantees. Applicants are asked to give close consideration to these issues in the preparation of their bid.

The Evaluation Panel

The Authority has constituted a non-statutory Panel named the Evaluation Panel.

The attached document *Members of the Evaluation Panel* sets out the constitution of the Panel. If any objection is taken to the membership of the Evaluation Panel, the substance of the objection should be stated prior to submission of the Stage 2 application, so that the objection may be considered, and any necessary action taken.

The function of the Evaluation Panel is to evaluate the applications for the benefit of the Licensing Committee. The Evaluation Panel is not a decision-making body, and while the Licensing Committee will take the Panel's evaluations into account, it is not bound to follow them.

All Stage 2 applications will be placed before the Evaluation Panel.

The Panel may request officers of the Authority to engage in discussions or negotiations with each Stage 2 applicant with a view to the particulars of their application being refined, supplemented or otherwise altered so as to maximise the benefits to the Authority's area, should the application be granted. If the discussions are with a view to particulars of the application being improved or altered (rather than merely clarified or particularised), the same invitation will be offered to all other applicants to ensure equal treatment. Wherever possible, such discussions will take place in writing to ensure transparency. Where oral discussions occur, these will be fully minuted.

The Evaluation panel may elect to interview applicants. If so, all applicants will be interviewed. The purpose of the interview will be to clarify the detail of the application and not to negotiate with the applicant. All interviews will be minuted.

The applicant will be invited to amend his bid documentation to reflect any clarifications or alterations to the bid arising from the above process. At this stage, any suggested changes going beyond clarifications or amendments which have been agreed will be disregarded.

Following completion of the bid documentation, the Evaluation Panel will evaluate each bid.

The evaluation will consist of:

(1) A qualitative and quantitative appraisal against each of the heads of benefit in the Scoring Matrix document. For each head of benefit, the Panel will make a recommendation as to which of the following bands the application should be placed within and, if it wishes, the broad positioning within the band:

90 – 100 Outstanding

80-90 Excellent

70-80 Very good

60-70 Good

50-60 Average

40-50	Below average
30-40	Poor
20-30	Very poor
10-20	Extremely poor
0-10	No significant response

The scoring matrix includes an appraisal of the deliverability of the scheme. This will take into consideration all relevant factors including the applicant's financial standing, track record of delivery, the terms offered in the legal agreement and any third party guarantees.

The Panel will supply its draft evaluation to the relevant applicant to enable the relevant applicant to correct factual errors or to make representations as to the scoring. No new information will be accepted at this stage. Following any reply by the applicant, the Panel will complete its recommendation and forward it together with the applicant's representations to the Licensing Committee for final determination. A copy of the Panel's recommendation will also be sent to the applicant. Further representations are not encouraged at this stage, and representations which duplicate previous representations, amount to a merits-based challenge to the Panel's evaluations or provide new information will be rejected.

The final determination

The Licensing Committee will be drawn from the Members named in the attached document *Members of the Licensing Committee*. If any objection is taken to these Members, the substance of the objection should be stated prior to submission of the Stage 2 application, so that the objection may be considered, and any necessary action taken.

In each case, the Licensing Committee will be provided with this application pack, the Stage 1 decision, the Stage 2 application form and associated documents (with any amendments), all correspondence and minutes, and the Evaluation Panel's draft and final evaluations together with the applicant's representations.

The Committee will evaluate the respective merits of the applications against the *Principles and Weighting* document.

The Committee is unlikely to interview applicants or seek further evidence or representations. If, in an exceptional case, it decides to do so, the same facility will be offered to all applicants to ensure equality of treatment. It will take any legal advice it requires. The legal adviser will play no part in judging the applications or making the decision.

The casino licence or provisional statement will be offered to the highest ranked applicant at Stage 2, subject to execution of any agreement offered at Stage 2. If the agreement is not executed, the Authority reserves the right to award the licence or provisional statement to the next-ranked applicant.

6 CONFIDENTIALITY

All information submitted to the Authority at any time during Stage 2, including in the form itself and associated documents, will be treated as confidential. The Authority has put in place a protocol governing the storage of such confidential information so as to maintain confidentiality. The Authority will not, during the second stage, discuss the details of a person's application with competing applicants without the person's permission.

7 PRE-EXISTING CONTRACTS, ARRANGEMENTS AND RELATIONSHIPS

The Authority will ensure that any pre-existing contract, arrangement or other relationship with any person does not affect the procedure so as to make it unfair, or appear unfair, to any applicant. Accordingly:

- (1) In determining the principles which it proposes to apply at Stage 2, the Authority has disregarded any such contract, arrangement or relationship.
- (2) Before publishing the invitation to apply for the casino licence, it will put in place arrangements to ensure that any such contract, arrangement or relationship did not (actually or apparently) prejudice its ability to conduct the procedure fairly.
- (3) After the last date for applications, but before considering any application, it will prepare a register of interests disclosing its interest in any contract, arrangement or other relationship with an applicant or a person connected or associated with an applicant.³⁴ A copy of the information in the register of interests will be provided free of charge to each applicant and to any other person who requests it.

³⁴ For the meaning of "connected" and "associated", see Competition Code, paragraph 3.5.

8 COMMUNICATIONS

In order to ensure a proper record of communications, there will be a single point of contact for applicants wishing to communicate with the Authority. This is:

Andrew Jones
Environmental Monitoring and Licensing Manager
Public Protection
9-10 Bath Street
Bath
BA1 1SN
andrew_jones@bathnes.gov.uk

All communications between the Authority and the applicant during the application process must be channelled in writing through the single point of contact. Oral communication from the applicant will be rejected. Where, in accordance with the above procedure, it is necessary for a meeting to take place, this will be arranged by the authority in advance and will be fully minuted.

9 TIMETABLE

The closing date for applications is xxxxxxxxxxxxxx.

Following that, the provisional timetable is as follows:

Xxxx: Decision at Stage 1.

Xxxx: Notification of commencement of Stage 2.

Xxxx: Closing date for submission of Stage 2 applications.

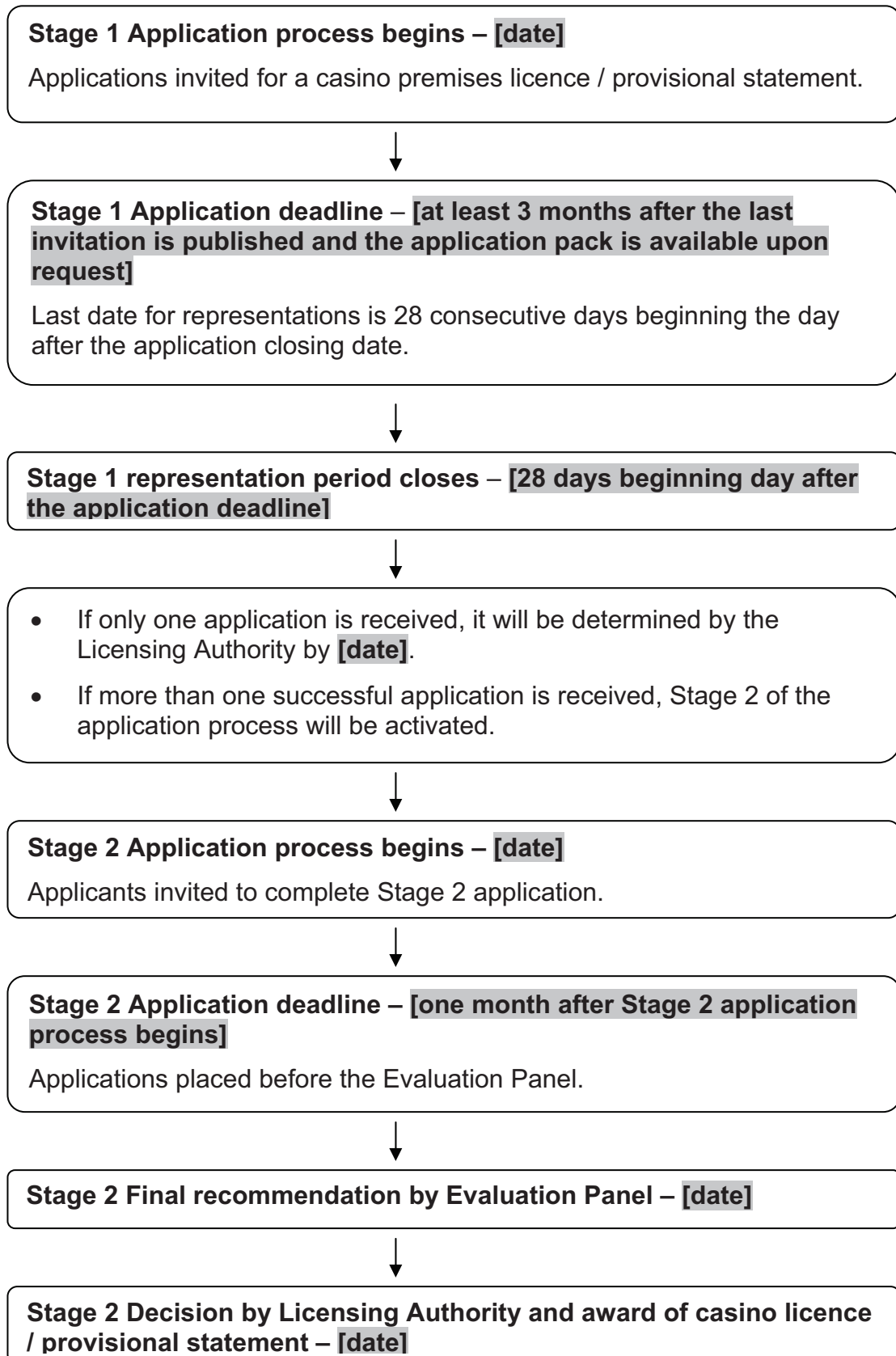
Xxxx: Final recommendation of Evaluation Panel.

Xxxx: Decision of Authority at Stage 2 and award of casino licence / provisional statement.

10 TERMS OF REFERENCE OF COMMITTEE [COMMITTEE] [BOARD] AND EVALUATION PANEL

A copy of the Terms of Reference for the Committee and the Evaluation Panel is attached. Any query as to the Terms of Reference or the proposed procedure, including any query as to its validity, should be directed to the Authority prior to the commencement of the application process so as to resolve the same prior to commencement.

APPLICATION PROCESS FOR A SMALL CASINO PREMISES LICENCE / PROVISIONAL STATEMENT



LICENSING COMMITTEE (10 Members)

Chair for 2009/10: Councillor Tim Warren

Conservative (5): Councillor Tim Warren, Councillor Bryan Chalker, Councillor Gabriel Batt, Councillor Malcolm Lees, Councillor Anthony Clarke

Liberal Democrat (4): Councillor Gerry Curran, Councillor Tim Ball, Councillor Steve Hedges, Councillor Carol Paradise

Labour (1): Councillor John Bull

All Members of the Licensing Committee have been appointed as substitutes for both of the Licensing Sub-Committees. Political Groups have nominated permanent substitutes for specific Sub-Committees as shown.

**GAMBLING ACT 2005
APPLICATION FOR A PREMISES LICENCE**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records.

Where the application is—

- In respect of a vessel, or
- To convert an authorisation granted under the Betting, Gaming and Lotteries Act 1963 or the Gaming Act 1968,

the application should be made on the relevant form for that type of premises or application.

PART 1 – TYPE OF PREMISES LICENCE APPLIED FOR

Regional Casino Large Casino Small Casino
 Bingo Adult Gaming Centre Family Entertainment Centre
 Betting (Track) Betting (Other)

Do you hold a provisional statement in respect of the premises? Yes No

If the answer is “yes”, please give the unique reference number for the provisional statement (as set out at the top of the first page of the statement):

PART 2 – APPLICANT DETAILS

If you are an individual, please fill in Section A. If the application is being made on behalf of an organisation (such as a company or partnership), please fill in Section B

Section A – Individual applicant

1. Title	Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Miss <input type="checkbox"/> Ms <input type="checkbox"/> Dr <input type="checkbox"/> Other (please specify)
2. Surname	
Other name(s) <i>Use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence.</i>	

3. Applicant's address (home or business – <i>delete as appropriate</i>)	
Postcode	
4(a) The number of the applicant's operating licence (as set out in the operating licence)	
4(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made	
<p>5. Tick the box if the application is being made by more than one person <input type="checkbox"/></p> <p><i>Where there are further applicants, the information required in questions 1 to 4 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".</i></p>	

Section B – Application on behalf of an organisation

6. Name of applicant business or organisation <i>Use the names given in the applicant's operating licence or, if the applicant does not hold an operating licence, as given in any application for an operating licence.</i>	
7. The applicant's registered or principal address	
Postcode	
8(a) The number of the applicant's operating licence (as given in the operating licence)	
8(b) If the applicant does not hold an operating licence but is in the process of applying for one, give the date on which the application was made	
<p>9 Tick the box if the application is being made by more than one organisation <input type="checkbox"/></p> <p><i>Where there are further applicants, the information required in questions 6 to 8 should be included on additional sheets attached to this form, and those sheets should be clearly marked "Details of further applicants".</i></p>	

PART 3 – PREMISES DETAILS

10 Proposed trading name to be used at the premises (if known)	
11 Address of the premises (or, if none, give a description of the premises and their location)	
Postcode	
12 Telephone number at premises (if known)	
13 If the premises are in only a part of a building, please describe the nature of the building (for example, a shopping centre or office block). The description should include the number of floors within the building and the floor(s) on which the premises are located	
14(a) Are the premises situated in more than one licensing authority area?	Yes / No
14(b) If the answer to the above question is yes, please give the names of all the licensing authorities within whose area the premises are partly located, other than the licensing authority to which this application is made	

PART 4 – TIMES OF OPERATION

15(a) Do you want the licensing authority to exclude a default condition so that the premises may be used for longer periods than would otherwise be the case? Yes / No
Where the relevant kind of premises licence is not subject to any default conditions, the answer to this question will be "no".

15(b) If the answer to 15(a) above is "yes", please complete the table below to indicate the times when you want the premises to be available for use under the premises licence:

	Start	Finish	Details of any seasonal variation
Mon	<i>hh:mm</i>	<i>hh:mm</i>	
Tue			
Wed			
Thurs			
Fri			
Sat			
Sun			

16 If you wish to apply for a premises licence with a condition restricting gambling to

specific periods in a year, please state the periods below using calendar dates:

PART 5 – MISCELLANEOUS

17 Proposed commencement date for licence (leave blank if you want the licence to commence as soon as it is issued)	
18(a) Does the application relate to premises which are part of a track or other sporting venue which already has a premises licence?	Yes / No
18(b) If the answer to the above question is “yes”, please confirm by ticking the box that an application to vary the main track premises licence has been submitted with this application <input type="checkbox"/>	
19(a) Do you hold any other premises licences that have been issued by this licensing authority?	Yes / No
19(b) If the answer to 19(a) above is “yes”, please provide full details	
20 Please set out any other matters which you consider to be relevant to your application	

PART 6 – DECLARATIONS AND CHECKLIST (PLEASE TICK)

I/We confirm that, to the best of my/our knowledge, the information contained in this application is true. I/We understand that it is an offence under section 342 of the Gambling Act 2005 to give information which is false or misleading in, or in relation to, this application

I/We confirm that the applicant(s) have the right to occupy the premises

Checklist:

Payment of the appropriate fee has been made/is enclosed

A plan of the premises is enclosed

I/We understand that if the above requirements are not complied with the application may be rejected

I/We understand that it is now necessary to advertise the application and give the appropriate notice to the responsible authorities

PART 7 – SIGNATURES

21 Signature of applicant or applicant’s solicitor or other duly authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature	
Print name	
Date (dd/mm/yy)	
Capacity	

22 For joint applications, signature of 2nd applicant, or 2nd applicant’s solicitor or other authorised agent. If signing on behalf of the applicant, please state in what capacity:

Signature	
Print name	
Date (dd/mm/yy)	
Capacity	

Where there are more than two applicants, please use an additional sheet clearly marked “Signature(s) of further applicant(s)”. The sheet should include all the information requested in this Part.

Where the application is to be submitted in an electronic form, the signature should be generated electronically and should be a copy of the person’s written signature.

PART 8 – CONTACT DETAILS

23(a) Please give the name of a person who can be contacted about the application	
23(b) Please give one or more telephone numbers at which the person identified in the above question can be contacted	
24 Postal address for correspondence associated with this application	
Postcode	
25 If you are happy for correspondence in relation to your application to be sent via email, please give the email address to which you would like your correspondence to be sent	

GAMBLING ACT 2005

(STAGE ONE) APPLICATION FOR A PREMISES LICENCE – NOTES FOR GUIDANCE

1. What is a Gambling Act Premises Licence?

A Premises Licence, issued under the Gambling Act 2005, is required for any premises where it is intended to provide gambling facilities.

The types of Licence available are as follows:

- Casino Premises Licence
- Bingo Premises Licence
- Adult Gaming Centre Premises Licence (enabling Category B gaming machines to be made available for use at the premises)
- Family Entertainment Centre Premises Licence (enabling Category C gaming machines to be made available for use at the premises)
- Betting Premises Licence (enabling the provision of facilities for betting, by making or accepting bets or by acting as a betting intermediary)

Except in the case of a track, a Premises Licence may not authorise the use of premises for activities of more than one of the types listed above. A Licence may not be issued in respect of premises if those premises already have a Premises Licence in effect.

2. Who can apply for a Gambling Act Premises Licence?

An application for a Premises Licence may only be made by persons (which includes companies or partnerships):

- who have the right to occupy the premises; and
- who have an Operating Licence which allows him/her to carry out the proposed activity, or have applied for an Operating Licence (the Premises Licence may only be issued once the Operating Licence has been issued) from the Gambling Commission

An applicant for a Premises Licence must be over the age of 18.

3. What do I have to produce in making an application? Who do I have to serve notice on?

The application must include:

1. The appropriate application form
2. The appropriate fee for the application being made
3. A plan of the premises (see below for details)

Full application must be sent to:

1. The Licensing Authority
Licensing Services
9-10 Bath Street
Bath BA1 1SN
Tel: 01225 477531
Fax: 01225 477596
Email: licensing@bathnes.gov.uk

Notice of application must be served on:

1. The Gambling Commission
Victoria Square House
Victoria Square
Birmingham B2 4BP
E-mail: info@gamblingcommission.gov.uk
2. H M Revenue & Customs
National Registration Unit (Betting & Gaming)
Portcullis House
21 India Street
E-mail: nrubetting&gaming@hmrc.gsi.gov.uk
3. Avon and Somerset Constabulary
Liquor Licensing Bureau
PO Box 2781
Bristol BS1 2AS
Email: liquorlicensing@avonandsomerset.pnn.police.uk
4. Avon Fire and Rescue
Temple Back
Bristol BS1 6EU
Email: licensing2003@avonfire.gov.uk
5. Environmental Health Protection Manager
9-10 Bath Street
Bath BA1 1SN
Email: environmental_protection@bathnes.gov.uk
6. Planning Services
Trimbridge House
Bath BA1 2DP
Email: development_control@bathnes.gov.uk

7. Local Safeguarding Children Board
PO Box 3343
Bath BA1 2ZH
Email: child_protection@bathnes.gov.uk

The form of Notice for the notification to the Responsible Authorities can be downloaded from the Department for Culture, Media and Sport's website:

http://www.culture.gov.uk/what_we_do/gambling_and_racing/4153.aspx

Notice must also be given by:

1. Publishing a notice in a local newspaper or, if there is none, a local newsletter, circular or similar document, circulating within the area on at least one occasion during the period of ten working days starting with the day after the day on which the application is made to us; and
2. By displaying a notice on the premises to which the application relates:
 - (i) in a place at which it can conveniently be read by members of the public from the exterior of the premises;
 - (ii) for a period of no less than 28 consecutive days starting on the day on which the application is made to us.

4. What do the plans have to show?

All plans have to show:

- (i) The extent of the boundary or perimeter of the premises.
- (ii) Where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building.
- (iii) Where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises.
- (iv) Where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises.
- (v) The location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads.

Premises Licences with the below activities also have to show the following additional items:

Casinos

- (i) The principal entrance to the premises of those identified in accordance with paragraph (6)(a) above.
- (ii) The location and extent of any part of the premises which will be a table gaming area.
- (iii) The location and extent of any other part of the premises which will be used for providing facilities for gambling in reliance on the licence.
- (iv) The location and extent of any part of the premises which will be a non-gambling area.

**GAMBLING ACT 2005
STAGE TWO APPLICATION FOR A SMALL CASINO LICENCE**

PLEASE READ THE FOLLOWING INSTRUCTIONS FIRST

If you are completing this form by hand, please write legibly in block capitals using ink. Use additional sheets if necessary (marked with the number of the relevant question). You may wish to keep a copy of the completed form for your records. Please refer to the enclosed guidance notes when completing this form.

PART 1 – APPLICANT DETAILS

Individual applicant

1 Title	
2 Surname	
3 Other name(s)	
4 Address	
5 Number of operating licence	
6 If the applicant is awaiting determination of an operating licence application, give date of application	

Application on behalf of an organisation

7 Name of organisation	
8 Applicant's registered or principle address	
9 Number of operating licence	
10 If the applicant is awaiting determination of an operating licence application, give date of application	

PART 2 – DETAILS OF PREMISES

11 Address of premises	
12 Plans submitted as part of Stage 2 application	
13 State whether any of the above plans are illustrative only, giving reasons	
14 State whether the proposal is for the following (delete as appropriate)	1) A new build development 2) A modification of an existing building
14 If the proposal is for a modification of an existing building, state the current use of the building	
15 State the anticipated timing of the casino project	

Casino areas (square metres)

16(a) Gross area	
16(b) Gross customer area	
16(c) Table gaming area (including electronic gaming)	
16(d) Machines area	
16(e) Card room	
16(f) Other gaming areas (please specify)	
16(g) Reception / lobby	
16(h) WCs	
16(i) Bar / lounge	
16(j) Restaurant	
16(k) Other non-gaming areas (please specify)	
16(l) Minimum / maximum number of gaming tables	
16(m) Minimum / maximum number of electronic gaming terminals	
16(n) Minimum / maximum number of gaming machines	
16(o) Games of equal chance to be offered	

<p>17 Provision of self-help and tuition facilities (describe)</p>	
--	--

Non-gambling facilities

18 Give details of all proposals for refreshment and regulated entertainment, including hours and regularity of provision

--

Linked development

<p>19 Is the casino linked to any other development? (Delete as appropriate)</p>	<p>Yes / No</p>
<p>20 If so, give details of the development, and state whether the casino is dependent on the other development</p>	
<p>21 Identify all plans submitted to show the linked development</p>	

<p>22 State the progress and anticipated timing of the linked development</p>	
---	--

Number of jobs created

<p>23 Total number of full time equivalent jobs created in the proposed casino</p>	
<p>24 Number of personal licence holders to be employed</p>	

PART 3 – BENEFIT TO AREA

25 State what benefits are likely to result to the Authority’s area if this application is granted.

(The applicant may attach a separate document if preferred.)

PART 4 – DELIVERABILITY

26 Confirm that the applicant has attached: (Please tick yes)

Its operating licence

Its last 3 years' audited accounts

An estimated cost for the scheme

Evidence of availability of funding for the scheme

Two financial references confirming the availability of such funding

Its business plan for the project

Two professional references to evidence that the applicant has proven ability and track record in the casino gaming sector

A timescale for implementation and completion of the works setting out the various stages of construction

A training plan for casino staff

A list of all grants of casino licences to the applicant or any associated company since 1st January 2000 and a statement of the current operation and operator of those licences

27 State whether there are any constraints upon delivery of the project and how the applicant proposes to overcome them. (Note that the authority may not take account of constraints in obtaining planning or building consent.)

28 Other information supplied by applicant as to deliverability (please specify)	
--	--

Legal agreement

(Delete as appropriate)

State whether the applicant intends to offer an agreement in the form of the attached pro forma agreement to secure the provision of benefits to the Authority's area Yes / No

If so, please confirm that the applicant has completed and enclosed the pro forma agreement, and wishes it to be taken into account in the evaluation of its bid Yes / No

Is the applicant prepared to offer a third party guarantor of its obligations under the agreement? Yes / No

29 If so, identify the proposed guarantor:

Name	
Registered or principal address	
Confirm that a letter of consent from proposed guarantor and its last 3 years' audited accounts have been attached	Yes / No
State what, if any, additional information regarding guarantor has been attached	

<p>The licensing authority expects to attach a condition to the premises licence stating: "The licensee shall comply with the terms of the written agreement Reference No. xxxx dated xxxx."</p> <p>Does the applicant consent to the attachment of this condition in the event that its application for a premises licence is successful?</p>	<p>Yes / No</p>
--	-----------------

PART 5 – DECLARATION AND SIGNATURE

I confirm that, to the best of my knowledge, the information contained in this application and accompanying documents is true.

I understand that it is an offence under section 342 of the Gambling Act 2005 to give information which is false or misleading.

I confirm that I am authorised by the applicant to sign this form on its behalf.

Signature _____

Print name _____

Position _____

Address _____

Date _____

PART 6 – CONTACT DETAILS

Please give the name and contact details of the person who can be contacted about the application

Name

Address

Telephone

Email

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GAMBLING ACT 2005

STAGE TWO APPLICATION FORM – NOTES FOR GUIDANCE

Please note, the applicant is required to lodge:

- **12 sets of the form and all plans and attachments. Each complete set should be filed in an indexed, tabbed lever arch file. All printing should be double-sided.**
- **A CD containing a complete set of the documentation.**

Part 1 – Applicant details

The name given must be the same name given at Stage 1 of the application process, and in the applicant's operating licence or application for such a licence.

Part 2 – Plans

The applicant should give the title and number of each plan submitted as part of the application. This should include and conform with the plans submitted at Stage 1.

It is recommended that the plans should be as full as possible so as to provide sufficient detail of the development to enable a judgment to be made regarding likely benefits to the area.

Floor plans should include (where relevant) table gaming areas with indicative table layouts, machine areas, card rooms, tuition areas, cooling off / self help areas, bar and restaurant areas, non-gaming lounge or other recreation areas, entertainment areas or stages, events facilities, disabled facilities (including consideration given to counter heights and level changes), kitchen areas, staff changing, hygiene and recreation areas.

Elevation plans should demonstrate the quality of the elevational treatment, and whether gaming facilities will be visible from the exterior of the building.

Site plans should show the extent and quality of car parking, taxi waiting areas, provision for non-motorised and public transport, walking links from other developments, together with off-site security provision for customers (e.g. lighting and CCTV).

Where the proposed casino is part of a wider development, the plans should demonstrate the overall development.

The Authority will generally wish to include plans in the premises licence by condition, so as to ensure that the casino development proposed is delivered. If the applicant is offering the plans as illustrations only, and therefore not to be included in the premises licence, the applicant should explain its reasons.

The form asks a number of questions regarding the gaming provision on site. The applicant may submit an operating plan describing the style and nature of the casino in greater detail, should it so wish. In addition to the matters set out in the form, the applicant may describe its proposals as to minimum staking levels, so as to permit low stakes gambling in the casino. If there is a proposal to offer low- or no-stakes gambling, the applicant should give details of the provision, including the days and times the tables will be operated, the numbers of tables involved, and state whether it is prepared to submit to a condition to require such provision, and suggest the drafting of such a condition.

The applicant should describe its non-gambling facilities. The Authority is keen to promote developments in which gambling is only part of the overall entertainment. It wishes to guard against a proposal for non-gambling facilities which results in only token provision. The applicant should therefore describe its proposals in some detail (in a separate document if necessary) stating the hours and regularity of such provision. It may also attach sample menus and programmes of entertainment. The applicant may also include any proposals to avoid irresponsible alcohol consumption in this section. The applicant should state whether it is prepared to submit to conditions regarding these matters, and suggest appropriate drafting.

The applicant is asked to state whether the casino is part of a wider development. Where it is, the applicant should state whether the casino is dependent on this development, giving the timetable for this development, and indicating any constraints on delivery. Please note that the authority is not entitled to take into account whether the proposal is likely to be permitted in accordance with the law relating to planning or building.

Part 3 – Benefit to the area

In this section the applicant is invited to state what benefit would be likely to result from the proposal if this application is granted.

The Authority considers that “benefit” includes avoidance of disbenefit. Further, the authority is concerned with net benefit, so that if there are benefits which are likely to arise even if the application is not granted the applicant may wish to focus on the added value which a 2005 Act casino licence would bring.

The applicant should structure its submissions around the principles in the attached document "*Principles and Weighting*" since these will form the focus of the Authority's consideration. The Authority does not intend artificially to limit the scope of such benefits, and will give any suggested benefits the weight which it considers they merit.

The applicant is invited to present its case in whatever format it considers best. The Authority is keen to encourage imaginative and interesting proposals for maximum benefit, and so leaves it to applicants to present their material as they wish.

Part 4 – Deliverability

It is important that the Authority is satisfied that promised benefits will be delivered in the time stated and maintained thereafter.

The applicant is invited to deliver a raft of information to provide assurance that it has the financial standing and intention to deliver the scheme. If the applicant or an associated company has been granted casino licences which it has not developed, or has closed or disposed of, the applicant is invited to explain the circumstances so as to satisfy the Authority that there is no such intention in this case.

Where the provision of three years audited accounts is not possible then unincorporated unaudited accounts or audited holding company accounts will also be acceptable.

Applicants are invited to contract with the Authority for provision of the benefits and to state what compensation will be offered if the benefits are not delivered. A pro forma agreement is attached to the form, for completion by the applicant.

Measurable benefits for inclusion in the contract can take any form. They may include (for example) the delivery of the scheme of which the casino forms part, jobs, training, financial or other contributions to local services (such as transportation, training or gambling addiction programmes), or percentages of gross machine yield or other gaming revenue. The pro forma agreement allows the applicant to include whatever benefits the applicant wishes the Authority to take into account.

The Authority wishes to guard against granting a licence to a scheme which is not then delivered on time or at all, or which then closes or otherwise changes so as no longer to deliver promised benefits. The applicant should consider and include in the agreement its proposals for compensation by way of liquidated and ascertained damages should the promised benefits not be delivered or maintained.

Where the applicant is unable to demonstrate the financial standing to build and operate the casino over a long period, it should consider offering a guarantor to secure its obligations.

Part 5 – Declaration and signature

The form should be signed by a person who is authorised by the applicant, and who takes personal responsibility for the accuracy of the content of the form and attachments.

Part 6 – Contact details

Any contact in relation to this application will be between the person nominated in this section and the single point of contact at the Authority, so as to ensure a proper record of communications. The person nominated should therefore have authority to act for the applicant and sufficient knowledge to be able to communicate efficiently with the Authority. This can be, but does not have to be, the applicant's solicitor.

**PROPOSED AGREEMENT BETWEEN
BATH & NORTH EAST SOMERSET COUNCIL**

-AND-

[XXXXXXXXXXXXX]

UNDER SCHEDULE 9 OF THE GAMBLING ACT 2005

**RELATING TO THE GRANT OF A CASINO LICENCE
[PROVISIONAL STATEMENT]**

FOR PREMISES AT

[XXXXXXXXXXXXX]

This agreement is dated

200

PARTIES

- (1) Bath & North East Somerset Council of 9-10 Bath Street, Bath, BA1 1SN (“the Council”)
- (2) [] of [address] (“the Licensee”)

INTRODUCTION

- (1) The Council is the licensing authority for the purposes of the Gambling Act 2005 for [address of proposed premises] (“the Premises”)
- (2) The Licensee has applied for a casino licence [provisional statement] under the said Act for the Premises.
- (3) The Council has determined to grant the Licensee a casino licence [provisional statement] subject to the conditions mentioned therein and to the terms of this Deed.
- (4) The parties have agreed to enter into a legal agreement under Schedule 9 of the said Act in order to secure delivery of the benefits referred to in this Deed.
- (5) The parties acknowledge that the said licence [provisional statement] will contain a condition so as to give effect to the Licensee’s obligations contained in this Deed.
- (6) This Deed is executed by the Council as the licensing authority pursuant to its powers in Schedule 9 paragraph 5 of the said Act.

1 CONSTRUCTION OF THIS DEED

- 1.1 Where in this Deed reference is made to any clause, paragraph or schedule, such reference is to a clause, paragraph or schedule in this Deed.
- 1.2 Words importing the singular meaning include the plural and vice versa, except where the context requires otherwise.

- 1.3 Words of the masculine gender include other genders, and words denoting persons include corporate persons and associations.
- 1.4 Where there is more than one party to this Deed, all obligations are joint and several.
- 1.5 Any reference to an Act of Parliament includes any modification or re-enactment of the same and all instruments or orders of whatever nature made under it or deriving from it.
- 1.6 References to any party to this Deed shall include successors in title to that party.

2 LEGAL BASIS

- 2.1 This Deed is made pursuant to Schedule 9 of the Gambling Act 2005, section 111 of the Local Government Act 1972, section 2 of the Local Government Act 2000 and all other powers enabling such agreement.

3 CONDITIONALITY

- 3.1 This Deed is conditional upon grant of a new casino premises licence (“the Licence”) [provisional statement (“the Provisional Statement”)] for the Premises.

4 BENEFITS

- 4.1 The Licensee covenants to provide the benefits set out in Schedule 1 from the starting date or dates specified in that Schedule.
- 4.2 In the event that the said benefits (or any of them) are not provided at any time following the said date or dates, the Licensee covenants to pay the Council the relevant liquidated and ascertained damages set out in Schedule 1. Where the relevant benefit is supplied for only a proportion of the month, the liquidated and ascertained damages for that month shall be reduced proportionately.
- 4.3 The Licensee acknowledges and agrees that the obligation in Clause 4.2 will be without prejudice to any other remedies which the Council has for non-provision of the said benefits, including but not limited to enforcement of the conditions of the casino licence or provisional statement, a claim in debt or specific performance.

5 TERMINATION OF AGREEMENT

- 5.1 The Licensee's covenants herein shall continue unless and until the Licence or Provisional Statement is surrendered or terminates for any other reason.
- 5.2 Upon surrender or termination of the Licence or Provisional Statement, the Licensee shall remain liable for any liabilities accrued under this Deed and/or breach of covenant prior to surrender of the licence or provisional statement and the Council's remedies in respect thereof shall not be affected by such surrender.
- 5.3 For the avoidance of doubt in the event that the grant of a premises licence for a casino follows the grant of the Provisional Statement:
- 5.3.1 the Licensee's covenants herein shall continue in full force and effect unless and until the premises licence is surrendered or terminates; and
- 5.3.2 all references herein to the Licence shall be deemed to include reference to a premises licence following the grant of the Provisional Statement.
- 5.4 For the avoidance of doubt, in the event of transfer of the Licence or Provisional Statement, the Licensee's covenants herein shall continue unless and until the Council agrees in writing to cancel this Deed.
- 5.5 In the event of such cancellation, the Licensee shall remain liable for any liabilities accrued under this Deed and/or breach of covenant prior to cancellation and the Council's remedies in respect thereof shall not be affected by such cancellation.

6 WAIVER OF AGREEMENT

- 6.1 No waiver (whether express or implied) by the Council of any breach or default in performing any of the covenants, terms or conditions of this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing the any of the relevant covenants, terms or conditions or for acting upon any subsequent breach or default.

7 INTEREST AND INDEXATION

- 7.1 Any monetary payments due under this Deed shall carry interest at the rate of 1% above the Bank Rate of the Bank of England from time to time.

7.2 Any fixed monetary payments due under this Deed shall increase on 1st January of each year by an amount equivalent to the increase in the Retail Price Index issued by the Office for National Statistics on 1st January of the preceding year.

8 MISCELLANEOUS

8.1 The Licensee shall pay to the Council on completion of this Deed the reasonable legal costs of the Council incurred in the negotiation, preparation and execution of this Deed.

8.2 If any clause of this Deed is found to be invalid, illegal or unenforceable, then this shall not affect the validity or enforceability of the remaining provisions of this Deed.

8.3 This Deed is governed by and interpreted in accordance with the law of England and Wales.

IN WITNESS whereof the parties hereto have executed this Deed on the day and year first before written.

SCHEDULE 1

[Please specify:

- (1) The benefit as fully as possible, together with whether and if so what periodic payments are proposed)*
- (2) The starting date for the provision of the benefit.*
- (3) The liquidated and ascertained damages payable per calendar month for any period following the starting date over which the benefit in question is not being provided.]*

Benefit	Starting date	Liquidated and ascertained damages: sum payable per calendar month.
1.		
2.		
3.		
4.		
5		
6		
7		
8		
9		
10		

THE COMMON SEAL OF [] Council

was affixed in the presence of

Authorised signatory:

EXECUTED AS A DEED by []

The Licensee

In the presence of :

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Guide on what information should be provided

This guide is designed to help bidders in assessing the bid requirements. As a guide, suggested information requirements have been listed under each lead criterion. It should be noted that information listed under a particular criterion is not necessarily exclusive to that criterion and may be used to inform assessment of other criteria.

It is important for the bidder to assess for themselves, the requirements under each criterion and the corresponding sub-criteria. (Note: The lead criteria and their corresponding sub-criteria are set out in the scoring matrix.)

This guide is not prescriptive or exhaustive.

Lead Criterion A

Clear and proven financial ability/commitment to deliver scheme in its totality

1. Business Plan
2. Project Execution Plan
3. State anticipated opening date for the casino and its component parts
4. State anticipated and outstanding financial commitments that may impact on the deliverability of the casino and any associated developments
5. Provide audited financial statements for the last three years for the applicant(s) of the site evidencing availability of funds
6. provide audited accounts for any Guarantor evidencing availability of funds
7. Description of company tasked with delivering the development (if different from operator/developer)
8. Details of any phases to the development (including timescales and construction phases)
9. Provide evidence of ability to fund the proposed development
10. Describe the proposed delivery arrangements for the scheme (including proposed contractual arrangements between all parties involved)
11. Set out development cost assumptions (Open Book Appraisal)
12. Set out evidence of the professional team to execute delivery
13. State whether there are any constraints upon delivery of the project and how the applicant proposes to overcome them. (Note the Authority may not take into account constraints in obtaining planning or building consents)
14. Other information supplied by the applicant as to deliverability

Lead Criterion B

Prevention, monitoring and safeguards

1. Policy and procedures to promote responsible gambling
2. Policy on how patrons will be made aware of the risks of gambling and on how to gamble safely (e.g. advertising at premises, leaflets etc) and how to access help
3. Policy with regard to identification of problem gamblers and the actions to be taken upon such identification
4. Policy on staff training (including refresher training, in-house and qualification courses)
5. Self exclusion policy
6. Proposals for monitoring of rest areas and non-gambling areas
7. Policy on cashless gambling, allowing credit, use of credit cards or any form of collateral, and the monitoring of this policy
8. Policy on the availability of players' guides to any game etc
9. Policy with regard to the monitoring of, and surveys to ascertain the following in relation to persons visiting the casino:
 - a. Gender
 - b. Age
 - c. Ethnic origin
 - d. Reason for visiting the casino (gambolling or other)
 - e. Home location
 - f. Employment status and type
10. Identification of security precautions and monitoring measures (e.g. security personnel, CCTV systems)
11. Passive and reactive systems (including building environment design, street furniture, lighting, recording systems)
12. Policy on co-operation and liaison with the Police and other appropriate bodies (e.g. Council, PCT)
13. Policy on banning persons
14. Policy on intoxicated persons
15. Policy on monitoring of noise levels from the casino and anti-social behaviour at the casino
16. Arrangements to be put into place to minimise the potential for nuisance from customers arriving and leaving the casino
17. Traffic management plan
18. Policy with regard to large single sex groups attending the casino
19. Policy with regard to responsible drinking at the casino and measures to prevent intoxicated persons creating disorder/disturbance

Lead Criterion B

Prevention, monitoring and safeguards

20. Young persons' policies with regard to preventing underage gambling and access to the premises, including:
 - a. Supervisors at entrances (numbers, responsibilities, training)
 - b. Proof of age verification
 - c. CCTV monitoring
 - d. Actions to be taken when underage persons attempt to enter the premises (especially when repeatedly attempted)
 - e. How the facilities for gambling are to be provided in such a way so as not to deliberately appeal to children and young persons
 - f. Evidence of measures to ensure that advertising and promotion does not target or attract young or vulnerable people
 - g. Policy on contribution to public education in Bath and North East Somerset on the risks of gambling
21. Vulnerable persons policies:
 - a. How the facilities for gambling are to be provided in such a way so as not to deliberately appeal to vulnerable persons
 - b. Advertising and promotions policy
 - c. Policy on contribution to public education in Bath and North East Somerset on the risks of gambling
 - d. Policy on how the definition of a vulnerable person is reached and the steps taken to prevent such a person accessing the gambling facilities and to help such a person
22. Statement of commitment to the monitoring of impacts and problem gambling within a monitoring strategy to be agreed with Bath and North East Somerset Council and reviewed on a regular basis
23. Other information supplied by the applicant as to prevention, monitoring and safeguards

Lead Criterion C

Financial consideration terms that meet the value objectives of Bath & North East Somerset Council

1. Provide forecast, profit and loss statements for a minimum of five years from the date of opening of the casino
2. Set out the key assumptions supporting the trading projections, to include (as a minimum):
 - a. Projected turnover
 - b. Projected visitor numbers
 - c. Average spend, split between food and beverage and gambling drop ratio

Lead Criterion C

Financial consideration terms that meet the value objectives of Bath & North East Somerset Council

- d. Number of gaming tables and slot machines
 - e. Overhead projections
 - f. Amounts provided annually in relation to problem gambling directly to Bath and North East Somerset Council
3. Set out the financial projections for a minimum of five years from the date of opening of any non-casino elements of the development (to include development appraisals if necessary)
 4. Set out the mechanism by which the casino will contribute to a programme for investment in the community. This should include as a minimum:
 - a. details of any one-off up front contribution
 - b. supporting assumptions for any annual income stream, including
 - i. basis of revenue/profit share arrangements
 - ii. details of any minimum annual revenue contribution
 - iii. timing of payments to the programme for investment in the community
 - iv. details of all other conditions attached to revenue or profit share arrangements
 - v. the period to which the arrangements will relate
 5. Anticipated value of public benefits, for example, number of jobs created, value of investment in public realm etc
 6. Value of any other additional payments offered whether cash or in kind
 7. Supporting assumptions for the monetarisation of any of the above benefits
 8. Full financial risk assessment including any financial commitments that may impact on the deliverability of the casino and any other wider development
 9. Other information supplied by the applicant as to financial consideration

Lead Criterion D

Imaginative, yet realistic, approach to creating a sustainable leisure and entertainment destination

1. Masterplanning/Design Statement (to include built fabric, landscaping/public realm, infrastructure)
2. Associated drawings, plans and images
3. Vision Statement expressing quality of offer and range of facilities and services being provided within the casino

Lead Criterion D

Imaginative, yet realistic, approach to creating a sustainable leisure and entertainment destination

4. Operational Plan including hours of operation and measures to ensure that a high quality sustainable casino is maintained (this should include references to staff training)
5. Accessibility Statement
6. Transport Strategy
7. Traffic Impact Assessment
8. Sustainability Statement
9. Security, Management and Maintenance Strategy relating to the construction and operation phases (including areas of public realm and car parking)
10. Marketing Plan including details of projected catchment and footfall projections and illustrating how the casino will both integrate with the current Bath tourist/visitor offer and attract tourists and visitors from outside the locality

Lead Criterion E

Commitment to maximise job creation opportunities

1. Details of construction phase jobs
2. The number of FTE jobs created overall
3. The number of FTE jobs created within the casino
4. Breakdown of jobs created within the various facilities provided within the casino
5. The number of indirect jobs generated by the scheme as a whole
6. Details of the range of jobs and the skills and qualifications associated with each role
7. Details of the pay scales related to the job roles created
8. Commitment to working with Bath and North East Somerset Council's development and business teams to ensure that local people and local businesses are afforded the opportunity to access jobs, training and business development opportunities
9. The selected applicant(s) will be expected to pass on local labour obligations to all contractors and sub-contractors, to include:
 - a. A percentage of the total construction jobs will be assigned as employed status apprenticeship places; further commitment should be made to employ a percentage of improvers on site
 - b. The main contractor to inform the Council of the contract details and skills projections, scope and quantum at the earliest reasonable opportunity
 - c. To work in partnership with the Council to encourage and

Lead Criterion E

Commitment to maximise job creation opportunities

- demonstrate a commitment to workforce development
 - d. To provide regular quarterly monitoring information to the Council, regarding employment and training information
 - e. End-user employment and training
 - f. To use all reasonable endeavours to maximise local employment in end-use uses of retail, commercial and leisure
 - g. To work proactively with the Council to promote end-user vacancies and design appropriate training and support to incoming businesses to this end
10. Selected applicant(s) and their contractors will be encouraged to provide training and education opportunities tailored to the needs of local adults and to the needs of young people through building links with local schools and colleges.
11. The proposals should clearly state how the selected applicant(s) will interact with local schools and partnerships to achieve this and note the agencies they will be working with
12. There must be a strategy for ensuring that the applicant(s) use reasonable endeavours to ensure that local businesses benefit directly from the opportunities arising from the construction and operation of the development; such measures to include:
- a. Upon implementation and at 6 monthly intervals thereafter, the provision of a list by the selected bidder to the Council containing details of the gross composite value and proportion of the total value of contracts between the selected bidder and its contractors with companies based within the Bath and North East Somerset area and including the name of businesses to which contracts have been let and the location of such businesses (but not the individual value attributable to each contract.
 - b. Upon implementation and at 6 monthly intervals thereafter, the provision by the selected applicant(s) to the Council of a schedule identifying opportunities existing or anticipated to exist at the site for contracted and sub-contracted work;
 - c. Following implementation, frequent liaison by the selected applicant(s) and its contractors with the Council's Economic, Enterprise & Business Team and GWE Business West; and
 - d. Advertising construction and other contracts associated with the proposals and its end use (including leases of floorspace available) in the local area and the local press and on the internet.
13. Recruitment strategy that maximises opportunities for the recruitment of local people and identification of measures to establish and identify

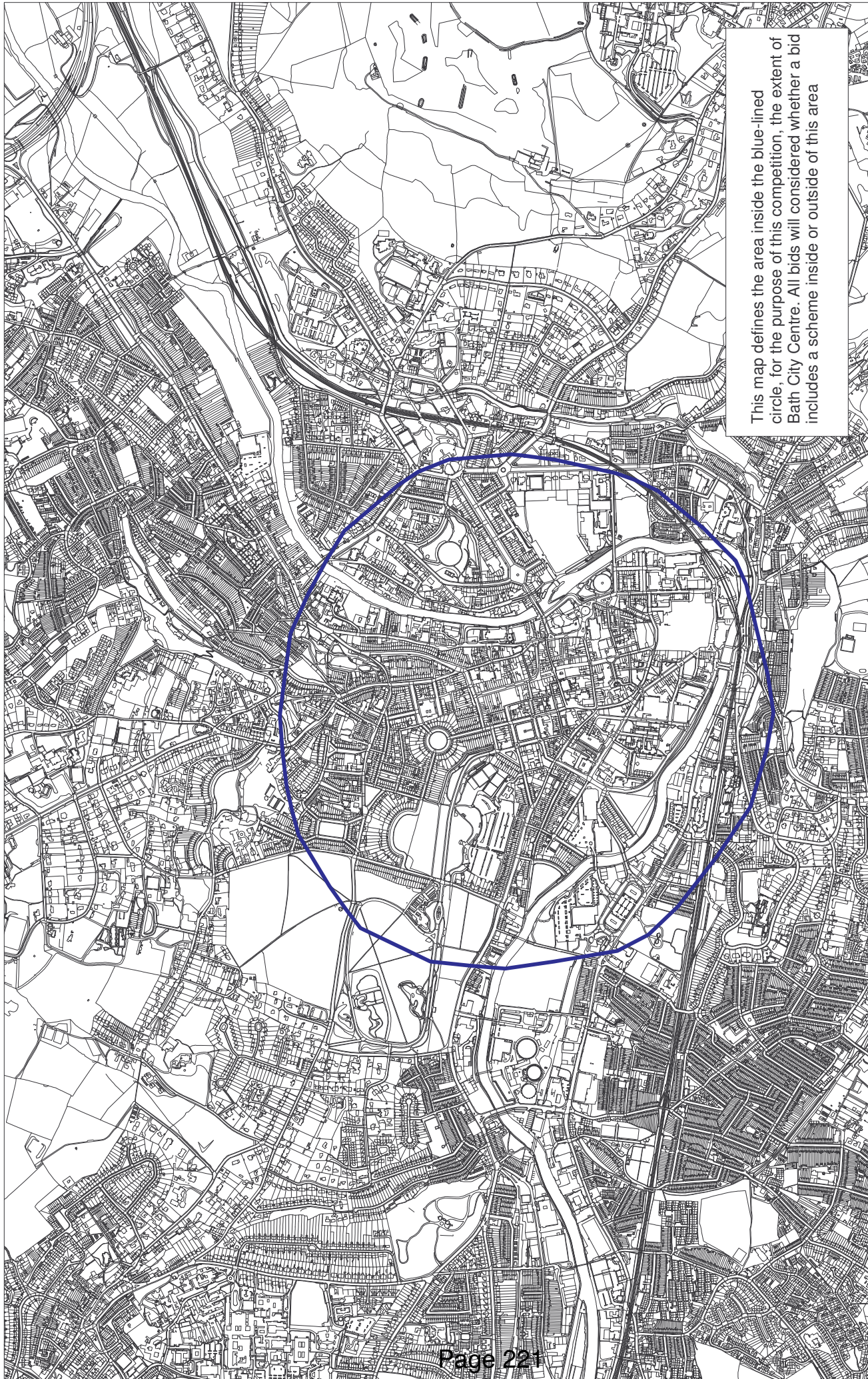
Lead Criterion E

Commitment to maximise job creation opportunities

the workforce catchment area

14. Evidence of applicant(s)' ability to provide relevant training and setting out how training initiatives will be tailored to the needs of the Bath and North East Somerset community (both in terms of creating opportunities for local people to access training and in ensuring staff are trained to understand the dynamics of the Bath and North East Somerset community)
15. Detailed stakeholder communications and involvement strategy illustrating how the applicant proposes to work with the Council to engage with residents, businesses and relevant bodies to ensure that key groups are informed and key community issues are addressed
16. The bid should provide examples of current supply chains and how they will be adapted to meet local supplier requirements supported by evidence (case studies) of where this has been achieved by the applicant elsewhere
17. Proposals to involve local supply chains to bring goods and services to the organisation
18. Proposed framework and methodology for the monitoring of employment, training opportunities and community benefits
19. Socio economic impact assessment detailing what impacts the proposals will have upon the area

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This map defines the area inside the blue-lined circle, for the purpose of this competition, the extent of Bath City Centre. All bids will be considered whether a bid includes a scheme inside or outside of this area.

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**Bath City Centre Casino Competition
Development & Regeneration March 2010**

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Lead Criteria

Lead criteria								
Ref		Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5		
A	Clear and proven financial ability/commitment to deliver scheme in its totality	Fail	Fail	Fail	Fail	Fail		
							Weighting	Weighting factor (f_w)
B	Prevention, monitoring and safeguards						25%	1
C	Financial consideration terms that meet the value objectives of Bath & North East Somerset Council						25%	1
D	Imaginative, yet realistic, approach to creating a sustainable leisure and entertainment destination						25%	1
E	Commitment to maximise job creation opportunities						25%	1
	Total (average weighted score)						100%	1

Max. score 100

Rank

Insert "Sub-criteria A" total scores to this row in the case of any equal bidder scores
Total Scores (after application of "Equal scores rule")

Rank

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Scoring Bands

- 90 – 100 Outstanding
- 80 – 90 Excellent
- 70 – 80 Very Good
- 60 – 70 Good
- 50 – 60 Average
- 40 – 50 Below Average
- 30 – 40 Poor
- 20 – 30 Very Poor
- 10 – 20 Extremely Poor
- 0 – 10 No significant response

Scoring Bands:

The scoring bands assign a more meaningful indicator of the score (i.e. after the scores have been recalculated to a score out of one hundred)

Note:

In the case of the 'equal scores rule' applying on the this sheet, the scoring band indicators will not directly apply, but will still apply to that part of the score calculated out of one hundred.

Equal scores rule:

If two or more bidders are given the same score, then the following rules apply:-

- 1) The equal scoring bidders' "Total Score" for Sub-criteria A will be will be added to their "Total (average weighted score)" to give "Total Scores (after application of "Equal scores rule")"
- 2) The bidders will be ranked in order of score, the highest score being ranked first

Criteria A

5 Score each criterion out of 5 max.

Clear and proven financial ability/commitment to deliver scheme in its totality						
Ref		Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5
A1	Evidence of ability to fund proposed development					
A2	Robustness of development cost assumptions, specifically any abnormal costs assumptions and potential impacts on delivery					
A3	Evidence of strength in depth and quality of professional team to be deployed					
A4	Deliverability of trading projections					
A5	Strength of commitment to long term management, maintenance and operational responsibilities					
A6	Robustness and practicality of delivery arrangements and extent to which those arrangements will maximise prospects for the successful execution of the scheme					
18	Total Score	0.0	0.0	0.0	0.0	0.0
	Score >=18 Pass; score <18 - Fail	Fail	Fail	Fail	Fail	Fail

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Criteria B

5	Score each criterion out of 5 max.					
Prevention, monitoring and safeguards						
Ref		Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5
B1	Proposals for preventing and monitoring problem gambling including preventing and monitoring incidences of crime and anti-social behavior					
B2	Proposals for protection of the young and vulnerable					
B3	Proposals to mitigate anti-social behavior and noise, including noise from traffic and those arriving at and leaving the leisure and entertainment destination					
B4	Commitment to staff training on issues of social responsibility					
B5	Commitment to agree a monitoring strategy with Bath & North East Somerset Council					
	Total Score	0.0	0.0	0.0	0.0	0.0
4.00	Weighted score = 4	0.0	0.0	0.0	0.0	0.0

Criteria C

5	Score each criterion out of 5 max.					
Financial consideration terms that meet the value objectives of Bath & North East Somerset Council						
Ref		Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5
C1	Value of capital sum to be paid towards additional community services and facilities					
C2	Value of ongoing income stream					
C3	Other additional payments offered					
C4	Monetarised value of public benefits					
C5	Signature to the Schedule 9 agreement					
	Total Score	0.0	0.0	0.0	0.0	0.0
4.00	Weighted score = 4	0.0	0.0	0.0	0.0	0.0

Criteria D

5	Score each criterion out of 5 max.					
Imaginative, yet realistic, approach to creating a sustainable leisure and entertainment destination						
Ref		Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5
D1	Quality of urban design and architecture, overall masterplanning including complementarity to chosen location					
D2	Strength of vision/aspiration shown and projects for achieving a unique leisure and entertainment destination					
D3	Accessibility and security of location					
D4	Sustainable approach to key building elements, public realm and car parking					
D5	Evidence of robust marketing plan, including details on how the development will attract tourists from outside the locality					
D6	Evidence of contribution to the Bath City centre evening economy					
	Total Score	0.0	0.0	0.0	0.0	0.0
3.33	Weighted score = 3.33	0.0	0.0	0.0	0.0	0.0

Criteria E

5	Score each criterion out of 5 max.					
Commitment to maximise job creation opportunities						
Ref		Bidder 1	Bidder 2	Bidder 3	Bidder 4	Bidder 5
E1	Level and quality of employment created, specifying the level of direct and indirect FTE positions					
E2	Proposals for job creation and training opportunities, specifically identifying measures for helping the long term unemployed, including evidence of commitment to partnership working with local institutions					
E3	Measures to identify residential location of casino employees					
E4	Evidence of track record in providing relevant training					
E5	Proposals for working with the Council to engage with residents, businesses and relevant regional or national bodies to ensure key groups are informed and key community issues addressed					
E6	Evidence of use of local supply chains to bring goods and services to the organisation					
E7	Proposals for monitoring employment, training opportunities and community benefits					
	Total Score	0.0	0.0	0.0	0.0	0.0
2.86	Weighted score = 2.86	0.0	0.0	0.0	0.0	0.0

Scoring Bands

Scoring Bands	
90 – 100	Outstanding
80 – 90	Excellent
70 – 80	Very Good
60 – 70	Good
50 – 60	Average
40 – 50	Below Average
30 – 40	Poor
20 – 30	Very Poor
10 – 20	Extremely Poor
0 – 10	No significant response

Scoring Bands:

The scoring bands assign a more meaningful indicator of the score at both the sub-criterion and final score levels on the "Lead Criteria" sheet (i.e. after the scores have been recalculated to a score out of one hundred)

Note:

In the case of the 'equal scores rule' applying on the "Lead Criteria" sheet, the scoring band indicators will not directly apply, but will still apply to that part of the score calculated out of one hundred.

Sub-criteria scoring

Sub-criteria scoring

Score	Interpretation	Criteria
5	Excellent	Performs strongly against the criterion showing strong evidence of capacity and capability to meet the project requirements
4	Good	Performs well against the criterion showing considerable evidence of capacity and capability to meet the project requirements
3	Adequate	Meets the requirements of the criterion, providing sufficient evidence of required capability and capacity to undertake the project
2	Poor	Does not meet the requirements of the criterion and fails to show required capability and capacity to undertake the project
0	Inadequate	The response does not address the specific criterion

GAMBLING ACT 2005

STAGE TWO APPLICATION FORM – PRINCIPLES AND WEIGHTING

The Stage 2 Scoring Matrix – description

1. Statement of Principles

The Council's Statement of Principles states that the Council will expect Stage 2 applications to demonstrate how the proposals will address the issues set out below: -

1. Provision of a range of high quality leisure and entertainment facilities
2. Place considerations and location sensitivities
3. Physical environment and security
4. Tackling problem gambling
5. Preventing access for the young and vulnerable
6. Contributing financially to additional community services and facilities
7. Preventing crime and antisocial behaviour
8. Control of generated traffic and noise
9. Communication and consultation with local communities
10. Maximising job and training opportunities for local people
11. Quality of building design and the environment
12. Financial viability
13. Attracting tourists and other visitors
14. Monitoring and reporting on the impact of the casino

The 14 principles provide a detailed starting point both in identifying the information required from bidders if Stage 2 of the process is activated and provide a basis for assessment.

A form of scoring matrix is proposed to represent the most appropriate evaluation methodology.

However, it is considered that translation of the criteria in their current form into an evaluation matrix could lead to a degree of overlap between criteria and potential difficulties in allocating clear weightings.

2. Structure of evaluation matrix

The indicative evaluation matrix presented represents a restructuring of B&NES 14 principle criteria rather than a revised set of criteria.

This follows a two tier structure with five lead criteria, each supported by a set of specific sub-criteria.

- A. Clear and proven financial ability/commitment to deliver scheme in its totality
- B. Prevention, monitoring and safeguards
- C. Financial consideration terms that meet the value objectives of Bath & North East Somerset Council
- D. Imaginative, yet realistic, approach to creating a sustainable leisure and entertainment destination
- E. Commitment to maximise job creation opportunities

The sub criteria result form a breakdown of the lead criteria cross referenced to the 14 principles.

3. Calculation methodology

It is proposed that each lead criterion B to E is given a mark out of 100 with the average giving each bidder a total score out of 100. This assumes equal weighting for each of the criteria

Lead criterion A has a pass or fail score based on a minimum score of 60% of the total sub-criteria score.

The score for the lead criteria B to E is a function of the score given to each of the sub-criteria. Each specific sub-criterion is marked out of 5, grossed up to give a score out of 100. For example; criterion C – “Financial consideration terms that meet the value objectives of Bath & North East Somerset Council”, has the following sub-criteria:

C1: Value of capital sum to be paid towards additional community services and facilities

C2: Value of ongoing income stream

C3: Other additional payments offered

C4: Monetarised value of public benefits

C5: Signature to the schedule 9 agreement

For example; if a bidder were awarded scores of 2, 5, 3, 3 and 4 respectively, this would give a total category score of 17. This value is grossed up by a factor of 4 to give a score out of 100 giving a total category score of 68.

The sub-criteria under lead criterion A are also used to discriminate between tied bidders' scores under the rule known as the "Equal scores rule". In this case, the raw sub-criteria scores, of the tied bidders, are added to the B to E lead criteria weighted scores to give final ranked scores

Ref	Head of benefit (Lead Criteria)t	Weighting
A	Clear and proven financial ability/commitment to deliver scheme in its totality	Pass/Fail set at a 60% score level
B	Prevention, monitoring and safeguards	25%
C	Financial consideration terms that meet the value objectives of Bath & North East Somerset Council	25%
D	Imaginative, yet realistic, approach to creating a sustainable leisure and entertainment destination	25%
E	Commitment to maximise job creation opportunities	25%

Outcome

The above heads of benefit and weighting will give an indicative score. In reaching this score, the Authority will take into account all relevant factors, as laid out in the scoring matrix..

In the light of its assessment of the heads of benefit, the Authority will determine as to which of the bids, if accepted, is likely to result in the greatest benefit to the area of the Authority.

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