

ANNEX A
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. 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

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).

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 details 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 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

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.

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.

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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 **27 March 2011**
- Notice of the application has to be given to responsible authorities by **6 March 2011**.
- The application must be advertised by **10 March 2011**
- A notice must be displayed for at least 28 consecutive days from **28 February 2011**.

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 **27th March 2011**, 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:

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.

¹⁵ Sections 157, 158, 161 Gambling Act 2005.

¹⁶ Schedule 9 paragraph 4, Gambling Act 2005.

¹⁷ Section 162 Gambling Act 2005.

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- 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
- (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.

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.gamblingcommission.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.

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).

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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
- 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.

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").

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.

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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.

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

³³ See above.

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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

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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

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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.

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

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

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 **28th February 2011**.

Following that, the provisional timetable is as follows:

June 2011: Decision at Stage 1.

Summer 2011: Notification of commencement of Stage 2.

Summer 2011: Closing date for submission of Stage 2 applications.

Autumn 2011: Final recommendation of Evaluation Panel.

Autumn 2011: Decision of Authority at Stage 2 and award of casino licence / provisional statement.

10 TERMS OF REFERENCE OF COMMITTEE 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.

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**APPLICATION PROCESS FOR A SMALL CASINO PREMISES LICENCE /
PROVISIONAL STATEMENT**

Stage 1 Application process begins – 26th October 2010

Applications invited for a casino premises licence / provisional statement.



Stage 1 Application deadline – 28th February 2011

Last date for representations is 28 consecutive days after the closing date.



Stage 1 representation period closes – 27th March 2011



- If only one application is received, it will be determined by the Licensing Authority by **[To be confirmed]**.
- If more than one successful application is received, Stage 2 of the application process will be activated



Stage 2 Application process begins – [To be confirmed]



Stage 2 Application deadline – [one month after Stage 2 application process begins]



Stage 2 Final recommendation by Evaluation Panel – [TBC]



Stage 2 Decision by Licensing Authority and award of casino licence / provisional statement – [TBC]

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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 (3): Councillor Gerry Curran, Councillor Tim Ball, Councillor Steve Hedges

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**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.

Stage 2 Application Form – Notes for Guidance

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

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

Lead Criterion B***Prevention, monitoring and safeguards***

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
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

Lead Criterion B***Prevention, monitoring and safeguards***

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
 - 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

Lead Criterion C***Financial consideration terms that meet the value objectives of Bath & North East Somerset Council***

- 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. Master planning/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
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 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

Lead Criterion E***Commitment to maximise job creation opportunities***

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 floor space 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 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

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	

ANNEX A(iii)

Stage 2 Application Form

17 Provision of self-help and tuition facilities (describe)	
---	--

Non-gambling facilities

18 Give details of all proposals for refreshment and regulated entertainment, including hours and regularity of provision

--

Linked development

19 Is the casino linked to any other development? (Delete as appropriate)	Yes / No
---	----------

20 If so, give details of the development, and state whether the casino is dependent on the other development	
---	--

ANNEX A(iii)

Stage 2 Application Form

21 Identify all plans submitted to show the linked development	
22 State the progress and anticipated timing of the linked development	

Number of jobs created

23 Total number of full time equivalent jobs created in the proposed casino	
24 Number of personal licence holders to be employed	

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 | <input type="checkbox"/> |
| Its last 3 years' audited accounts | <input type="checkbox"/> |
| An estimated cost for the scheme | <input type="checkbox"/> |
| Evidence of availability of funding for the scheme | <input type="checkbox"/> |
| Two financial references confirming the availability of such funding | <input type="checkbox"/> |
| Its business plan for the project | <input type="checkbox"/> |
| Two professional references to evidence that the applicant has proven ability and track record in the casino gaming sector | <input type="checkbox"/> |
| A timescale for implementation and completion of the works setting out the various stages of construction | <input type="checkbox"/> |
| A training plan for casino staff | <input type="checkbox"/> |
| A list of all grants of casino licences to the applicant or any associated company since 1 st January 2000 and a statement of the current operation and operator of those licences | <input type="checkbox"/> |

ANNEX A(iii)
Stage 2 Application Form

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

ANNEX A(iii)

Stage 2 Application Form

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>	Yes / No

ANNEX A(iii)
Stage 2 Application Form

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

Appendix A(iv)

Scoring Matrix

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

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

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 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

ANNEX A(iv)

Scoring Matrix

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

ANNEX A(iv)

Scoring Matrix

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 behaviour					
B2	Proposals for protection of the young and vulnerable					
B3	Proposals to mitigate anti-social behaviour 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

ANNEX A(iv)

Scoring Matrix

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

ANNEX A(iv)

Scoring Matrix

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 master planning including complementarity to chosen location					
D2	Strength of vision/aspiration shown and prospects 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

ANNEX A(iv)

Scoring Matrix

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

ANNEX A(iv)

Scoring Matrix

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

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

ANNEX A(v)

Principles and Weightings

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.

**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 201

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.

ANNEX A(vi)
Draft Schedule 9 Agreement

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 :