

# Eastbourne Licensing Committee 27 July 2021



Working in partnership with **Eastbourne Homes**

Time and venue:

6.00 pm in the Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG

**Note: This meeting is a public meeting. The number of public seats, however, are limited and need to be carefully managed to ensure that the meeting is Covid-secure. For this reason, we would like to ask that anyone intending to attend as a member of the public, contact Democratic Services in advance by email: [committees@lewes-eastbourne.gov.uk](mailto:committees@lewes-eastbourne.gov.uk) or phone: 01273 471600. Anyone attending the meeting will be requested to check in at the venue and to wear a face covering.**

Membership:

Councillor Robin Maxted (Chair); Councillors Peter Diplock (Deputy-Chair) Josh Babarinde, Colin Belsey, Sammy Choudhury, Penny di Cara, Amanda Morris, Colin Murdoch, Jim Murray, Colin Swansborough, Barry Taylor and Candy Vaughan

Quorum: 3

*Published: Monday, 19 July 2021*

## Agenda

- 1 Minutes of the meeting held on 24 May 2021 (Pages 5 - 8)
- 2 Apologies for absence/declaration of substitute members
- 3 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.
- 4 Questions by members of the public  
On matters not already included on the agenda and for which prior written notice has been given (total time allowed 15 minutes).
- 5 Urgent items of business  
The Chair to notify the Committee of any items of urgent business to be added to the agenda.

## **6 Right to address the meeting/order of business**

The Chair to report any requests received to address the Committee from a member of the public or from a Councillor in respect of an item listed below and to invite the Committee to consider taking such items at the commencement of the meeting.

One spokesperson is permitted to speak for 3 minutes and must register by 12noon on Friday, 23<sup>rd</sup> July 2021. Email: [committees@lewes-eastbourne.gov.uk](mailto:committees@lewes-eastbourne.gov.uk)

Note: Normally only one speaker is allowed to address the Committee on an item for three minutes and that one person should act as spokesperson for the group. No more than one speaker can be allowed except in exceptional circumstances with prior agreement of the Chair at the registration deadline.

## **7 Review of the Eastbourne Borough Council Cumulative Impact Assessment part of the' Statement of Licensing Act Policy 2019-2024 (Licensing Act Policy) (Pages 9 - 84)**

Report of the Director of Service Delivery

## **8 Review of Eastbourne Borough Council Gambling Act Statement of Principles (Pages 85 - 136)**

Report of the Director of Service Delivery

## **9 Date of the next meeting**

To note the next meeting of the Licensing Committee is scheduled to be held on Monday, 11 October 2021 at 6pm.

# **Information for the public**

### **Accessibility:**

Please note that the venue for this meeting is wheelchair accessible and has an induction loop to help people who are hearing impaired. This agenda and accompanying reports are published on the Council's website in PDF format which means you can use the "read out loud" facility of Adobe Acrobat Reader.

### **Filming/Recording:**

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### **Public participation:**

Please contact Democratic Services (see end of agenda) for the relevant deadlines for registering to speak on a matter which is listed on the agenda if applicable.

# Information for Councillors

## **Disclosure of interests:**

Members should declare their interest in a matter at the beginning of the meeting.

In the case of a disclosable pecuniary interest (DPI), if the interest is not registered (nor the subject of a pending notification) details of the nature of the interest must be reported to the meeting by the member and subsequently notified in writing to the Monitoring Officer within 28 days.

If a member has a DPI or other prejudicial interest he/she must leave the room when the matter is being considered (unless he/she has obtained a dispensation).

## **Councillor right of address:**

Councillors wishing to address the meeting who are not members of the committee must notify the Chairman and Democratic Services in advance (and no later than immediately prior to the start of the meeting).

## **Democratic Services**

For any further queries regarding this agenda or notification of apologies please contact Democratic Services.

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Working in partnership with **Eastbourne Homes**

## **Eastbourne Licensing Committee**

**Minutes of meeting held in Court Room at Eastbourne Town Hall, Grove Road, BN21 4UG on 24 May 2021 at 6.00 pm.**

### **Present:**

Councillor Robin Maxted (Chair).

Councillors Peter Diplock (Deputy-Chair), Josh Babarinde, Colin Belsey, Sammy Choudhury, Penny di Cara, Amanda Morris, Colin Murdoch, Jim Murray, Colin Swansborough, Barry Taylor and Candy Vaughan.

### **Officers in attendance:**

Paul Thornton (Specialist Advisor – Licensing), Jo Dunk (Senior Specialist Advisor – Environmental Health), Danielle Ball (Specialist Advisor – Licensing), Michele Wilkinson (Lawyer – Housing & Regulatory) and Emily Horne (Committee Officer).

### **1 Introductions**

Members of the Committee and Officers present introduced themselves via roll call during the meeting.

### **2 Minutes of the meeting held on 18 January 2021**

The minutes of the meeting held on 18 January 2021 were submitted and approved, and the Chair was authorised to sign them as a correct record.

### **3 Apologies for absence/declaration of substitute members**

There were none.

### **4 Declarations of Disclosable Pecuniary Interests (DPIs) by members as required under Section 31 of the Localism Act and of other interests as required by the Code of Conduct.**

There were none.

### **5 Questions by members of the public**

Councillor Maxted, Chair, read a written statement on behalf of Mr Everson, Chairman EEAN Transport Group, who was unable to attend the meeting. The statement was published on the Council's website and circulated to the committee members. The statement questioned if there were plans to move the sector forward in reducing its carbon emission in the very near future. Danielle Ball (Specialist Advisor – Licensing) confirmed that a further report

would be brought before the Licensing Committee on ultra-low emissions, a statement had been placed in the Taxi Licensing Guidance, and that a written response would be sent to Mr Everson.

## **6 Urgent items of business**

There were none.

## **7 Right to address the meeting/order of business**

The Chair allowed two speakers, both raising different points, to speak on behalf of their respective groups.

Mr Chris Rowkins, Eastbourne Access Group Member, addressed the Committee stating that as a wheelchair user he found it extremely difficult to book an accessible taxi; the designated list of accessible vehicles lacked information and was out of date, and more needed to be done to encourage co-operation with the trade for residents and visitors alike.

Mr Kevin Coleman, Secretary of 720 Taxis addressed the Committee stating that he fully endorsed the proposals and raised a number of questions regarding the implementation of CCTV in vehicles. In response, SAL confirmed that the implementation of CCTV had not yet been discussed by the Committee and agreed, and as such specific details were not available at the time.

## **8 Taxi Licensing Guidance Review**

The Committee considered the report of the Director of Service Delivery which requested the Committee consider the result of the public consultation regarding the Eastbourne Borough Council Hackney Carriage and Private Hire Licensing Guidance and to agree a final Guidance document to be adopted on a date to be agreed.

The Specialist Advisor – Licensing (SAL), Paul Thornton, presented the report and its findings.

Several typographical amendments to the report were noted:

- o) Replace the word 'off' with 'of' the English Language.
- y) Delete the word 'annually' after 'annual basic disclosure'.

Members discussed and agreed on the following changes to the Guidance:

- (a) Changes in Licensing (Part 1) – Agreed to implement.
- (b) Relicensing of vehicles (Part 3, Maximum age of vehicles) – Agreed to implement.
- (c) Vehicle Door Signs (Part 3, Livery). In discussion, Members considered the response received from the trade and public and were of a mixed opinion. This was put to a vote and it was agreed to

- implement, by 9 votes for and 3 votes against.
- (d) Insurance Write Offs (Part 3, Vehicle Specification) – Agreed to implement.
  - (e) Intended work area (Part 3, Intended Use) – Agreed to implement.
  - (f) In-vehicle visual recording CCTV (Part 3). In discussion, Members felt they needed further details to consider the implications. Councillor Babarinde proposed to agree in principle the implementation of CCTV, subject to receipt of further details to determine the installation date for consideration at a future Licensing Committee meeting. This was seconded by Councillor Diplock. This proposal was put to a vote and it was agreed by 7 votes for and 5 vote against.
  - (g) Wheelchair Accessible Vehicle Licences (Part 3, Wheelchair Accessible). In discussion, Members questioned enforcement. SAL confirmed it was part of the vehicle inspection check and would be on the suitability test – Agreed to implement.
  - (h) Plate and Livery exemptions (Part 3, Executive Private Hire Vehicles) – Agreed to implement.
  - (i) Dual Drivers Licences (Part 4, Licences) – Agreed to implement.
  - (j) Stretched Limousines (Part 3, Stretched Limousines and Other Specialist Vehicles) – Agreed to implement.
  - (k) Fit and Proper Test (Part 4, Fit & Proper Test) – Agreed to implement.
  - (l) Disclosure Barring Service (DBS Update Service (Part 4, DBS and Part 5, Private Hire Operators) – Agreed to implement.
  - (m) Overseas Applicants (Part 4, DBS) – Agreed to implement.
  - (n) DVLA Drivers Licence checks (Part 4, DVLA Licence Checking) – Agreed to implement.
  - (o) Introduction of English Language Proficiency Test for all new applicants (Part 4, English Language Proficiency Test) – Agreed to implement.
  - (p) Safeguarding Awareness Training (Part 4, Safeguarding Training) – Agreed to implement.
  - (q) Mandatory Disability Awareness Training (Part 4, Safeguarding Training) – Agreed to implement.
  - (r) Clarifies process to apply for an exemption certificates from carrying assistance dogs (Part 8) – Agreed to implement.
  - (s) Card Payments (Part 9) – Agreed to implement.
  - (t) Vaping (Appendix 3, Paragraph 26) – Agreed to implement.
  - (u) Criminality Checks on Vehicle Proprietors (Part 3, Vehicles) – Agreed to implement.
  - (v) Licensee Self Reporting (Appendix 3, Paragraph 15 and Appendix 6, Section 6.3) – Agreed to implement.
  - (w) Sharing Licensing Information (Part 4, DBS) – Agreed to implement.
  - (x) Private Hire Vehicle Operators (Part 5, DBS Disclosures) – Agreed to implement.
  - (y) Private Hire Vehicle Operators (Part 5, DBS Disclosures) – Agreed to implement.
  - (z) Operators (Part 5, Complaints about drivers) – Agreed to implement.
  - (aa) Operator records (Appendix 4, Records) – Agreed to implement.
  - (bb) Use of PCV licensed Drivers (Appendix 4, Section 5) – Agreed to implement.

- (cc) Convictions Policy (Appendix 6) – Agreed to implement.
- (dd) Penalty Points Scheme (Appendix 7) – Agreed to implement.
- (ee) Common Law Police Disclosure/Referrals to the Police/DBS (Part 4) - Agreed to implement.

**Resolved**

**(Unanimous) That the Committee delegate the Senior Specialist Advisor to take the necessary steps to implement the changes outlined above, produce a final Guidance for publication and implement it on a date to be agreed with the Chair of the Licensing Committee, subject to consideration at a future Licensing Committee meeting of the date of introduction for CCTV.**

**9 Date of the next meeting**

That the next meeting of the Licensing Committee which is scheduled to commence at 6.00pm on Monday, 11 October 2021, be noted.

The meeting ended at 7.52 pm

Councillor Robin Maxted (Chair)



<b>Report to:</b>	<b>Licensing Committee</b>
<b>Date:</b>	<b>27<sup>th</sup> July 2021</b>
<b>Title:</b>	<b>Review of the Eastbourne Borough Council Cumulative Impact Assessment part of the ' Statement of Licensing Act Policy 2019-2024 (Licensing Act Policy)</b>
<b>Report of:</b>	<b>Tim Whelan – Director Service Delivery</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To review the Eastbourne Borough Council Cumulative Impact Assessment part of the Licensing Act Policy and agree a six-week public consultation.</b>
<b>Officer recommendation(s):</b>	<b>(1) The Committee review the Cumulative Impact Assessment part of the Eastbourne Borough Council Licensing Act Policy</b> <b>(2) The Committee authorise the Senior Specialist Advisor to start a six-week consultation with the public, trade and interested bodies.</b> <b>(3) That following the consultation period that a report be brought to a Licensing Committee to consider the consultation responses in relation to the Community Impact Assessment and recommend a decision for approval to Full Council.</b>
<b>Reasons for recommendations:</b>	<b>Statutory requirement to review the Cumulative Impact Assessment part of the Licensing Act Policy every three years.</b>
<b>Contact Officer(s):</b>	<b>Name: Danielle Ball</b> <b>Post title: Specialist Advisor Regulatory Services</b> <b>E-mail: Danielle.ball@lewes-eastbourne.gov.uk</b> <b>Telephone number: 01323 415333</b>

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## **1 Introduction**

- 1.1 The Licensing Act 2003 (“the Act”) requires Licensing Authorities to prepare and publish for a five-year period, a Policy for their area which applies when exercising its functions under the Act. Eastbourne Borough Councils current Licensing Policy runs 2019-2024, the only part that is reviewed at this time is the Cumulative Impact Assessment, this must be reviewed every 3 years.

1.2 The Statement of Licensing Policy should be regarded as a local framework for decision making when considering licensing applications and the licensing committee and its sub-committees are required to have due regard to this when forming a decision.

## **2 Licensing Act Policy**

2.1 The current Eastbourne Borough Council Licensing Policy Statement runs from 2019-2024. Part 8 of the main part of this policy refer to the Cumulative Impact Assessment and appendix 2 and 3 mention the Cumulative Impact Assessment. The full policy is included at **Appendix 1** and all parts of the current policy that are highlighted make reference to the Cumulative Impact Assessment.

2.2 As a background Members are asked to note that the Council has had a Cumulative Impact Assessment as part of its Licensing Act Policy since July 2007. In brief, The Cumulative Impact of licensed premises in an area, and their impact on the promotion of the licensing objectives is a proper matter for Eastbourne Borough Council to consider. This is particularly relevant where its inclusion in the wider Council Licensing Policy Statement will help to promote the Licensing Objectives.

2.3 The effect of adopting a special policy of this kind within the Licensing Policy Statement is to create a “rebuttable presumption” that applications for new premises licences, club premises certificates or material variations will be refused if they fall within the specified area. This will be considered whenever the Licensing Authority receives relevant representations about the cumulative effect or concentration of premises in an area and the impact on the promotion of one or more of the Licensing Objectives.

2.4 Such representation can come from Responsible Authorities and/or interested parties or anyone, and, following a hearing, should normally lead to refusal where it can be upheld that the matter in question undermines the Cumulative Impact Assessment and the promotion of the Licensing Objectives.

2.5 It is important to note that adoption of the policy does not prohibit applications in the designated cumulative impact area. It would be for the applicant to demonstrate to the Licensing Authority that the operation of the premises involved will not add to the negative cumulative impact already being experienced in the area and would not undermine the promotion of the Licensing Objectives.

## **3 Review of the Cumulative Impact Assessment**

3.1 Section 182 Guidance states that :-  
*once adopted, special policies should be reviewed regularly to assess whether they are needed any longer or if those which are contained in the statement of licensing policy should be amended”.*

3.2 Some other Authorities have removed such special policies to help assist businesses in town centres in their COVID-19 recovery.

- 3.3 Eastbourne has suffered with COVID 19, businesses have been affected and generally, footfall has been dramatically reduced. Thus the rationale behind the introduction of a Cumulative Impact may no longer apply or at least not at this time. If the Cumulative Impact Assessment were to be removed Eastbourne may attract more businesses into the Town and increase footfall. The policy could be reintroduced if evidence were provided to suggest this was required.
- 3.4 If there is not enough evidence to justify keeping a special policy, it should be removed.
- 3.5 Therefore, The Licensing Committee may consider it appropriate to consider removing the Cumulative Impact Assessment. As alternative members are asked to consider applying new principles for those making a new or variation application for premises licences or club premises certificate.
- 3.6 These principles must strike a balance between encouraging hospitality businesses to the Town and recognising the rights of the local community and its annual influx of visitors.
- 3.7 Whilst the Cumulative Impact Assessment zone relates to a specific part of Eastbourne Town Centre it is proposed that these principles will apply to the whole area covered by Eastbourne Borough Council.
- 3.8 The Licensing Authority must accept all applications even if they do not engage with the Principles listed. It is suggested that applications should only be granted against the proposed principles in exceptional circumstances.
- 3.9 The following principles are suggested to take the place of the Cumulative Impact Assessment. It is suggested these apply to all parts of the Borough and for clarification, the principles will apply unless there are exceptional circumstances.
- a. Premises applying for a new licence or variation to their existing licence will not be authorised to have an outside area open after 23:00 hours.
  - b. Premises applying for a new licence or variation to their existing licence will not be authorised for sale of alcohol for consumption 'off the premises only' after 23:00 hours.
  - c. Premises applying for a new licence or variation to their existing licence will not be authorised for late night refreshment after 01:00 hours (on or off premises) save in exceptional circumstances.
  - d. Premises applying for a new licence or variation to their existing licence will not be authorised for the sale of alcohol for consumption on the premises or regulated entertainment after 02:00 hours.
  - e. Premises applying for a new licence or variation to their existing licence that wish to sell alcohol for consumption on the premises between midnight and 02:00 hours will be expected to provide where appropriate the provision of CCTV and SIA door staff in their Operating Schedules.
  - f. Premises applying for a new licence or variation to their existing licence that wish to provide regulated entertainment on the premises between midnight and 02:00 hours will be expected to provide where appropriate

the provision of CCTV, SIA door staff and a Noise Management Policy in their Operating Schedules.

#### **4 Options for the Committee**

4.1 The Committee could offer the following options during a consultation, the public along with everyone listed in section 5(3) of The Licensing Act 2003 will form part of the consultation:

- a. Keep the current Cumulative Impact Assessment.
- b. Change the area covered by the current Cumulative Impact Assessment (map of zone is included as part of the current policy in Appendix 1).
- c. Remove the whole Cumulative Impact Assessment part of the policy at this time with an option to reintroduce if it becomes necessary..
- d. Remove the current Cumulative Impact Assessment part of the policy but replace with a set of principles (those suggested at 3.9) that the Licensing Authority would expect to be considered on all new or variation applications.

4.2 The results from the public consultation will be brought back to Licensing Committee for a decision to be recommended to Full Council.

#### **5 Financial Impact**

5.1 There are no additional financial implications to this report.

#### **6 Legal Implications**

6.1 Section 5A Licensing Act 2003 states that a licensing authority may publish a cumulative impact assessment stating that it considers that the number of relevant authorisations in respect of premises in one or more parts of its area is such that it is likely to be inconsistent with the authority's duty to grant any further relevant authorisations. If it does so it must set out the evidence for that opinion in the cumulative impact assessment.

6.2 If the licensing authority has published a cumulative impact assessment it must before the end of the relevant period (within three years of the last revision) consider whether it remains of the opinion stated in the assessment. Thus, the licensing authority need to consider whether it wishes to retain this part of its Licensing Act Policy.

6.3 Before deciding whether it remains of the opinion, that such a 'special' policy is still required, the licensing authority must consult the persons and bodies referred in section 5(3) of the Act.

6.4 If the licensing authority decides to retain this 'special' policy then it must revise the cumulative impact assessment so that it includes a statement to that effect and sets out the evidence as to why it remains of that opinion.

6.5 The licensing authority must publish any revision of a cumulative impact assessment.

6.6 The Legal Section considered this Report on the 8<sup>th</sup> July 2021 (Iken 10268-EBC-MW).

## **7 Risk management implications**

7.1 In accordance with the Council's Risk Management Strategy, consideration has been given to the potential risks associated with the recommendations set out in this report. Failure to review the Cumulative Impact Assessment within the timescales would contravene section 5A of The Licensing Act.

## **8 Equality analysis**

8.1 There are no Equality implications associated with this report.

## **9 Environmental sustainability implications**

9.1 There are no sustainability and/or carbon reduction implications associated with this report.

## **10 Appendices**

10.1 Appendix 1 - Current Statement of Licensing Policy including Cumulative Impact Assessment.

## **11 Background papers**

11.1 None.

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**Appendix 1**



**LICENSING ACT 2003**

**EASTBOURNE BOROUGH COUNCIL STATEMENT OF  
LICENSING POLICY 2019-2024**

Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
East Sussex  
BN21 4TW

[customerfirst@eastbourne.gov.uk](mailto:customerfirst@eastbourne.gov.uk)

Tel no: 01323 410000

EASTBOURNE BOROUGH COUNCIL DRAFT STATEMENT OF LICENSING POLICY 2019-2024.....		1
Executive Summary .....		4
1.0 Introduction and Purpose.....		7
2.0 Policy Consultation and Review .....		9
3.0 Fundamental Principles .....		9
4.0 Local Features and Characteristics of the Borough .....		11
5.0 Decision Making Process .....		11
6.0 Integration and the Promotion of Other Strategies .....		13
7.0 Other Regulatory Regimes and Avoidance of Duplication .....		14
<b>8.0 Cumulative Impact.....</b>		<b>16</b>
9.0 Trading Hours.....		18
10.0 Mandatory Licensing Conditions .....		19
11.0 The Operating Schedule .....		19
12.0 Prevention of Crime and Disorder .....		20
13.0 Public Safety .....		23
14.0 Prevention of Public Nuisance .....		24
15.0 Protection of Children from Harm.....		26
16.0 Sex Establishment Policy .....		28
17.0 The Health Act 2006 & Associated Smoke Free Issues.....		28
18.0 Premises Licences .....		29
19.0 Planning Permission.....		30
20.0 Applications for Personal Licences .....		30
21.0 Personal Licences – Suspension and Revocation .....		31
22.0 Immigration Act 2016 – Entitlement to Work .....		34
23.0 Live Music Act 2012 and Entertainment Licensing Deregulation .....		35
24.0 Temporary Event Notices .....		37
25.0 Appeals .....		39
26.0 Problem Premises .....		39
27.0 Enforcement Policy .....		41
28.0 Dealing with Representations.....		42
29.0 Reviews.....		42
30.0 Administration, Exercise and Overview of Functions .....		45
Appendix 1: .....		47
Glossary of terms .....		47
Appendix 2 .....		53
Eastbourne Borough Council Cumulative Impact Assessment 2019 – 2024 .....		53
1.0 Legislative Framework .....		53
2.0 Definition .....		53
3.0 Context.....		54
4.0 Adoption of Cumulative Impact Assessment.....		55
5.0 What Does The Assessment Do? .....		56
6.0 Integration of Strategies .....		56



7.0	Where does the Cumulative Impact Assessment Apply?.....	58
8.0	Conclusion.....	59
Appendix 3	.....	61
Cumulative Impact Strategy Assessment Data 2019-2024	.....	61
1.0	Introduction.....	61
2.0	Sussex Police: Review of Crime / ASB Data: 2019.....	61
Appendix 4:	.....	67
List of Useful Websites:	.....	67
Appendix 5:	.....	68
Contact Details of Responsible Authorities:	.....	68

## **Executive Summary**

In accordance with the revised Guidance from the Secretary of State, the Licensing Authority is required by the Licensing Act 2003 to produce every five years, a Statement of Licensing Policy, which sets out how it will exercise its licensing functions in respect of applications for the retail sale of alcohol, the supply of alcohol to members of a club, the provision of regulated entertainment and the provision of late night refreshment in the Eastbourne Borough area. The following is a summary of the key provisions of the Council's Statement of Licensing Policy.

The Policy explains the approach the Council intends to take in order to meet the four Licensing Objectives stated in the Act as follows:-

- The prevention of crime and disorder;
- Public safety;
- The prevention of public nuisance; and
- The protection of children from harm.

In the Policy, the Council recognises that longer, more flexible trading hours can contribute to easing crime and disorder problems by ensuring that large numbers of customers do not leave licensed premises at the same time.

This often helps reduce congestion at taxi ranks and late night fast-food outlets. The policy does not therefore set fixed trading hours, although the Council recognises that stricter conditions may be necessary in certain instances, for example with regard to noise, additional control mechanisms and conditions may need to be applied in more densely populated residential areas.

The Policy does not seek to artificially introduce staggered closing times. Shops and supermarkets will generally be permitted to sell alcohol at any time during their normal trading hours, unless there are very strong reasons for restricting those hours.

The Act gives licensed premises the opportunity to operate for longer periods. However, with these opportunities come additional responsibilities and the Council will have regard to its obligations under Section 17 of the Crime and Disorder Act 1998 when dealing with licensing applications. That law places a duty on the Council to do all it reasonably can to exercise its functions with due regard to the likely effect on crime and disorder, alongside the need to prevent it. The Policy also identifies that the Council will bear in mind its duties in relation to closure orders under the Anti-Social Behaviour Crime and Policing Act 2014. That power can be used if it is reasonably believed that a public nuisance is being caused by noise emanating from licensed premises, or premises subject to a temporary event notice where closure is necessary to prevent that nuisance.

The Council welcomes proposals that enhance the range of cultural and entertainment opportunities available to as wide a range of age groups as possible. It recognises that as part of implementing local strategies, proper account should be taken of the need to encourage and promote live music and dancing for the wider cultural benefit of the community, the Council seeks to encourage the provision of theatre and the dramatic and performing arts in the Borough.

The Council also welcomes proposals for the provision of regulated entertainment which does not involve the sale and supply of alcohol, or to which such sale and supply of alcohol is genuinely ancillary to an activity. The Council envisages that this offers a wider choice of entertainment to local residents, businesses and visitors.

The Council recognises the importance of the provision and variety of venues for entertaining young people. This can be a factor in reducing anti-social behaviour and youth related disturbances that cause problems for local residents and businesses. It welcomes proposals for the provision of regulated entertainment for persons under 18 years of age, subject to the necessary controls being put in place to safeguard children and young people.

The Council does not seek to limit the access of children to licensed premises, unless it is necessary for the prevention of harm. The wide range of premises that require licences means that children can be expected to visit many licensed venues for food or entertainment.

Crime and disorder associated with licensed premises can cause significant concern to licence holders, customers and the community. The Policy identifies key areas of concern, such as drugs, alcohol-related crime, under age sales and the inappropriate promotion of alcohol, which can lead to binge drinking. These are issues licence holders must consider as part of the application process, and throughout the currency of any licence or permissions.

The Policy considers the implications of nuisance on the local community and customers. This includes noise from the licensable activities, noise from those attending, smoking areas, vibration from the activity, noxious smells, light pollution, and accumulations of rubbish and litter.

The Policy outlines when conditions should be imposed and what is expected to be included in an Operating Schedule.

The Policy points out that in determining applications, the Council will consider each case on its individual merits.

The Council expects that in the majority of cases, it will not receive representations about the effect of an applicant's proposals on one or more of

the Licensing Objectives. In these cases, the Council will grant the licence subject to conditions which reflect the applicant's proposals and any mandatory conditions required by law.

Where the Council does receive relevant representations, it will seek to focus on the steps required to promote the particular Licensing Objective(s) which has given rise to the specific representation and avoid straying into undisputed areas. The Council will therefore grant the application, if it can do so, subject to such conditions considered appropriate to promote the four Licensing Objectives and any mandatory conditions.

Such conditions will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. Alternatively, the Council may decide to exclude a particular licensable activity or reject the application if it considers it appropriate to do so to promote the four Licensing Objectives.

The Policy sets out the way that the Council will integrate the Statement of Licensing Policy with other national, regional and local strategies in order to promote the Licensing Objectives.

The Policy outlines how the Council intends to extend its joint enforcement protocol with Sussex Police, based on a risk assessment basis. The Council aims to co-ordinate inspections and the deployment of its enforcement resources. The Protocol also deals with our shared responsibility for enforcing the law in relation to the sale of alcohol to underage persons. The Council, in carrying out its duties in relation to regulatory inspections and enforcement, is mindful of the principles set out in the Hampton Review and the Better Regulation Delivery Office.

The Policy points out that the Council will expect premises to be properly controlled and managed by responsible operators. This should prevent or minimise problems being caused to any other groups involved in the licensing process, including residents. The Council will continue to work closely with the Responsible Authorities and other Partners to ensure legislation and local standards are met. It will intervene where the provision of licensable activities is carried on in a manner that does not promote the four Licensing Objectives, and falls into conflict with the Council's strategic aims and vision.

The Policy recognises that it will not be easy for the Council to reach a decision that satisfies everyone. A balancing exercise will be conducted to allow an operator to carry on licensable activities in such a way that those who would otherwise be affected by the operation are adequately protected. Alternatively, the Council may decide to exclude a particular licensable activity, or to reject the application if this is considered necessary to promote the Licensing Objectives.

However, it is hoped that all those involved in the licensing process will continue to work together in a spirit of co-operation and partnership that has existed since the Council became responsible for this area of licensing.

In this respect, the Policy states that regular liaison between licence/certificate/authorisation holders and local residents, local businesses and their representative organisations is to be expected.

## **1.0 Introduction and Purpose**

- 1.1 Eastbourne Borough Council (the Council) is the Licensing Authority under the Licensing Act 2003 (the Act) and is responsible for granting premises licences, club premises certificates, temporary event notices and personal licences in the Borough in respect of the sale and/or supply of alcohol, the provision of regulated entertainment and late night refreshment.
- 1.2 The Act requires the Licensing Authority to publish a 'Statement of Licensing Policy' which sets out the policies the Licensing Authority will generally apply to promote the Licensing Objectives when making decisions on applications made under the Act.
- 1.3 This 'Statement of Licensing Policy' has been prepared in accordance with the provisions of the Act and Government Guidance issued by the Secretary of State for Culture, Media and Sport under Section 182 of the Act, as revised in April 2018.
- 1.4 Licensing is about the regulation of licensed premises, qualifying clubs and temporary events within the terms of the Act. Conditions, where attached to the various permissions, will focus on matters that are within the control of individual operators and others granted relevant permissions.
- 1.5 These matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places. Whether or not incidents can be regarded as being "in the vicinity" of licensed premises or places is ultimately a matter of fact to be decided by the Courts in cases of dispute.
- 1.6 In addressing such matters consideration will primarily focus on the direct impact of the activities taking place at the licensed premises on members of public living, working or engaged in normal activity in the area concerned.
- 1.7 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from

licensed premises and, therefore, beyond the direct control of the individual licensees. There are a range of mechanisms including:

- 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 local authority the provision of Closed Circuit Television (CCTV)
- Police enforcement of the general law concerning disorder and anti-social behaviour, including the issuing of fixed penalty notices
- 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 and
- The power of the police, other Responsible Authorities, Ward Councillor or a local resident or business to seek a review of the licence or certificate in question.

1.8 The Licensing Authority expects every holder of a licence, certificate or permission to accept and be responsible for minimising the impact of their activities and anti-social behaviour by their patrons within the vicinity of their premises by taking appropriate measures and action consistent with that responsibility.

1.9 This Licensing Policy does not:

- undermine the right of any individual to apply for a variety of permissions and to have each application considered on its individual merits,
- Override the right of any person to make representations on an application, or seek a review of a licence or certificate, where the 2003 Licensing Act allows,

1.10 This Policy will be used as a basis in coming to consistent and transparent decisions in respect of licence applications.

1.11 The Licensing Authority has taken full account of the Guidance issued to it by the Secretary of State under Section 182 of the Licensing Act as revised in April 2018.

1.12 Where it is considered necessary to depart from that Guidance, the Licensing Authority will give its reasons for doing so. Additionally, in formulating this Policy, the Licensing Authority has had regard to a range of legislation, including the provisions of the Human Rights Act 2010, the Equality Act 2010, and has taken into account the provisions of the Anti-Social Behaviour Crime and Policing Act 2014.

## **2.0 Policy Consultation and Review**

2.1 The Policy should be re-published every 5 years. During the five year period, the policy will be kept under review, and may be revised if the Licensing Authority considers it appropriate. The previous policy was approved in 2014.

2.2 For example, where there has been feedback from the local community, Responsible Authority or someone else on whether the licensing objectives are being met. Before revising it or determining its Policy for any 5 year period, the Licensing Authority must consult with:

- the chief officer of police for the area;
- the fire and rescue authority for the area;
- each Primary Care Trust or Local Health Board for an area any part of which is in the licensing authority's area;
- persons/bodies representative of local premises licence holders;
- persons/bodies representative of local club premises certificate holders;
- persons/bodies representative of local personal licence holders;
- and
- persons/bodies representative of businesses and residents in its area.

2.3 The Licensing Authority shall foster ownership, co-ordination and partnership. It will involve partners from the Licensing Authority, including Planning, Environmental Health and Safety Authorities, the Police, the Fire Authority, Community Safety Partnerships, town centre managers, local business, local people and their representatives, local transport providers, and those involved in child protection. Consultation will also take place with entertainment and licensed business managers to encourage understanding and ownership of the Policy and good practice.

## **3.0 Fundamental Principles**

3.1 In carrying out its licensing functions, the Licensing Authority will aim to promote the four Licensing Objectives set out in Section 4 of the Act:

- the prevention of crime and disorder

- public safety
  - the prevention of public nuisance
  - the protection of children from harm
- 3.2 This Policy is not intended to duplicate existing legislation and regulatory regimes that already place obligations on employers.
- 3.3 The Licensing Authority will not take 'need' for premises into account when considering matters. This is interpreted for the purposes of this policy as the commercial demand for premises offering a particular type of licensable activity. 'Need' is not a matter that the Licensing Authority can take into consideration when discharging its licensing function. It is a matter for the local Planning Authority and for the market to decide.
- 3.4 Conditions attached to licences and certificates will be tailored to the individual style and characteristics of the premises, and the events concerned. Conditions will relate to the licensing objectives and will be restricted to matters within the control of individual licence holders.
- 3.5 Licence holders will be required to ensure compliance with any conditions attached to a licence. 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, working or engaged in normal activity in the area concerned.
- 3.6 All relevant representations will be considered during the decision making process, unless they are considered to be frivolous, vexatious or repetitious.
- 3.7 Each application will be considered on its own merits. Nothing in this Policy will undermine the right of any individual to apply for the variety of permissions needed to operate or 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 Licensing Act 2003.
- 3.8 Changes to statute, statutory instruments and case law may give rise to binding legal considerations that may appear to invalidate a part or parts of this statement. If this occurs, the policy overall is deemed to continue in effect, following the minimum amount of amendment. The requirement for a full consultation will be determined with reference to the material changes to the statement.



#### **4.0 Local Features and Characteristics of the Borough**

- 4.1 Eastbourne is a thriving seaside town and a spectacular gateway to the South Downs National Park and beauty spot, Beachy Head. It has a resident population of approximately 103,000 persons.
- 4.2 Eastbourne has five miles of beaches, an extensive marina complex and over 4,000 acres of South Downs countryside. Tourism is crucial to this cosmopolitan area and is Eastbourne's primary industry.
- 4.3 One of the largest accommodation stocks in the South East, Eastbourne has approximately 7,500 bed spaces. The town stages a busy events programme which includes international tennis, theatre shows direct from the West End and an international four day air show, Airbourne, bringing over 800,000 visitors.
- 4.4 In addition, a 10 year Tourism Strategy seeks to secure investment in the town. It develops new marketing initiatives which will add new audiences for Eastbourne in the future, targeting 35+ age groups with higher spending capability.

#### **5.0 Decision Making Process**

- 5.1 The types of applications covered by the Act and relevant to this policy are:
  - Personal licences
  - New Premises licence applications
  - Provisional statements
  - Full and Minor Variations to Premises Licence
  - Transfers
  - Temporary Event Notices
  - Interim Authorities
  - Reviews
  - Club Premises Certificates
  - Matters involving the Designated Premises Supervisor
- 5.2 Licensing decisions and functions may be taken or carried out by the appropriate Licensing Committee of Eastbourne Borough Council, except for those relating to the making of a Statement of Licensing Policy, or delegated to the Licensing Sub-committee, or in appropriate cases to Officers of the Authority.

5.3 Many of the decisions will be largely administrative and it is anticipated that they will be made by Officers, in the interests of speed, efficiency, and cost effectiveness.

5.4 The terms of delegation of licensing functions are set out below.

<b>Matter to be dealt with</b>	<b>Full Licensing Committee</b>	<b>Sub-committee</b>	<b>Officers</b>
Application for personal licence		If a police or Home Office objection	If no objection notice is given by the police or Home Office.
Decision whether to suspend or revoke a personal licence		All cases	
Application for personal licence With unspent convictions		If a police objection	
Application for premises licence/club premises certificate		If a relevant representation made	If no relevant representation made or all representations made are withdrawn
Application for provisional Statement		If a relevant representation made	If no relevant representation made or all representations made are withdrawn
Application to vary premises licence/club premises certificate		If a relevant representation made	If no relevant representation made or all representations made are withdrawn
Application to vary designated premises supervisor		If a police or Home Office objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police or home office	All other cases

		objection	
Application for interim authorities		If a police or home office objection	All other cases
Application to review premises licence/club premises certificate		All cases	
Decision on whether a complaint is irrelevant, frivolous, vexatious, etc.			All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application			All cases
Minor variation			All cases
Determination of a police objection to a temporary event notice		All cases	

5.5 The power to grant licences and permissions includes the power to renew, vary, refuse, suspend or revoke such licence or permission and the power to impose conditions.

5.6 The role of the Licensing Authority is primarily to regulate the carrying on of licensable activities. It recognises the differing specific interests of those involved in the licensed trade, the carrying out of those activities and their likely impact. The Licensing Authority is keen to ensure that the licensing objectives are promoted, taking account of the wider interests of the community.

## 6.0 Integration and the Promotion of Other Strategies

6.1 The Licensing Authority shall secure the proper integration of this Policy with local crime prevention, planning policy, transport, tourism and cultural strategies by undertaking a range of functions including:-

- Liaising and consulting with the East Sussex Fire & Rescue Service;
- Liaising and consulting with the Local Strategic Partnerships, Safety Advisory Groups and other Community Safety Partnerships;
- Liaising and consulting with the Planning and Highways Authority;

- Liaising and consulting with tourism, stakeholder groups, such as the Business Forum and the economic development functions for the Council;
- Having regard to any future documents issued relating to the Private Security Industry Act 2001, for example liaison or information sharing protocols;
- Liaising and consulting with the Trading Standards Team, for example with regard to test purchasing codes of practice;
- Liaising and consulting with the Sussex Police, Community Safety Partnerships and following the guidance in community safety and crime and disorder strategies;
- Having regard to local and national strategies to promote safer socialising, responsible drinking and alcohol treatment services.

6.2 The Licensing Authority shall have due regard to the need to eliminate unlawful discrimination, and to promote equality of opportunity and positive relations between persons of diverse backgrounds, in line with statutory requirements and the Council's Equality and Fairness Strategy. This includes communities of interest such as; disabled people; racial and ethnic groups and faith groups.

6.3 The Policy supports the Eastbourne Tourism Strategy. It recognises the benefits for the local economy of creating a safe and more attractive town centre. The Licensing Committee may receive any reports relevant to the needs of the local economy for the area in order to ensure that it considers all relevant matters. It may also receive information relating to the employment within the Borough, and the demand for new investment and employment where appropriate.

## **7.0 Other Regulatory Regimes and Avoidance of Duplication**

7.1 This Policy avoids duplication with other regulatory regimes wherever possible. The following are generally considered under separate regimes:

- Health and Safety: Certain premises will be the subject of health and safety enforcement by the Local Authority or the Health and Safety Executive (HSE). If other existing law already places certain statutory responsibilities on an employer or operator of premises, for example the Management of Health and Safety at Work Regulations 1999, it will not be necessary to impose the same or similar duties on the premises licence holder or club under the Licensing Act 2003.

7.2 However, existing duties will not always adequately cover specific issues that arise on the premises in connection with, for example, certain types of entertainment. Additional conditions or supplementary measures may be considered appropriate to effectively promote the licensing objectives.

- Fire Safety: Premises and their operators must have regard to current fire safety regimes and the Regulatory Reform (Fire Safety) Order 2005.
- Food Hygiene: Licensed premises engaged in a food business will be registered and subject to risk-based food hygiene inspections by the Council's Specialist Advisors.
- Noise: Statutory and Public nuisances are dealt with by the Council's Specialist Advisors and Customer Case Workers under the Environmental Protection Act 1990 and associated legislation. Noise from commercial premises may often fall under this regime in addition to closure powers as set out in other legislation designed to control the conduct of licensed premises.
- Public Sector Equality Duty: requires public authorities, in the exercise of their functions, to have due regard to the need to: eliminate unlawful discrimination, victimisation and harassment; advance equality of opportunity; and foster good relations between people who share a relevant protected characteristic and those who do not share it. The local authority has a written statement in regard to these obligations which this Statement of Licensing Policy has taken account of.
- Community Relations: Integration of corporate strategies with the Policy recognises the Council's role, as a community leader, to promote community cohesion and good relations between diverse communities.
- Anti-social Behaviour, Crime and Policing Act 2014: Provides that if the noise from any licensed premises is causing a public nuisance, an authorised Officer has the power to issue a closure order in respect of it effective for up to 24 hours. This complements the Police powers under the act to close licensed premises for temporary periods for violent or disorderly conduct.
- Litter and Smoking: Authorised Officers of the Council have powers to enforce premises operators' responsibilities under smoke free legislation and duties to keep external areas clear of litter.
- Equality Act 2010: Applicants for new premises, or for variations involving changes to the layout of premises, must have regard to this legislation.
- Gambling Act 2005: Where the principal purpose is gaming, the sale of alcohol and the provision of entertainment in such premises is

generally incidental to gaming. However, in some instances, permissions may be required under the Licensing Act. Applicants will have regard to the licensing objectives of both regimes, but duplication of conditions will be avoided where possible.

- Planning: The Licensing Authority will not duplicate matters considered as part of a planning application. Licensing decisions will take into account any relevant planning decisions and will not normally cut across this. It is for individuals to ensure that they have the relevant planning permission in place before trading.

## **8.0 Cumulative Impact**

8.1 The impact of the number, type and density of licensed premises in a given area may lead to problems of noise, nuisance, crime and disorder outside of, or a distance from licensed premises. Cumulative Impact is defined as the “potential impact upon the Licensing Objectives of a significant number of licensed premises concentrated in an area,” and is a proper matter for consideration by the Licensing Authority.

8.2 The Licensing Authority may receive representations from a Responsible Authority or someone else that the cumulative effect of licences is leading to an area becoming saturated. This creates exceptional problems of disorder and nuisance, over and above the impact from individual premises which undermines the promotion of one or more of the licensing objectives.

8.3 This should not be confused with “need” which relates to the commercial demand for a particular type of operation in an area. “Need” is a matter for the market to decide, and does not form part of this Policy.

8.4 In July 2007, the Licensing Authority determined that the concentration of licensed premises in a specified area of the town centre causes crime, disorder and public nuisance. In 2007, it was agreed that this area should be subject to Cumulative Impact Policy.

8.5 The absence of a Cumulative Impact Assessment in an area does not prevent any Responsible Authority or any other person making representations in respect of an application for a new or variation to a premises licence. This could be on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives. The Policy applies to all new and variation applications under the Licensing Act 2003, and can be applied to a wide range of premise type, including where alcohol is to be made available either on or off the premises, and late night refreshment houses.

- 8.6 In reaching decisions regarding cumulative impact, the Council will have regard to other mechanisms falling outside of the licensing regime which may also be available to address this issue, including;
- Planning controls, where development or change of use is involved, or where trading hours are limited by planning controls;
  - Police enforcement of the law concerning disorder and anti-social behaviour, including the issue of fixed penalty notices.
  - The prosecution of any personal licence holder or member of staff at such premises which is selling alcohol to people who are drunk or under the age of eighteen.
  - Police and Council powers to instantly close for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises.
  - 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 at any time.
- 8.7 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 licensed site or operator. The Licensing Authority will primarily focus on the direct impact of the activities taking place at or immediately outside the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 8.8 The Licensing Authority will not impose 'blanket' standard conditions on granted licences, save for the Mandatory Licensing Conditions covered by the Act. Conditions attached to licences shall be on a case by case basis, tailored to the individual styles and characteristics of the premises and events concerned.
- 8.9 Conditions will be used to reflect the circumstances and needs of any particular operation insofar as they are necessary for the promotion of one or more of the four licensing objectives. Many conditions supporting these objectives arise from the applicants' Operating Schedule and will be incorporated in licences as a matter of course.
- 8.10 With effect from 6 April 2018, the Policing and Crime Act 2017 introduced the concept of cumulative impact assessments into the Licensing Act 2003 by inserting into the Act a new section 5A.
- 8.11 A cumulative impact assessment (CIA) may be published by a licensing authority to help it to limit the number or types of licence applications granted in areas where there is evidence to show that the number or density of licensed premises in the area is having a cumulative impact and

leading to problems which are undermining the licensing objectives. CIA's relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

8.12 At the current time the licensing authority has published a Cumulative Impact Assessment as there was an evidential basis on which to base such a decision in 2019.

8.13 If the licensing authority were to alter or remove the publication of a CIA in the future, it would do so in accordance with the requirements of section 5A of the Licensing Act 2003 and with regard to the guidance issued by the Secretary of State under section 182 of the Licensing Act 2003.

## 9.0 Trading Hours

9.1 The Licensing Authority recognises that longer, more flexible licensing hours can contribute to easing crime and disorder by avoiding large concentrations of customers leaving premises simultaneously. This, in turn, reduces congestion and potential conflict at other locations, for example, taxi ranks and fast food outlets.

9.2 This Policy does not set fixed trading hours and does not seek to artificially introduce staggered closing times. The Council will consider each particular case on its merits having regard to representations, including:

- Are the licensed activities likely to cause an adverse impact on local residents and businesses, for example crime, noise and disturbance. If there is potential to cause an adverse impact, what, if any, measures will be put in place to prevent it;
- Will there be a substantial adverse increase in the cumulative impact from these or similar activities, on adjacent residential areas;
- Is there a suitable level of public transport and taxi/private hire provision accessible at the appropriate times to facilitate dispersal of patrons;
- The representations of the Police, or other relevant agency or representative.

9.3 The Licensing Authority will closely scrutinise extended hours applications to ensure that the Licensing Objectives are met.

9.4 The Licensing Sub-Committee may decide that the circumstances are such that a restriction on hours is the only appropriate means to promote the Licensing Objectives.



9.5 It will be the normal Policy of the Licensing Authority to allow shops, and supermarkets to provide sales of alcohol for consumption off the premises at any times when the retail outlet is open for shopping, unless there is evidence for restricting hours.

## **10.0 Mandatory Licensing Conditions**

10.1 The Licensing Act 2003 (Mandatory Conditions) order 2014 sets out the mandatory licence conditions relating to irresponsible marketing of alcohol that apply to all licensed premises and those with a club premises certificate. These conditions include:

- Ban irresponsible promotions;
- Ban the dispensing of alcohol directly into the mouth;
- Selling or supplying alcohol in association with promotional posters or flyers
- Provision of free or discounted alcohol as a prize to reward purchase of alcohol over 24 hour period
- Ensure that customers have access to free tap water so that they can space out their drinks and not get intoxicated too quickly.
- Require an age verification policy to be in place to prevent underage sales; and
- Ensure that customers have the opportunity to choose small measures of beers, ciders, spirits and wine.

10.2 Substantially similar activities to those described are also prohibited.

10.3 In respect of on-trade premises, such as a pub, hotel or bar, or a member's club, all five conditions apply. In the case of off-trade premises, such as an off-licence or supermarket, then only the conditions relating to age verification apply.

10.4 The legislation makes clear that an irresponsible promotion is one that is "carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children."

10.5 If there is any doubt as to whether the promotion planned falls foul of the mandatory conditions, operators are advised to discuss proposals with Eastbourne Borough Council and/or Sussex Police beforehand.

## **11.0 The Operating Schedule**

11.1 The Operating Schedule sets out how the premises propose to operate when carrying on licensable activities. It also enables the Licensing

Authority, any Responsible Authority or any other person to assess whether the steps taken to promote the licensing objectives are satisfactory. It must include the following information:

- the licensable activities to be carried out and whether these are on or off the premises
- the proposed hours during which the relevant licensable activities are to take place
- the proposed hours that the premises are to be open to the public
- the duration of the licence (if it is to have a fixed term)
- details of who is to be the designated premises supervisor if the licensable activities include the sale or supply of alcohol
- where alcohol is to be supplied, whether the supplies are proposed to be for consumption on and/or off premises
- Details of the type of any regulated entertainment to be provided
- The Operating Schedule, detailing the steps the applicant proposes to take to promote the Licensing Objectives

11.2 The Licensing Authority will seek to ensure that licensed premises are designed and run in a way which promotes the licensing objectives. Applicants are advised that Operating Schedules should be considered by professional experts in the relevant field and that applicants consult with all Responsible Authorities when Operating Schedules are being prepared. This may limit opportunities for dispute and negate the need for hearings.

11.3 In order to minimise representations and the necessity for hearings, applicants are advised to consult with all Responsible Authorities when preparing an Operating Schedule.

11.4 Operators of licensed premises will have to comply with a variety of other regulatory regimes including; planning, environmental health, fire safety, licensing and building control legislation when opening or adapting licensed premises.

11.5 The Council will seek to avoid confusion and duplication by not imposing licence conditions relating to matters that are regulated under other legislation, except where they can be exceptionally justified to promote the Licensing Objectives.

## **12.0 Prevention of Crime and Disorder**

12.1 In the Operating Schedule, the Licensing Authority will require the applicant to detail the steps proposed to ensure the deterrence and prevention of crime and disorder, on and in the vicinity of the premises. This should also take account of the location, character, condition, the

nature and extent of the proposed use and the persons likely to frequent the premises.

12.2 The Licensing Authority will require the licence holder to take all reasonable steps to promote responsible drinking, and put mechanisms in place to control excessive consumption of alcohol, under age sales and drunkenness on licensed premises.

12.3 This reduces the risk of anti-social behaviour occurring on the site and elsewhere after customers have left the premises.

12.4 In considering licence applications, the Licensing Authority will have regard to:

(i) The physical security features installed in the premises including: design and layout of the premises in minimising the opportunities for crime and conflict, provision of CCTV and associated recording equipment, display of crime prevention material raising patrons awareness of crime, noise, nuisance and safety issues, adequate lighting levels in the premises, metal detection and search facilities, the use of toughened /shatterproof and plastic drinking vessels within the area covered by a premises licence.

(ii) Procedures for risk assessing promotions such as 'happy hours', and cheap drink promotions which may contribute to the impact on excessive alcohol consumption as well as associated crime and disorder, and plans for minimising such risks. This will need to be considered in conjunction with the mandatory licence conditions.

(iii) The measures employed to prevent the consumption or supply of illegal drugs, including any search procedures and entry policies;

(iv) Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks.

(v) The likelihood of any violence, public order or policing problem if the licence is granted.

(vi) The measures taken to control admission to the premises, including the use of Security Industry Authority (SIA) licensed door supervisors.

(vii) Any other such measures as may be appropriate, including; participation in a local Pubwatch or Nightwatch scheme, or other body designed to ensure effective liaison and partnership with the

local community, the use of 'music wind-down policies' and 'chill out areas' .

(viii) Measures to effectively control the premises during key events, for example; during sporting events, during Freshers Week, Airbourne and other significant times.

(ix) Other examples of industry Best Practice.

(x) Any representations made by the Police, or other relevant agency or representative.

(xi) Steps taken to train staff in licensing law and raise awareness of issues in relation to licensed premises, including; excessive consumption of alcohol, underage and proxy sales of age restricted products, drug misuse and associated crime prevention strategies.

- 12.5 Where applicable, applicants must show that they can comply with the Home Office guidance in relation to the control of illegal drugs on their premises. They shall also adhere to the protocol with the Police on the handling of illegal drugs found on their premises.
- 12.6 The Licensing Authority expects that the Designated Premises Supervisor (DPS) will spend a significant amount of time on the licensed premises. When not on the premises, it is essential that the DPS is contactable, has given their written consent and has left a competent, authorised person in charge to act in their absence. It is expected that this person, will normally be a personal licence holder.
- 12.7 The Licensing Authority will keep itself well briefed on the nature, location and type of premises where alcohol related violence, disorder and nuisance are occurring so it can take full account of the facts and avoid exacerbating problems.
- 12.8 Where licensed premises are found to cause nuisance or be associated with disorder, unreasonable disturbance, powers of revocation or the imposition of conditions may be considered. Conditions may include:
- The installation and use of CCTV and associated recording equipment to a standard specification
  - Inclusion of a drugs and search policy of customers
  - The use of SIA registered door supervisors
  - Earlier closing times or last admissions time
  - Action Plans for premises failing to meet the required standards
  - Closure Orders
  - Review and revocation proceedings

- Use of other mechanisms to effectively control an area where there is alcohol related crime and disorder, including powers under the Violent Crime Act 2006.

12.9 Such action to restrict the operation of sites in order to promote the licensing objectives may be taken for trial periods to allow businesses an opportunity to remedy existing instances of disorder, nuisance and/or disturbance.

### **13.0 Public Safety**

13.1 The Licensing Authority will require the applicant to detail the steps taken to address the issue of public safety in the relevant licensed premises or place.

13.2 Conditions may be imposed in accordance with Operating Schedule to protect public safety including:-

- Specified maximum occupancy limits on the premises licence or certificate where considered necessary for the promotion of public safety or the prevention of crime and disorder.
- Provision of CCTV and associated recording equipment installed to a standard specification
- Use of shatterproof drinking vessels and bottles, requiring the use of toughened glass or plastic throughout the licensed premise.
- The use of SIA Registered Door Supervisors, and a requirement of a minimum of such, namely 1 per 100 customers where the event is attended by persons over 18 and 1 per 50 customers where the event is attended predominantly by persons under 18.
- The provision of designated and suitably qualified and trained first aiders.
- Strategies to prevent binge drinking and promote 'safer socialising' and responsible drinking.
- Systems in place to prevent the theft of items and 'spiking' of drinks.
- SIA Registered Door staff to maintain order inside and outside venues, protecting customer safety as well as participation in Nightwatch/ Pubwatch schemes to alert Police and other venues where customers and staff are perceived to be at risk
- The provision of chill out rooms/quiet areas to allow patrons to relax and unwind.

13.3 The Council would expect relevant places or premises to have carried out a risk assessment with regard to the promotion of the Licensing Objectives. A separate Fire Risk Assessment should also be undertaken to ensure that any protective and preventive measures identified are taken to ensure the safety of any relevant persons. This may include the

provision of fire-fighting equipment, emergency lighting and an appropriate means of raising the alarm in the event of an emergency. Applicants and responsible persons should make themselves aware of the Regulatory Reform (Fire Safety) Order 2005.

- 13.4 The Licensing Authority may review what measures are in place to aid the dispersal of patrons in a quick and safe manner in order to avoid opportunities for disorder and disturbance. This may include the availability of taxis, location of taxi ranks and other late night transport systems, as well as the use of registered staff to control queues and external areas.
- 13.5 Where appropriate, licence holders or their authorised representatives will attend Safety Advisory Group Meetings and other planning meetings prior to large scale events which take place within licensed premises and/or in an open space. Applicants should have regard to relevant guidance and publications.
- 13.6 Prior consent will be required for; performance of stage Hypnotism, fireworks and lasers. Applications should contain details prescribed by the Licensing Authority. Conditions may be applied to any consent.

#### **14.0 Prevention of Public Nuisance**

- 14.1 The Licensing Authority will require operators to demonstrate how matters will be addressed to limit public nuisance, prevent disturbance and protect amenities.
- 14.2 In considering an application, the Licensing Authority will consider the adequacy of proposed measures to remove or effectively manage the potential for noise, nuisance and anti-social behaviour.
- 14.3 Amplified music or other entertainment noise from within the premises shall be inaudible within any residential premises. The test for compliance with 'inaudibility' will be that noise should be no more than barely audible outside of nearby business and residential properties.
- 14.4 The Licensing Authority will take into consideration a range of issues, and consider the imposition as appropriate of conditions, including:
- The proximity of residential accommodation.
  - The type of use proposed, including the likely numbers of customers, proposed hours of operation, nature of regulated entertainment and the frequency of activity.

- Steps taken or proposed to be taken to prevent noise, disturbance and vibration breaking out from the premises. This may include music, noise from ventilation equipment, and human voices.
- Steps taken to prevent disturbance by customers arriving at or leaving the premises will also need to be detailed. This will usually be of greater importance between 10.30 p.m. and 7 a.m. than at other times of the day.
- The steps taken or proposed to be taken by the applicant to prevent customers queuing. If queuing is inevitable, then queues should be diverted away from neighbouring premises and residential accommodation or be otherwise managed to prevent disturbance or obstruction.
- The steps taken to ensure staff and customers leave the premises quietly, including the provision of appropriate “leave quietly” signage.
- Arrangements made or proposed for parking by customers specific to the licensed premises where relevant, and the effect of parking by patrons on local residents.
- The provision for public transport in the locality, including taxis and private hire vehicles for customers to facilitate dispersal.
- The level of likely disturbance from associated vehicular movement.
- The delivery and collection areas and delivery/collection times.
- The siting of external lighting, including security lighting which may cause light pollution and/or disturbance to neighbouring properties.
- The impact on refuse storage and litter.
- The history of previous nuisance complaints proved against the premises, particularly where statutory notices have been served on the present premises licence operators.
- The history of the applicant in controlling anti-social behaviour and preventing nuisance.
- The generation of odour, e.g. from the preparation of food.
- Any other relevant activity likely to give rise to nuisance.
- Any representations made by the Responsible Authorities or other relevant agency/representative.
- The use and control of gardens and other open-air areas.

#### 14.5 Such measures may include:

- Keeping windows and doors shut save for access and egress.
- The installation of soundproofing, air conditioning, acoustic lobbies, acoustic devices and sound limitation devices.
- Operators to undertake regular checks and assessments in the vicinity of the premises and take steps to limit disturbance and noise breakout
- Limiting the number of patrons at any one time in any external areas, particularly where it is in close proximity to residential accommodation.

## **15.0 Protection of Children from Harm**

- 15.1 The Licensing Authority will require the details and measures taken in relation to the protection of children from harm. This includes moral, psychological and physical harm which may be associated with licensed premises and certificated club premises. This may include exposure to strong language and sexual expletives, in the context of film exhibitions or where adult entertainment or material is provided.
- 15.2 It is intended that the admission of children to premises holding a premises licence or club premises certificate should normally be freely allowed, without restricting conditions unless the 2003 Act itself imposes such conditions or there are good reasons to restrict entry or to exclude children completely.
- 15.3 It is recognised by the Licensing Authority that drink related disorder frequently involves under 18's. To prevent illegal purchases of alcohol by such persons, the Licensing Authority recommends that all operators should implement a suitable 'Proof of Age' scheme, for example 'Challenge 25' and ensure that appropriate photographic identification is requested prior to entry and when alcohol is requested by a person appearing to be under the age of 18.
- 15.4 Appropriate provenance forms of identification are currently considered to be those recommended by the Police, Licensing Authority, and Trading Standards Officers.
- 15.5 The Licensing Authority expects that all staff responsible for the sale of intoxicating liquor receive information and training on the licensing laws relating to children and young persons in licensed premises. Licensed premises staff are required to take reasonable steps to prevent under age sales and proxy purchasing.
- 15.6 The Licensing Authority will not seek to limit the access of children to any premises unless it is necessary for the prevention of physical, moral or psychological harm to them. Each application will be considered on its own merit.
- 15.7 To reduce alcohol-induced problematic behaviour by under 18 year olds, to enforce underage purchases and to assist in the protection of children from harm, the Licensing Authority supports the following measures:-
- Police to exercise powers to remove alcohol from young people on the street as well as the implementation of Dispersal Orders.
  - Test purchasing operations and the carrying out age challenges to reduce underage drinking in pubs and licensed venues.



- Further take-up of proof of age schemes will be promoted, for example “Challenge 25.”
- In-house, “mystery shopper” type schemes operated by local businesses will be supported.
- Providers of licensed events specifically catering for persons under the age of 18 should consider the ratio of SIA accredited Supervisors to children, normally 1:50 to assist in the control and supervision of events, and whether all staff at such events need to be Disclosure Barring Service checked.
- Measures to prevent proxy purchase of alcohol.

15.8 The following areas give rise to concern in respect of children, who will normally be excluded from premises:-

- where there have been convictions for serving alcohol to minors or with a reputation for underage drinking;
- with a known association with drug taking or dealing;
- where there is a strong element of gambling on the premises;
- where entertainment of an adult or sexual nature is commonly provided;
- where premises are used primarily or exclusively for the sale and consumption of alcohol and there is little or no seating for patrons.

15.9 The Licensing Authority may consider the following:-

- limitations on the hours when children may be present;
- age limitations as required by mandatory condition, for example film exhibitions;
- limitations or exclusions when certain activities are taking place;
- requirements for an accompanying adult;
- full exclusion of people under 18.

15.10 Nothing in this policy shall seek to override child supervision requirements contained in other legislation or regulations. The Licensing Authority recognises the Children, Families and Schools Section as being competent to advise on matters relating to the protection of children from harm.

15.11 Applicants shall copy their applications to the Local Safeguarding Children Board (LSCB) in its capacity as the Responsible Authority.

15.12 The Licensing Authority will expect Operating Schedules to specify the measures and management controls in place to prevent alcohol being served or supplied to children, other than in those limited circumstances permitted by the Licensing Act 2003.

## **16.0 Sex Establishment Policy**

16.1 The Council has a Sex Establishment Policy and this can be found on the Council's website.

## **17.0 The Health Act 2006 & Associated Smoke Free Issues**

17.1 Since the introduction of Smoke free legislation under the Health Act 2006 on the 1st July 2007, Environmental Health have received an increase in the number of noise complaints concerning noise from people smoking outside of licensed premises. This includes noise from people congregating on the public highway, and from outside areas which form part of the licensed premises for example beer gardens. This is in addition to noise breakout as people enter and leave premises to smoke.

17.2 In addition to the increase in complaints, licence variations have been received to vary the use of outdoor areas to incorporate a smoking area and/or erect a smoking shelter. Environmental Health, in conjunction with the Council's Smoke free Lead Officer, will assess each application on its merits and may; where the matter forms part of an area or activity governed by the Licensing Act 2003, make representations as appropriate.

17.3 Applicants considering the provision of a smoking area and/or shelter should consider reasonable controls to minimise the noise impact and could include the following steps:

- Develop a management plan on how to manage smoking on the premises and ensure that all staff are aware of the contents of this plan, and that it is effectively implemented.
- Noise from people smoking and talking can be intermittent, vary in character and volume and be intrusive. An effective smoking management plan will help prevent neighbours being disturbed.
- Comply with any planning conditions restricting the use of outdoor areas
- Ensure that any structures used by smokers comply with the design criteria and requirements detailed in the Health Act 2006 and that any structures, awnings, retractable canopies, etc have the relevant planning permission.
- Any new lighting to outdoor areas must be designed so as not to cause a light nuisance to neighbours and again have the relevant planning permission and building control consent.
- Ensure that the conditions on the premises licence are complied with.
- Consideration is given to the siting of any smoking areas, to protect against the potential of second hand smoke drifting back into the

premises or adjacent properties so as not to cause a nuisance to patrons and neighbours.

- Signage in the designated areas asking customers to keep noise levels to a minimum.
- Consideration given to the availability, type and siting of litter bins to cater for smoking related litter.
- Conditions restricting the hours of use of gardens and outdoor areas. Having reviewed the contents of the premises licence, applicants may find it necessary to request a variation of the premises licence.
- Any tables and chairs on the Public Highway require a tables and chairs licence under the provisions of the Highways Act 1980. Again these licences may have conditions restricting the times that the area can be used.
- Controls on drinks, glasses and bottles being removed from the premises.
- Steps to discourage smokers from remaining in gardens and outdoor areas, including conditions on the premises licence or the premises management policy may include a requirement that drinks are prohibited in outside areas, or prohibited after a certain time.
- A system could be introduced that after a certain time the number of smokers outside are restricted to a maximum number.
- Staff positioned on the doors can help to encourage customers not to cause a noise problem.

## **18.0 Premises Licences**

18.1 An application for a premises licence under the Licensing Act 2003 must be made in the prescribed form to the Licensing Authority. The application must be accompanied by:

- The required fee,
- An Operating Schedule,
- 2 plans of the premises in a prescribed form, including any external areas,
- Copies of the appropriate certificates
- If the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the Designated Premises Supervisor (DPS). This person will normally have been given day to day responsibility for running the premises by the premises licence holder and the person through whom all alcohol sales are authorised.

18.2 The Licensing Authority of the Council has a helpful booklet, "Licensing Act 2003: A Guide," and a comprehensive website to assist applicants.

## **19.0 Planning Permission**

- 19.1 The Licensing Authority recognises that planning, building control and licensing regimes should be properly separated.
- 19.2 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent already in place for the property concerned.
- 19.3 The Licensing Authority recognises that Licensing applications should not be a re run of the planning process, and should not cut across decisions taken by the Local Authority Planning Committee or following appeals against decisions taken by that Committee.
- 19.4 Similarly the granting by a Licensing Sub Committee of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control or other consents where appropriate.
- 19.5 Proper integration should be assured by the Licensing Committee, where appropriate, by providing regular reports to the Planning committee on the situation regarding licensed premises in the area, including the general impact of alcohol related crime and disorder.

## **20.0 Applications for Personal Licences**

- 20.1 A personal licence is issued to an individual authorising them to make or authorise the sale of alcohol in accordance with a premises licence. Every premises licence that authorises the sale of alcohol must specify an individual who acts as the designated premises supervisor (DPS). The DPS must hold a personal licence.
  - (a) The applicant is aged 18 or over
  - (b) The applicant is entitled to work in the United Kingdom
  - (c) The applicant possesses a licensing qualification or is a person of a prescribed description
  - (d) The applicant has not forfeited a personal licence in the five year period prior to their application being made
  - (e) The applicant has not been convicted of any relevant offence or any foreign offence or required to pay an immigration penalty
- 20.2 The licensing authority must reject an application if the applicant fails to meet one or more of the requirements set out in (a) to (d) above. Where the applicant meets the requirements in (a) to (d) but does not meet the requirements of (e), the licensing authority must give the chief officer of police for its area a notice to this effect. Having received such a

notice, if the chief officer of police is satisfied that the granting of the application would undermine the crime prevention objective, he must within 14 days, give the licensing authority a notice to that effect. Where the applicant fails to meet the requirements of (e) as a result of a conviction for an immigration offence or because they have been required to pay an immigration penalty, the licensing authority must give a notice to the Secretary of State for the Home Department to that effect. The Home Office may object to an application on grounds that granting the personal licence would be prejudicial to the prevention of illegal working in licensed premises.

- 20.3 Where an objection to the grant of a personal licence is received from either the chief officer of police or the Home Office, the applicant is entitled to a hearing before the licensing authority. If no objections are received, the licensing authority must grant the application.
- 20.4 At a hearing to determine a personal licence application to which the chief officer of police or Home Office have objected, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
  - The duty to promote the crime prevention objective
  - The objection notice given by the Police or Home Office
  - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003 The seriousness of the relevant offence
  - The sentence or penalty imposed on the applicant for the relevant offence.
- 20.5 If, having considered all of the circumstances, the licensing authority considers that it is appropriate for either the promotion of the crime prevention objective or for the prevention of illegal working in licensed premises to reject the application, it must do so. In all other cases the application must be granted.
- 20.6 If an application is refused, the applicant will be entitled to appeal against the decision they make. Similarly, if the application is granted despite a police objection notice or an objection from the Home Office, the chief officer of police or Home Office are entitled to appeal against the licensing authority's determination. The licensing authority will therefore record in full the reasons for any decision that it makes.

## **21.0 Personal Licences – Suspension and Revocation**

- 21.1 Section 138 of the Policing and Crime Act 2017 amended the Licensing Act 2003 and gave the power to a licensing authority to suspend or revoke personal licences that it has issued with effect from 6 April 2017.

- 21.2 When a licensing authority has granted a personal licence and becomes aware that the licence holder has been convicted of a relevant offence or foreign offence or been required to pay an immigration penalty, a licensing authority may revoke the licence or suspend it for a period of up to six months. This applies to convictions received and civil immigration penalties which a person has been required to pay at any time before or after the licence was granted, as long as the conviction was received after 6 April 2017, or the requirement to pay the civil penalty arose after 6 April 2017. Only magistrates' courts can order the forfeiture or suspension of a personal licence for convictions received prior to 6 April 2017.
- 21.2 The process which must be undertaken by the licensing authority to suspend or revoke a personal licence is set out at section 132A of the 2003 Act. The decision to revoke or suspend a personal licence must be made by the licensing committee or sub-committee, but the actions required before making a final decision may be made by a licensing officer.
- 21.3 The licensing authority may not take action if the licence holder has appealed against the conviction or the sentence imposed in relation to the offence, until the appeal is disposed of. Where an appeal is not lodged, the licensing authority may not take action until the time limit for making an appeal has expired.
- 21.4 If a licensing authority is considering revoking or suspending a personal licence, the authority must give notice to the licence holder. This notice must invite the holder to make representations about the conviction, any decision of a court in relation to the licence, or any decision by an appellate court if the licence holder has appealed such a decision. The licence holder may also decide to include any other information, for example, about their personal circumstances.
- 21.5 The licence holder must be given 28 days to make their representation, beginning on the day the notice was issued. The licensing authority does not need to hold a hearing to consider the representations. Before deciding whether to revoke or suspend the licence the licensing authority must consider any representations made by the licence holder, any decisions made by the court or appellate court in respect of the personal licence of which the licensing authority is aware, and any other information which the licensing authority considers relevant.
- 21.6 The licensing authority may not be aware of whether the court considered whether to revoke or suspend the licence, and there is no obligation on the licensing authority to find this out before making a decision themselves. Where the court has considered the personal licence and

- decided not to take action, this does not prevent the licensing authority from deciding to take action itself. Licensing authorities have different aims to courts in that they must fulfil their statutory duty to promote the licensing objectives, and therefore it is appropriate for the licensing authority to come to its own decision about the licence.
- 21.7 If the licensing authority, having considered a suspension and revocation and subsequently considered all the information made available to it, proposes not to revoke the licence it must give notice to the chief officer of police in the licensing authority's area, and invite the chief officer to make representations about whether the licence should be suspended or revoked, having regard to the prevention of crime. The chief officer may make representations within the period of 14 days from the day they receive the notice from the licensing authority.
- 21.8 Any representations made by the chief officer of police must be taken into account by the licensing authority in deciding whether to suspend or revoke the licence.
- 21.9 Convictions may come to light via police in another area, for example if the personal licence holder no longer lives in the area of the licensing authority which issued the licence, or if the offence took place in another police force area. In this instance it would be good practice for the police providing the information to notify the police force in the licensing authority area, because it is the local chief officer who must provide representations if the licensing authority proposes not to revoke the licence.
- 21.10 Where the licence holder is convicted of immigration offences or has been required to pay a civil penalty for immigration matters, the licensing authority should notify Home Office Immigration Enforcement and allow representations to be made in the same way.
- 21.11 In deciding whether to suspend or revoke a personal licence, the licensing authority will have regard to all of the circumstances including the following:
- The need to assess each case on its merits
  - The duty to promote the licensing objectives
  - The guidance issued by the Secretary of State under section 182 of the Licensing Act 2003
  - The seriousness of the relevant offence
  - The sentence or penalty imposed on the licence holder for the relevant offence
  - Any representations made by the Police or Home Office Immigration Enforcement
  - Any representations made by the holder of the licence

- Any evidence as to the previous character of the holder of the licence

21.12 The licensing authority must notify the licence holder and the chief officer of police of the decision made (even if the police did not make representations). The licence holder may appeal the licensing authority's decision to revoke or suspend their personal licence. A decision to revoke or suspend the licence does not take effect until the end of the period allowed for appealing the decision (21 days); or if the decision is appealed against, until the appeal is disposed of.

21.13 If the personal licence holder is a DPS, the licensing authority may notify the premises licence holder once the decision to revoke or suspend the licence has been made if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions.

21.14 The licensing authority may also notify any person who has declared an interest in the premises under section 178 of the 2003 Act if it becomes necessary to do so in order for the licensing authority to be able to carry out their functions

## **22.0 Immigration Act 2016 – Entitlement to Work**

22.1 Section 36 of and Schedule 4 to the Immigration Act 2016 made a number of amendments to the Licensing Act 2003 to introduce immigration safeguards in respect of licensing applications made in England and Wales on or after 6 April 2017. The intention of these changes is to prevent illegal working in premises licensed for the sale of alcohol or late night refreshment.

22.2 The statutory prevention of crime and disorder licensing objective in the Licensing Act 2003 includes the prevention of immigration crime and the prevention of illegal working in licensed premises. The Council will work with the Home Office (Immigration Enforcement) as well as the police, in respect of these matters.

22.3 Section 36 of and Schedule 4 to the Immigration Act 2016 (the 2016 Act) amended the 2003 Act to provide that in England and Wales:

- Premises licences to sell alcohol or provide late night refreshment and personal licences cannot be issued to an individual who does not have permission to be in the UK, or is not entitled to undertake work relating to the carrying on of a licensable activity;



- Licences issued to those with limited permission to be in the UK will lapse when their permission to be in the UK and work in a licensable activity comes to an end;
- Immigration offences, including civil penalties, are 'relevant offences' as defined by the 2003 Act;
- The Home Secretary (in practice Home Office (Immigration Enforcement)) was added to the list of responsible authorities in the licensing regime, which requires Home Office (Immigration Enforcement) to receive premises licence applications (except regulated entertainment only licences) and applications to transfer premises licences, and in some limited circumstances personal licence applications, and permits Home Office (Immigration Enforcement) to make appropriate representations and objections to the grant of a licence; and
- Immigration officers are permitted to enter premises which they have reason to believe are being used to sell alcohol or provide late night refreshment, to investigate whether immigration offences are being committed in connection with the licensable activity.

22.4 The licensing authority will have regard to any guidance issued by the Home Office in relation to the immigration related provisions now contained in the Licensing Act 2003.

22.5 The licensing authority will also work in partnership with the Home Office (Immigration Enforcement) and Sussex Police with a view to preventing illegal working in premises licensed for the sale of alcohol or late night refreshment.

### **23.0 Live Music Act 2012 and Entertainment Licensing Deregulation**

23.1 The Live Music Act 2012 came into force on 1st October 2012 and is designed to encourage more performances of 'live' music. The Act removes the licensing requirements for:

- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people on premises authorised to sell alcohol for consumption on the premises
- amplified 'live' music between 8am and 11pm before audiences of no more than 200 people in workplaces not otherwise licensed under the 2003 Act (or licensed only for the provision of late night refreshment)
- unamplified 'live' music between 8am and 11pm in all venues
- the provision of entertainment facilities

- 23.2 Where licensable activities continue to take place on premises any licence conditions relating to 'live' music will be suspended, but it will be possible to impose new, or reinstate existing conditions following a review.
- 23.3 When considering whether an activity constitutes the provision of regulated entertainment each case will be treated on its own merits. There will inevitably be a degree of judgment as to whether a performance is live music or not, so organisers are encouraged to check with the licensing authority if in doubt.
- 23.4 There was a further deregulation of entertainment licensing in June 2013 when the Licensing Act 2003 (Descriptions of Entertainment) (Amendment) Order 2013 came into force on 27 June 2013. The effect of the order is that no authorisation is required for the following activities to the extent that they take place between 08:00-23:00 on any day:
- a performance of a play in the presence of any audience of no more than 500 people
  - an indoor sporting event in the presence of any audience of no more than 1000 people
  - a performances of dance in the presence of any audience of no more than 500 people
- 23.5 Entertainment licensing requirements were further deregulated as a result of the Legislative Reform (Entertainment Licensing) Order 2014, which came into force on 6 April 2015.
- 23.6 The 2014 Order deregulated entertainment licensing in the following ways: The provision of regulated entertainment by or on behalf of local authorities, health care providers, or schools on their own defined premises became exempt from entertainment licensing between 08.00-23.00 on the same day, with no audience limit.
- The audience limit for a performance of live amplified music in relevant alcohol licensed premises or in a workplace between 08.00-23.00 on the same day was raised from 200 to 500.
  - Local authorities, health care providers and schools are now exempt from entertainment licensing when making their own defined premises available to third parties for live and recorded music activities between 08:00-23:00 on the same day for audiences of up to 500.
  - Community premises not licensed to supply alcohol are now exempt from entertainment licensing requirements for live and recorded music between 08:00-23:00 on the same day for audiences of up to 500.

- Travelling circuses are now exempt from entertainment licensing in respect of all descriptions of entertainment, except an exhibition of a film or a boxing or wrestling entertainment, where the entertainment or sport takes place between 08:00-23:00 on the same day, with no audience limit.
- Greco-Roman and freestyle wrestling are now deregulated between 08:00-23:00 for audiences of up to 1000 people.
- An exhibition of film that is incidental to another activity (where that other activity is not itself a description of entertainment set out in paragraph 2 of Schedule 1 to the 2003 Act) is exempt now from licensing.

23.7 The exhibition of films in community premises has also been deregulated as a result of section 76 of the Deregulation Act 2015.

23.8 No licence is required for an exhibition of film on community premises between 08:00 and 23:00 on any day provided that:

- the film entertainment is not provided with a view to profit;
- the film entertainment is in the presence of an audience of no more than 500 people;
- the admission of children is subject to such restrictions as are necessary to comply with the recommendation issued by the BBFC or relevant licensing authority regarding the admission of children; and
- a person concerned in the organisation or management of the exhibition of the film has obtained the prior written consent of the management committee of the premises, or if there is no management committee, a person who has control of the premises in connection with the carrying on by that person of a trade, business or other undertaking, or failing that a person with a relevant property interest in the premises.

## **24.0 Temporary Event Notices**

24.1 A temporary event notice (TEN) is required if you wish to hold an event, involving less than 500 people, at which one or more licensable activities will take place that are not authorised by an existing premises licence or club premises certificates.

24.2 A TEN is a notification to the licensing authority that an individual intends to carry on licensable activities for a period not exceeding 168 hours or 7 days.

### 24.3 Who can give a TEN:

- A TEN can be given by any individual aged 18 or over, but cannot be given by a business or organisation;
- The individual giving the notice is 'the premises user';
- An individual who holds a personal licence under the Licensing Act 2003 may give up to 50 TENs in any calendar year, up to 10 of which may be 'late' TENs;
- Individuals not holding a valid personal licence are restricted to 5 TENs in any calendar year, up to 2 of which may be late TENs;
- Standard and late TENs, in any combination count towards these overall total limits for TENs;
- A TEN which relates to an event taking place within 2 calendar years counts against the limits for that individual in respect of both calendar years;
- A maximum of 15 TENs can be given in relation to the same premises in any calendar year; and
- Any premises cannot be used for activities authorised by TENs for more than 21 days in any calendar year.

24.4 The notice has been given on the licensing authority (or licensing authorities where the premises is situated in more than one authority area), with copies to the police and the local authority exercising environmental health functions - This must normally be done no later than 10 working days prior to the proposed event although there is provision for a limited number of late TENs to be served up to 5 working days, but no earlier than 9 working days, prior to the event.

24.5 A TEN can be sent electronically to the licensing authority which will forward it to the police and local authority exercising environmental health functions by the end of the working day after which the TEN was received.

24.6 The prescribed form of a TEN must be used and all required information provided. There must be a minimum of 24 hours between event periods in relation to the same premises.

24.7 On receipt of a TEN, the licensing authority must acknowledge receipt of the notice before the end of the first working day after the day of receipt (or the day after where the TEN is served on a weekend day).

24.8 The police and local authority exercising environmental health functions (relevant persons) have three working days to give an objection to a TEN where they consider that the proposed activities will undermine a licensing objective.

- 24.9 The objection notice must give reasons for the objection and must be given to the licensing authority, other relevant persons and the premises user.
- 24.10 In the case of a standard TEN, where an objection is received, the licensing authority must hold a hearing to consider the matter unless all parties agree that no hearing is necessary. The licensing authority must send a counter notice to the premises user if it considers it appropriate for the promotion of a licensing objective. In the case of late TENS, the licensing authority must issue a counter notice if objections are received from the police or local authority exercising environmental health functions.
- 24.11 Organisers of temporary events are strongly advised to contact the Licensing Authority and other appropriate agency for advice at the earliest opportunity when planning events. This may avoid any unnecessary objections being made that may arise from misunderstandings or confusion concerning the proposed event.

## **25.0 Appeals**

- 25.1 Entitlements to appeal for parties aggrieved by decisions of the Council are set out in Schedule 5 to the Licensing Act 2003. Appeals must be made to the Magistrates' Court and made within 21 days beginning with the day on which the Appellant was notified of the Council decision. An appeal can be made by any party involved in the decision. This includes applicants, Responsible Authorities and anyone else.
- 25.2 The Act also covers appeals in relation to temporary event notices, personal licences and closure orders. In relation to temporary event notices, premises users may appeal against the decision by a Council to give a counter notice. Applicants for personal licences may appeal against the decision to reject an application for or application to renew a licence. Where the Police lodge an objection notice to the grant or renewal of a personal licence and the Council grants or renews the licence, the Police may appeal.

## **26.0 Problem Premises**

- 26.1 The Council expects licensed premises to be properly controlled and managed by responsible operators. This should prevent or minimise problems to any of the other groups affected by it, including residents and businesses in the vicinity, as well as Responsible Authorities.
- 26.2 However, legitimate concerns will sometimes be raised about particular operations. In those instances the Council will encourage the individuals

- or groups affected to raise those concerns directly with the operator in the first instance. In the Council's experience this approach can often be successful as the operator may not be fully aware of the problems and can introduce changes to improve the situation.
- 26.3 Where concerned individuals or groups do not wish to approach operators directly (perhaps fearing abuse or reprisals,) the Council will approach the operator to discuss the concerns and seek improvements, if required.
- 26.4 The Council works closely with Responsible Authorities and will intervene at an early stage where it is found that the provision of licensable activities is being carried on in a manner which does not promote the four Licensing Objectives.
- 26.5 The Council expects all licensees to co-operate with the agencies concerned and to deal promptly and properly with the concerns raised. Where a premises fails to meet the required standards or comply with legislation, they may be placed on an "Action Plan" or face prosecution proceedings.
- 26.6 The Council has a joint enforcement protocol with Sussex Police on enforcement and inspection issues to provide for the efficient and effective deployment of its staff and police officers in enforcing licensing law. This includes the targeting of resources where 'hotspot' crime and disorder premises and/or areas have been identified.
- 26.7 When necessary, the enforcement action will be taken in accordance with the principles of Eastbourne Borough Council's Enforcement Policy.
- 26.8 The Council recognises that once away from premises a minority of consumers will behave badly and unlawfully. However, 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.
- 26.9 However, the Council recognises that there are mechanisms both within and outside of the licensing regime that are available for addressing such issues. These are detailed within points 12.0 - 15.0 of this policy.
- 26.10 The Council does not seek to prevent any individual or group from using the formal procedures for review of a premises licence or club premises certificate. Neither does it seek to constrain the powers of the police to close premises where they consider it necessary to do so in the interests of public safety or to prevent a public nuisance.

26.11 However, the Council believes that by working in partnership with all the groups involved in the licensing process the formal review procedures and exercise of the police powers to close premises should be instituted in general after voluntary measures have been attempted.

## **27.0 Enforcement Policy**

27.1 Premises that; generate disorder, threaten public safety, generate public nuisance or pose a risk to the wellbeing of children will be targeted for enforcement action. Action will be focused on those responsible at the premises for its management.

27.2 The Council has an established Enforcement Policy based around the principles of consistency, transparency and proportionality in accordance with the Regulators Compliance Code.

27.3 A graduated response will be taken where offences against legislation are found, or where premises licence conditions have been breached. The action taken may range from verbal advice, written warnings, placement of the premises on an Action Plan and/or Formal Caution. Enforcement action may include prosecution proceedings.

27.4 Enforcement action is generally progressive. This does not prevent the Licensing Authority or any of the other enforcement Partners, taking more robust action where it is considered appropriate.

27.5 The Licensing Authority will seek to work with the Police, East Sussex Fire and Rescue Service and Trading Standards and other enforcement partners in the enforcement of licensing and other legislation.

27.6 Enforcement will be focused on premises or persons found to be failing to promote the Licensing Objectives and/or those where it is identified that premises or persons are failing to meet Council standards.

27.7 Attention is drawn to the targeting of agreed problem and high risk premises which require greater attention. A number of other Council and government policies, strategies and guidance documents must also be taken into account to complement the policy, including:

- Community Safety & Crime Reduction Strategies
- Drugs and alcohol Strategies
- Aims and objectives of the Private Security Industry Authority
- The Anti-Social Behaviour Act 2003
- The Health Act 2006
- The Violent Crime Reduction Act 2006

- Section 182 Guidance as revised in October 2012 in conjunction with amendments to the Licensing Act 2003

## **28.0 Dealing with Representations**

- 28.1 Where a representation is made to the Licensing Authority, it will consider whether it is valid. In determining whether a representation is valid, the Licensing Authority will first consider if the representation made appears irrelevant, vexatious, frivolous or repetitious.
- 28.2 Where someone or a Responsible Authority has made a valid representation about a licensed premises, or a valid application for a licence to be reviewed, then the Council's Licensing Team may initially arrange a mediation meeting to facilitate communication between all parties and attempt to address, clarify and resolve the issue of concern.
- 28.3 This process will not override the right of the Licensing Authority to consider a valid representation in a committee environment or for any licence holder or other party to refuse to participate in a mediation meeting.
- 28.4 At any stage, following the grant of a premises licence, a Responsible Authority, such as the Police or the fire authority, or any other person, such as a resident living in the vicinity of the premises, may ask the Licensing Authority to review the licence/certificate because of a matter arising at the premises in connection with any of the four licensing objectives.
- 28.5 Where the Licensing Authority considers that action under its statutory powers is necessary it may seek to:
- Modify the conditions/hours of the premises licence/certificate;
  - Exclude a licensable activity from the scope of the licence;
  - Remove the DPS where the sale or supply of alcohol is a feature;
  - Suspend the licence for up to 3 months;
  - Issue a warning, verbal or written
  - Issue a Simple Caution
  - Initiate prosecution proceedings;
  - Revoke the licence/certificate.

## **29.0 Reviews**

- 29.1 A key protection for the community is contained within the Licensing Act 2003. This is a review of the premises licence, or club premises certificate. It can be initiated at any time, where it can be shown that the licensing



objectives of crime and disorder, public safety, public nuisance or the protection of children from harm are being undermined.

- 29.2 At any stage following the grant of a premises licence a 'Responsible Authority' which includes the Police, Council's Noise Team, Trading Standards or any other person such as a local resident, residents' association, Ward Councillor, local business or trade organisation may ask the Licensing Authority to review a premises licence at any time because of a matter arising at the premises in connection with the promotion of the four Licensing Objectives.
- 29.3 Revocation or suspension of premises licences or certificates will normally be considered where offences, such as sale of alcohol to persons who are drunk or sale of alcohol to persons under 18, occur on a regular basis. Review proceedings are often the last stage in a process where other steps have failed to address the issues that may arise:
- Action needed should seek to promote the licensing objectives but be balanced against the financial impact on the business.
  - Action should be proportionate.
  - Action should support the local community safety, crime reduction and drugs strategies, particularly those relating to alcohol misuse.
- 29.4 A review of a premises licence would normally follow any action by the Police to close down a premises for up to 24 hours on the grounds of serious crime or disorder or noise nuisance as following a closure notice, issued by a Magistrates' Court which is then sent to the Licensing Authority.
- 29.5 The Secretary of State has recommended that ordinarily no more than one review should be permitted by a Licensing Authority from any person unless in compelling circumstances or arising following a closure order.
- 29.6 Section 182 Guidance, the Guidance, issued in connection with the Licensing Act 2003 stipulates that any representation made must be in writing, relate to particular licensed premises and be relevant to the promotion of the four licensing objectives.
- 29.7 The value of detailed evidence to support a representation cannot be over emphasized. Persons making a representation can attend the Review hearing. The person making the representation can amplify this at the hearing, but not extend this to other matters outside of the original representation.
- 29.8 Partnership working and warnings:

The Guidance further states that the promotion of the licensing objectives relies heavily upon partnership working with licence holders, authorised persons, any other person and Responsible Authorities in the pursuit of common aims and objectives. Reviews should not be used as a mechanism to create divisions between these groups to the extent that it undermines the benefits of co-operation and partnership working.

The Guidance recognises that it would be good practice for authorised persons and responsible authorities to give licence-holders early warning of their concerns about problems identified at the premises or in the vicinity of the premises where this can be linked back to the site and of the need for improvement. Failure to respond to these warnings or a Premises Action Plan is expected to lead to a decision to request a review of the premises licence or certificate.

29.9 When a written request for a review comes from any other person for example a local resident, residents' association, local business or trade organisation, the Licensing Authority must first consider whether the complaint is not relevant, is vexatious, frivolous or repetitious.

#### 29.10 'Not relevant'

A request would not be considered relevant where the matter complained of did not relate to the promotion of at least one of the licensing objectives at the licensed premise. Similarly, a general complaint over crime and disorder in a locality that is not tied or linked by a causal connection to particular licensed premises would not be considered relevant.

#### 29.11 'Vexatious'

Vexatious requests for a review may arise out of disputes between businesses.

#### 29.12 'Frivolous'

The national guidance notes that frivolous requests would be noticeable by their lack of seriousness. A trivial complaint may not always be frivolous, but it would have to be pertinent in order to be relevant.

#### 29.13 Repetitious

A repetitious representation is one that is identical or substantially similar to:

- a ground for review specified in an earlier application for review made in respect of the same premises licence which has already been determined; or
- representations considered by the Licensing Authority when the premises licence was first granted, or
- representations which would have been made when the application for the premises licence was first made and which were excluded and
- in addition to the above grounds, that a reasonable interval has not lapsed since that earlier review or the grant of the licence.

#### 29.14 Arranging the Hearing

Following receipt of a request for a review or following a closure order, the Licensing Authority will arrange for a hearing in line with the Licensing Act 2003 and regulations prescribed by the Secretary of State.

#### 29.15 The Licensing Authority has a range of actions it can take resulting from the hearing, including:

- take no action;
- issue an informal warning to the licence holder and/or recommend improvements over a particular time period;
- modify the premises licence/certificate;
- exclude a licensable activity from the licence;
- remove the Designated Premises Supervisor (DPS) in case of poor management or other reason;
- suspend the licence for up to 3 months;
- Revoke the licence.

### **30.0 Administration, Exercise and Overview of Functions**

30.1 The Licensing Committee will consist of 12 Councillors who will sit at least annually to discuss policy, review delegated decisions and administrative matters. The Council will review the Statement of Licensing Policy at least every 5 years. Any changes to the Policy will include full consultation with the Responsible Authorities and any other person.

30.2 Sub Committees of 3 Councilors will determine applications when representations have been received from any person and/or Responsible Authorities. A 'Hearings Procedure' has been developed to assist; decision makers, applicants, any other person and the Responsible Authorities with the process. This is included at Appendix 5.

30.3 A Sub Committee may also refer to the Full Licensing Committee any matter it is unable to deal with because of the number of its members who

- are unable to take part in the consideration or discussion of any matter or vote on any question with respect to it.
- 30.4 Each decision of the Licensing Committee or its Sub Committee(s) shall be accompanied with clear reasons for the decision.
  - 30.5 The Council's Authorised Officers will deal with all other licence applications where either no representations have been received, or where representations have been received and it is agreed by the parties that a hearing is not necessary.
  - 30.6 Council Officers will make the decisions on whether representations or applications for licence applications should be referred to the relevant Licensing Committee and whether representations are frivolous, repetitive or vexatious. When representations are rejected, the person making that representation will be given a written explanation as to why that is the case.

## **Appendix 1:**

### **Glossary of terms**

The Act, the Guidance, the Regulations, the Council's Statement of Licensing Policy and this website may contain words and phrases with which you are not familiar. To assist you, we have set out an overview of what they mean:

**Act** The Licensing Act 2003

### **Club Premises Certificate**

This is a licence granting 'qualifying club' status to specific premises, according to a number of qualifying conditions, including the provision that there are at least 25 members and that alcohol is only supplied by or on behalf of the club.

### **Current applications**

A schedule of all applications currently under consideration.

**DCMS** Department of Media Culture & Sport

<http://www.culture.gov.uk>

### **Designated Premises Supervisor (DPS)**

The Personal Licence Holder named on the Premises Licence as being in day-to-day control of the premises through whom all alcohol sales must be authorised.

### **Full Licensing Committee**

A Committee of 15 elected Councillors who determine Eastbourne Borough Councils overall approach to matters under the Act, with particular reference to Policy and Strategy.

### **Guidance**

Guidance issued by DCMS under Section 182 of the Licensing Act 2003, as revised in 2010

### **Licensing Act 2003 – Guidance Booklet**

A guide to applicants to assist in the preparation of their applications.

## **Hearing**

When an application for a new licence or to vary an existing licence goes to a Licensing Sub- Committee for consideration.

## **Justices Licence**

A licence issued by the Magistrates Court under the Licensing Act 1964.

## **Late night refreshment**

Under the terms of the Licensing Act 2003, the supply of hot food or hot drink between 11pm and 5am whether for consumption on or off the premises e.g. will cover late night takeaways and fast food outlets but also restaurants open after 11pm. See also late night refreshment.

## **Licensing Authority**

This is the Council body which determines matters under the Act.

## **Licensable activities**

- 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.

## **Licensing objectives**

- the prevention of crime and disorder;
- public safety;
- the prevention of public nuisance; and
- the protection of children from harm.

Each objective is of equal importance.

## **Licensing qualification**

A qualification accredited by the Secretary of State (or one which is certified as if it is such a qualification or is considered equivalent)

## **Licensing Sub Committee**

A panel of 3 elected Councilors, taken from the Full Licensing Committee who will determine matters put before it within the terms of the Act, to include new applications, variations, reviews and other representations

## **Mandatory Conditions**

The Act sets out certain conditions that must be imposed on a premises licence in specified circumstances.

## **Minor Variation**

Process by which minor changes can be made to a premises licence, with certain exceptions.

## **Negotiation**

The Act, the Guidance, the Regulations and the Council's Statement of Licensing Policy all encourage those concerned with an application to resolve their differences by negotiation to avoid the necessity for hearings

## **Objection notice**

A procedure whereby the Police can object to the grant of a premises licence, variation for a premises licence or personal licence or to a Temporary Event Notice. (See also Relevant representation)

## **Operating Schedule**

A document in a prescribed form that sets out information about how the applicant for a premises licence intends to operate his business when carrying on licensable activities. Where an applicant for a premises licence submits an operating schedule, and there are no relevant representations (objections), Eastbourne Borough Council must grant the application and can impose only those conditions on the licence which are mandatory, and that are consistent with the operating schedule.

## **Personal Licences**

A licence granted to an individual and authorises that person to supply alcohol or authorise the supply of alcohol in accordance with a premises licence. The licence lasts for 10 years and can be renewed

## **Premises**

“Any place and includes a vehicle, vessel or moveable structure” providing licensable activities under the Licensing Act 2003

### **Premises Licence**

A licence granted in relation to specific premises and will specify the nature of the licensable activity and any applicable conditions.

### **Premises User**

The person applying for a Temporary Event Notice (TEN)

### **Procedure and policy**

The regulations to be applied at hearings for matters under the Act

### **Registered club activities**

Licensable activities carried on at premises holding a Club Premises Certificate

### **Regulated entertainment**

See regulated entertainment under the Act.

### **Regulations**

Regulations and Order to be made under the Licensing Act 2003

### **Relevant Representations**

The Act does not use the term “objections”. Instead authorised persons, any other person and responsible authorities may make relevant “representations” about an application for a licence. Representations must relate to the licensing objectives and where made by any person must not be frivolous or vexatious.

### **Responsible Authority**

Responsible Authorities are bodies that the Act says have a role in licensing and that will see all applications to vary a licence. A responsible authority can make a relevant representation about an application to vary a licence. The Responsible Authorities are:

**Sussex Police**  
**East Sussex Fire and Rescue Authority**  
**Health and Safety**  
**Environmental (Noise) Pollution**  
**Planning**



**Child Protection East Sussex County Council  
Trading Standards  
Licensing Authority  
Primary Care Trust  
Home Office**

## **Review**

The proceedings set out in the Act for reviewing premises licences where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring

## **Second Appointed Day**

The date upon which the Act and all licences issued under it come into full effect (24th November 2005)

## **Statement of Licensing Policy**

A document that sets out how Eastbourne Borough Council will carry out licensing for the next 5 years and how it proposes to uphold the four licensing objectives and other initiatives at a local level.

## **Steps**

The Act refers to “steps” that Eastbourne Borough Council can take where relevant representations have been made about an application. These are the grant subject to conditions; exclusion of licensable activities; restriction on such hours for licensable activities, rejection of the proposed premises supervisor; and rejection of the application.

## **Temporary Event Notices (TENs)**

A TEN can be used for one-off events with less than 500 people and for less than 168 hours or 7 days. No more than 15 can be held per premises and can only be held for 21 days aggregate,

## **Vary/Variation**

To vary a licence, or apply for a variation of a licence, means to change to a licence under the terms of the Act

## **Vicinity**

Ultimately this will be decided by the courts but Eastbourne Borough Council will consider whether a resident or a business would be directly affected by the carrying on of licensable activities on the premises.

## Appendix 2

### Eastbourne Borough Council Cumulative Impact Assessment 2019 – 2024

#### 1.0 Legislative Framework

1.1 Eastbourne Borough Council, as the Licensing Authority, has a duty to comply with its obligations under Section 17 of the Crime and Disorder Act 1998, and to promote the Licensing Objectives contained within the Licensing Act 2003, namely:

- The prevention of crime and disorder
- Public safety
- The prevention of public nuisance
- The protection of children from harm

1.2 Due regard is had to guidance issued under Section 182 of the Licensing Act 2003, as revised in April 2018, concerning the cumulative impact of licensed premises within an area, and the resultant impact on the promotion of the licensing objectives.

1.3 The cumulative impact of licensed premises on the promotion of the licensing objectives under the Licensing Act 2003 is a proper matter which the Licensing Authority can take into account.

1.4 This should not, however, be equated with the 'need' for a licensed premises. This relates to the commercial demand for a particular type of premises. The issue of 'need' is a matter for the market to decide, and does not form part of the Cumulative Impact Policy or wider Statement of Licensing Policy.

#### 2.0 Definition

2.1 For the purposes of the Eastbourne Borough Council Statement of Licensing Policy, cumulative impact is defined as:

“The potential impact on the promotion of the licensing objectives where there are a number of licensed premises concentrated in one area.”

2.2 Where the number, type and density of licensed premises are unusually high, serious problems of noise, nuisance and disorder can occur outside or some distance away from the licensed premises in question. This is described as the cumulative impact of all premises taken together.

2.3 It is recognised that the impact on surrounding areas in relation to the behaviour of patrons from a number of premises located in close proximity to one another is greater than the impact of individual premises.

2.4 The issue of cumulative impact is also linked to:

- Any material increase in the occupant capacity of the premises;
- Any change in the nature of the operation of the premises. This may include a change to layout, the provision of vertical drinking,\* the inclusion of regulated entertainment, the addition of other licensable activities, extension to the times regulated entertainment and alcohol is sold or supplied, both on or off the premises;
- Consideration will also be given to applications for premises seeking to provide late night refreshment between the hours of 11.00pm –5.00am.

### 3.0 Context

3.1 The Licensing Authority may receive relevant representations from either a 'Responsible Authority' or any other person that the cumulative impact of new premises licences, material changes and variations to existing permissions is leading to an area becoming saturated with licensed premises.

3.2 The issue of cumulative impact will be taken into account when considering the individual merits of an application. The onus is on the person or organisation making representations to prove any assertion by way of evidence, that the addition of the premises concerned and/or a variation to activities, hours or a change in nature of operation will undermine the promotion of the licensing objectives.

3.3 The Licensing Authority will not operate a quota of any kind which would predetermine an application, nor will it seek to impose general limitations on trading hours in particular areas unless there are clear, evidence based reasons for doing so.

3.4 Regard will be given to the individual characteristics of the premises concerned within a given area. It is recognised that pubs, nightclubs, restaurants, hotels, theatres, and other clubs all sell alcohol, serve food and provide regulated entertainment, but with contrasting styles and characteristics.

3.5 Proper regard will be made to those differences and the impact they are likely to have on the local community. It is recognised that it may not always be possible to attribute issues to a particular premise, or patrons from a particular premises, but that cumulatively there can be a negative effect.

#### **4.0 Adoption of Cumulative Impact Assessment**

- 4.1 Eastbourne Borough Council as the Licensing Authority adopted Cumulative Impact for the town centre in July 2007. It is mindful of the problems that can arise when numbers of premises providing licensable activities are located in close proximity to one another, or where the density of premises is out of character with the locality.
- 4.2 Consideration will be given to the infrastructure in place to facilitate the dispersal of patrons from an area, including the availability of late night bus services, taxis and street cleansing services when establishments offering food, alcohol and regulated entertainment close.
- 4.3 A major concern for the Council is the “binge drinking culture.” This is particularly apparent in the town centre and its impact on policing the evening and night time economy. “Binge drinking” has increased markedly in recent years with the advent of:
- Alcopops
  - Marketing focusing on young people
  - Cut price alcohol promotions in venues
  - Cut price alcohol obtained from off licences and an increase in the practice of drinking at home prior to attending licensed venues, known as “preloading “
  - Large scale vertical drinking establishments where the primary intention of patrons is the consumption of alcohol
  - Venues seeking to diversify the activities available, their mode of operation, enabling them to be open until the early hours, with the provision of regulated entertainment encouraging patrons to attend for longer periods.
- 4.4 In agreeing its continuation within the Statement of Licensing Policy for the period 2019 – 2024, the Council has considered:
- Evidence of serious and chronic concern regarding the concentration of licensed premises in undermining the promotion of the licensing objectives from a Responsible Authority, namely Sussex Police and the Council’s Officers delegated to deal with Noise issues.
  - Evidence from any other person to include local businesses, residents and representative groups regarding noise, nuisance and disorder where a particular concentration of licensed premises in an area of Eastbourne is considered to be causing a negative impact on one or more of the licensing objectives.

## **5.0 What Does The Assessment Do?**

5.1 The effect of adopting a Cumulative Impact Assessment is to create a rebuttable presumption that applications for new premises licences, club premises certificates or material variations to such will normally be refused if relevant representations are received.

5.2 Applicants must address the Cumulative Impact Assessment and produce evidence to demonstrate how the application will:

- (a) Not add to cumulative impact, and challenges already being experienced in the area or
- (b) Undermine the promotion of the licensing objectives.

5.3 The applicant must produce evidence to rebut the presumption to refuse an application within the Cumulative Impact Assessment area. This Assessment takes effect where a relevant representation is received.

5.4 It must be stressed that the presumption to refuse an application does not relieve Responsible Authorities or any other person of the need to provide supporting evidence in conjunction with a relevant representation. This must be submitted before the Licensing Authority may lawfully consider giving effect to the Cumulative Impact Assessment.

5.5 Where there is evidence that a particular area of the Borough is already suffering adverse effects arising from a concentration of licensed premises, and it can be demonstrated that communities are under pressure because of it, this will be taken into account in determining any further applications or material changes to licensed premises within the area identified. This includes:

- the character of the surrounding area;
- the impact of the licence on the surrounding area, both individually, and cumulatively with existing licences;
- the nature and character of the proposed operation;
- The availability of suitable public transport, private hire vehicles and taxis to facilitate dispersal at key times;
- The availability of other support services at key times, for example street cleansing services.
- The impact upon the policing of an area

## **6.0 Integration of Strategies**

6.1 Licensing law is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and beyond the control of the licence holder but is still a

key aspect of such control and will be part of a holistic approach to the management of the evening economy in towns' and city centres.

- 6.2 The Licensing Authority recognises that as well as licensing legislation, there are a number of other mechanisms for addressing issues of noise, nuisance and anti-social behaviour which occur in the vicinity of licensed premises.

These include:

- Planning controls
- Ongoing measures to provide a safer and cleaner environment in partnership with residents, local businesses and others
- Powers to designate parts of the borough which restricts the consumption of alcohol in designated public places
- confiscation of alcohol in designated areas
- Police enforcement of the law with regard to disorder and anti-social behaviour
- Police powers to close some premises for up to 24 hours in extreme cases of disorder or excessive noise
- The power of police, local businesses or residents to seek a review of the premises licence
- Enforcement action against those selling or supplying alcohol to people who are underage or already drunk.

- 6.3 The Licensing Authority may address a number of these issues through Community Safety Partnerships in line with the strategic objectives for crime and disorder reduction within the Borough.

- 6.4 The Council and Partner organisations already employ a range of mechanisms to prevent or limit cumulative impact relating to the problems arising from licensed premises and their customers causing noise, nuisance, disturbance or behaving unlawfully at, outside or in the vicinity of the premises.

- 6.5 The Licensing Authority and Sussex Police are aware of the problems associated with the town centre area in respect of alcohol related crime and disorder and have launched a number of initiatives to combat this including intelligence sharing about problem premises, joint licensing visits and targeted activity.

- 6.6 The standard shift pattern operated in the Eastbourne Borough has been altered to ensure extra resources are available to Police in the town centre at key times to tackle crime, disorder and associated nuisance.

- 6.7 The Police use a Fixed Penalty Ticket system to ensure efficient use of resources, speed up the judicial process and ease the pressure on the Courts dealing with the results of the alcohol related crime, disorder and nuisance problems.
- 6.8 There is an established alcohol treatment referral scheme for those individuals who come into custody at Eastbourne Custody Centre and investment in diversionary activities for young people.
- 6.9 Work has been undertaken to promote safe, sensible and social drinking campaigns, including the strategic drink campaigns undertaken by East Sussex County Council. The Licensing Authority recognises that the Cumulative Impact Assessment is one of a range of mechanisms to regulate activities of both premises and individuals.
- 6.10 Other measures include; the presence of Street Pastors on the town centre late at night and at weekends to assist people who may be in difficulty, an established Nightwatch Radio Scheme to facilitate communication between licensed premises and exclude problem individuals from venues, CCTV coverage and monitoring of the town centre, regular joint operations to monitor licensed premises, active use of dispersal orders, provision of facilities for young people to offer diversionary activities and the active targeting of irresponsible drinks promotions.

## **7.0 Where does the Cumulative Impact Assessment Apply?**

- 7.1 Since 2007, the Licensing Authority has applied a special Cumulative Impact Assessment to an area within Eastbourne Town Centre. This is identified within Appendix 3 along with supporting statistical information and a statement received from Sussex Police.
- 7.2 Following consideration of the latest evidence, the Licensing Authority has revised its Cumulative Impact Assessment, taking account of relevant feedback.
- 7.3 The Licensing Authority believes that, following evidence from Sussex Police, the cumulative impact of licensed premises in this area continues to undermine the promotion of the licensing objectives.
- 7.4 Within Eastbourne Town Centre, there is strong evidence of an impact on crime and disorder caused by the number of people attending licensed premises. Data has been provided in respect of the number of crimes within this area.



- 7.5 This area accounts for over 50% of all licensed premises in the Borough. Significant proportions of these are pubs, clubs and off licences. Although the licensed premises have differing closing times, it is evident that there is an accumulation of individuals in the town centre as a result of the services provided by the night time economy.
- 7.6 The capability of the transport system to disperse these numbers rapidly with minimum impact on crime and disorder and public nuisance is limited.
- 7.7 The Licensing Authority takes the view that problems associated with the licensing objectives are caused by the number of people attending licensed premises in this area, their movement to and from these premises and their dispersal home.
- 7.8 The data analysis and statements of Sussex Police contained in Appendix A, support the continuation of the Cumulative Impact Policy and zone.
- 8.0 Conclusion**
- 8.1 The conclusion drawn in respect of the evidence is that where relevant representations are submitted, the Cumulative Impact Assessment should aim to continue to limit the number of new or material variations to licensed premises. The rebuttable presumption to refuse such remains in place.
- 8.2 The Licensing Authority believes that the presence of a Cumulative Impact Assessment in the designated area since 2007 supports and assists the range of strategies in place to tackle crime, disorder, noise and nuisance.
- 8.3 Accordingly, the Licensing Authority has resolved to maintain the Cumulative Impact Assessment. The Assessment will come into effect where relevant representations are received, will seek to prevent a further increase in the number of licensed premises and when appropriate to limit material changes to licences within that area.
- 8.4 The Licensing Authority wishes to encourage the provision of a range of entertainment in the area and to reduce the dominance of pubs, off licences, bars and nightclubs. Any future expansion of licensed premises and the evening or night time economy should be consistent with the wider regeneration aspirations of the Council and its partners and should actively promote an inclusive town centre for all that is a safe and pleasant place to be in. This will be balanced against any likely negative impact on the licensing objectives.

- 8.5 The Licensing Authority has resolved that the Cumulative Impact Assessment is one such measure to facilitate this, and ensure that the correct balance is sought.

## Appendix 3

### Cumulative Impact Strategy Assessment Data 2019-2024

#### 1.0 Introduction

1.1 This report contains information provided by Sussex Police relating to Crime and Disorder in Eastbourne and in particular the area in the town centre that has been highlighted as the Cumulative Impact Zone (CIZ).

1.2 Sussex Police have provided data and an associated statement that supports the continued existence of the CIZ.

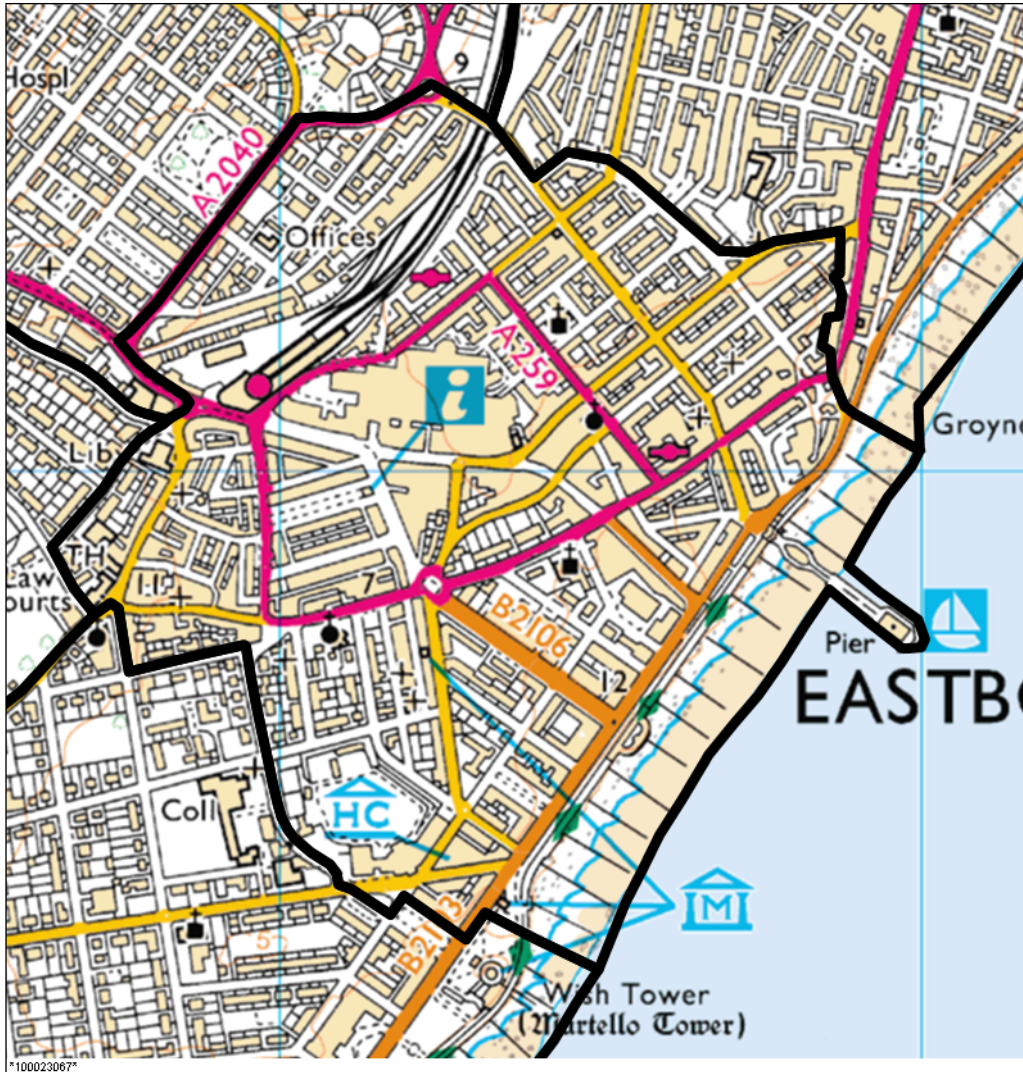
1.3 The data provided by Sussex Police is for rolling years from **2016-2019** and includes the following crime:

- Theft & Handling
- PPVC
- Violence Against the Person (VAP)
- Criminal Damage
- Burglary
- Vehicle
- Drugs
- Other Offences
- Antisocial Behaviour (ASB) Incidents

#### 2.0 Sussex Police: Review of Crime / ASB Data: 2019

2.1 The report contains data to end of **January 2019**.

2.2 Area Analysed: The area analysed is the Neighbourhood area called Eastbourne Town Centre. The map below shows the area this encompasses:



-NOT PROTECTIVELY MARKED-



## Eastbourne town centre – Review of crime/ASB data

Requested by	Insp Rachel Barrow
Author(s)	Andy Smith - Prevention Analyst
Department	Prevention Support Team – East Sussex Division
Reference	ESX_AS: 164
Date	25/02/2019
Version	v.1.1 (sanitised)

### Scope:

The purpose of this document is to provide a breakdown of recorded crime and ASB data for Eastbourne town centre (see map opposite). This data will be compared to the rest of Eastbourne as part of the review process of the cumulative impact strategy. All data will be exported for the rolling year period of February to January for the last three years (2016 – 2019).

All data will be exported using the iBase system searching for the crime data using HO Crime Type, including focus on public place violent crime (excluding domestic related offences). ASB incidents will be identified via NSIR group qualifier *anti-social behaviour*.

### Caveats and limitations:

- All Niche crime data has been exported using the *Date Actual From* rather than the *Input Date* as used by within performance reports published by the Corporate Development Department. This can sometimes lead to the figures in this report being slightly different to information provided by the Performance Team.
- For the purpose of this report town centre crime will be any offence recorded within the Police Beat of *Devonshire - EE1002* (see map opposite) rather than the Neighbourhood of *Town Centre*. Data quality checks for Eastbourne crime data over the last rolling year (February 2018 – January 2019) has showed that approx. 30% of all recorded crime had no Neighbourhood recorded in offence location data fields.
- Anti-social behaviour incidents have been identified using the NSIR Qualifier, this qualifier is manually selected by the call taker at the time of incident recording and therefore the search criteria used may not capture all incidents which are ASB related.

### Crime and incident data:

The breakdown of crime data by Police Beat area over the latest rolling year period of February 2018 – January 2019 shows 30% of all recorded crime in Eastbourne occurred within Devonshire Police Beat. The main crime type recorded was Violent Crime, responsible for 51% of all crime in this location. Devonshire also recorded the highest proportion of violent crime (29%) out of the nine police beat areas in Eastbourne. Over the last 12 month period, the total number of overall violent crime offences

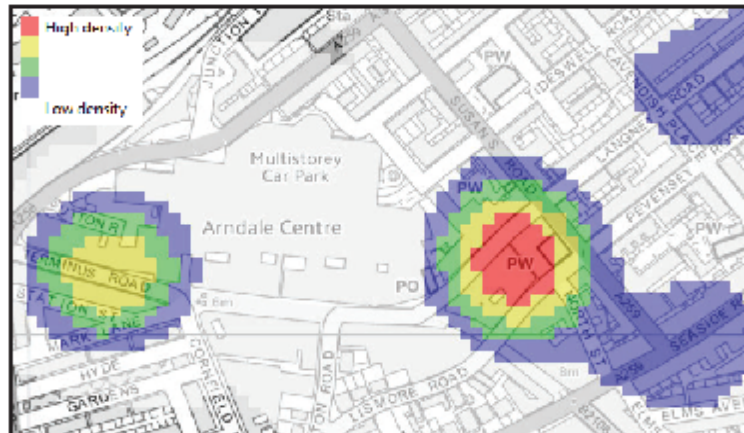
-NOT PROTECTIVELY MARKED-



**-NOT PROTECTIVELY MARKED-**

in Devonshire has increased (+126). However, the breakdown of Violent Crime and Violence against the Person offences recorded as Public Place (excluding Domestic) shows offences have reduced compared to the previous 12 month period. The three main crime types remain as:

- i. **ABH (193 offences)** - Time and date analysis shows that this crime type is linked to the night time economy, peaking during the early hours of Saturday and Sunday between 0100-0400hrs. The main hotspot area in the town centre is within the area of Cameo Nightclub/Langney Road, with a secondary hotspot area around McDonalds Restaurant/Terminus Road.



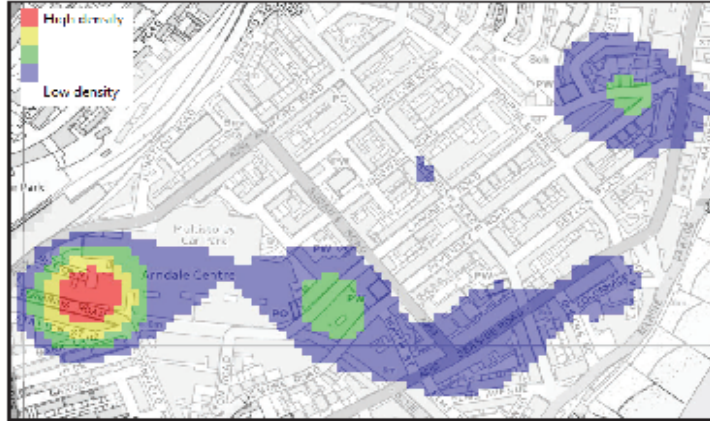
- ii. **Assault without injury (161 offences)** - Time and date analysis shows that this crime type is linked to the night time economy, peaking during the early hours of Saturday between 0200-0300hrs. The main hotspot area within the town centre is within the area of Cameo Nightclub/Langney Road, with secondary area around the location of McDonalds Restaurant/Terminus Road



**-NOT PROTECTIVELY MARKED-**

**-NOT PROTECTIVELY MARKED-**

- iii. **Public fear, alarm or distress (155 offences)** - Time and date analysis shows that this crime type peaks during the week on Monday, Thursday and Friday, with key time of 1400-1500hrs. The main hotspot area within the town centre is around McDonalds Restaurant/Terminus Road.



Incident data for reports of anti-social behaviour and incidents flagged as being alcohol related show that the overall number of incidents reported in Devonshire over the last 12 months have reduced as well as the percentage of these types of incidents occurring in the area compared to the rest of Eastbourne.

**Table 1 and 2: Total crime by HO Crime Type in Devonshire vs Eastbourne District - including breakdown for violent crime and % in area**

Table 1: Devonshire			
HO Crime Type	Feb18 – Jan19	Feb17 – Jan18	Feb16 – Jan17
Burglary	125	130	102
Criminal Damage	253	281	236
Drug Offences	99	99	95
Fraud & Forgery	19	24	25
Other Offences	61	63	41
Theft & Handling	697	810	692
<b>Violent Crime</b>	<b>1287 (29%)</b>	<b>1161 (30%)</b>	<b>961 (28%)</b>
i. Robbery	30 (30%)	25 (33%)	25 (37%)
ii. Sexual Offences	65 (24%)	65 (24%)	46 (21%)
iii. Violence against the Person	1192 (30%)	1071 (30%)	890 (29%)
<b>TOTAL</b>	<b>2541 (30%)</b>	<b>2568 (29%)</b>	<b>2152 (33%)</b>

Table 2: Eastbourne District			
HO Crime Type	Feb18-Jan19	Feb17 – Jan18	Feb16 – Jan17
Burglary	425	579	467
Criminal Damage	1111	1316	1086
Drug Offences	270	274	311

**-NOT PROTECTIVELY MARKED-**

**-NOT PROTECTIVELY MARKED-**

**Table 2: Eastbourne District**

HO Crime Type	Feb18-Jan19	Feb17 – Jan18	Feb16 – Jan17
Fraud and Forgery	110	127	153
Other Offences	210	206	167
Theft & Handling	2020	2390	2094
Violent Crime	4403	3926	3417
i. Robbery	101	75	67
ii. Sexual Offences	273	268	220
iii. Violence against the Person	4029	3583	3130
<b>TOTAL</b>	<b>8549</b>	<b>8818</b>	<b>7695</b>

**Table 3: Public Place related violent crime - excluding domestic related offences**

Rolling Year	Devonshire (% of total crime across the district)			Eastbourne District		
	Public Place Violent Crime	Public Place Violence against the Person	Violent crime linked to licenced premise	Public Place Violent Crime	Public Place Violence against the Person	Violent crime linked to licenced premise
Feb18 – Jan19	683 (32%)	635 (33%)	109 (52%)	2103	1934	209
Feb17 – Jan18	723 (35%)	670 (35%)	113 (49%)	2092	1938	231
Feb16 – Jan17	599 (33%)	562 (33%)	123 (60%)	1830	1714	205

**Table 4: ASB incidents with NSIR Qualifier – anti-social behaviour**

Rolling Year	Devonshire	Eastbourne District	% in area
Feb18 – Jan19	686	2422	28%
Feb17 – Jan18	920	3083	30%
Feb16 – Jan17	817	2715	30%

**Table 5: Incidents containing 'alcohol' qualifier tag**

Rolling Year	Devonshire	Eastbourne District	% in area
Feb18 – Jan19	312	739	42%
Feb17 – Jan18	445	1022	44%
Feb16 – Jan17	476	1153	41%

**-NOT PROTECTIVELY MARKED-**



## Appendix 4:

### List of Useful Websites:

Department For Culture Media and Sport

<https://www.gov.uk/government/organisations/department-for-culture-media-sport>

East Sussex Drug and Alcohol Action Team

<http://eastsussex.gov.uk/community/emergencyplanningandcommunitysafety/communitysafety/drugsandalcohol/daat.htm>

Alcohol Licensing (Licensing Act 2003)

<https://www.gov.uk/alcohol-licensing>

Gambling Commission

<http://www.gamblingcommission.gov.uk/>

Health and Safety Executive, 'Managing Crowds Safely'

<http://www.hse.gov.uk/pubns/indg142.htm>

Portman Group – Age Verification

[www.portmangroup.org.uk](http://www.portmangroup.org.uk)

Safer Pubbing and Clubbing Guide for Licensing Authorities, Club Managers and Promoters

<http://www.clubhealth.org.uk/pages/downloads/Safer%20Dancing.pdf>

Section 182 Guidance issued in conjunction with the Licensing Act 2003

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/98101/guidance-section-182-licensing.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/98101/guidance-section-182-licensing.pdf)

Security Industry Authority (SIA)

Registered Door Supervisors

<http://www.sia.homeoffice.gov.uk/Pages/home.aspx>

Smoke free Legislation

<http://www.smokefreeengland.co.uk/thefacts/the-regulations.html>

Temporary Event Notice Guidance (Licensing Act 2003)

<https://www.gov.uk/government/organisations/home-office/series/alcohol-licensing-temporary-events-notice>

What to do if you are worried about the safety of a child

<http://www.eastsussex.gov.uk/childrenandfamilies/childprotection/default.htm>

## **Appendix 5:**

### **Contact Details of Responsible Authorities:**

#### **Eastbourne Borough Council**

1 Grove Road  
Eastbourne  
East Sussex  
BN21 4TW  
Tel:01323 410000

#### **Fire Safety Officer**

East Sussex Fire and Rescue Service  
Eastbourne Borough Fire Safety Office  
Whitley Road  
Eastbourne  
BN22 8LA  
Tel: 0845 1308855

#### **Sussex Police**

The Licensing Unit  
Police Station  
Terminus Road  
Bexhill-on-Sea  
East Sussex  
TN39 3NR  
Tel: 0845 6070999

For Non-council owned premises

Council owned premises:

#### **Health & Safety Officer**

Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
East Sussex  
BN21 4TW  
Tel: 01323 410000

#### **Enforcement Liaison Officer**

Health & Safety Executive  
Phoenix House  
23-25 Cantelupe Road  
East Grinstead  
RH19 3BE  
Tel: 01342 334200

#### **Planning**

Development Manager  
Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
East Sussex  
BN21 4UH  
Tel: 01323 410000

**Environmental Health**

Senior Specialist Advisor  
Eastbourne Borough Council  
1 Grove Road  
Eastbourne,  
East Sussex  
BN21 4TW  
Tel: 01323 410000

**Child Protection**

East Sussex County Council  
Head of Children's Safeguards and Quality Assurance  
P.O Box 5  
East Sussex County Council  
County Hall  
Lewes  
East Sussex  
BN7 1SW  
Tel: 01273 481000

**Trading Standards**

East Sussex County Council Trading Standards  
St Marys House  
52 St Leonards Road  
Eastbourne  
East Sussex  
BN21 3UL  
Tel: 01323 418200

**Primary Care Trust**

Public Health Network & Business Manager  
E1C County Hall  
St Anne's Crescent  
Lewes  
East Sussex  
BN7 1UE

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# Agenda Item 8

<b>Report to:</b>	<b>Licensing Committee</b>
<b>Date:</b>	<b>27 July 2021</b>
<b>Title:</b>	<b>Review of the Eastbourne Borough Council Gambling Act Statement of Principles</b>
<b>Report of:</b>	<b>Tim Whelan – Director Service Delivery</b>
<b>Ward(s):</b>	<b>All</b>
<b>Purpose of report:</b>	<b>To review the Eastbourne Borough Council Statement of Gambling Principles and agree a six-week public consultation.</b>
<b>Officer recommendation(s):</b>	<b>(1) The Committee review the Eastbourne Borough Council Gambling Act Statement of Gambling Principles.</b> <b>(2) The Committee authorise the Senior Specialist Advisor to start a six-week consultation with the public, trade and interested bodies.</b> <b>(3) That following the consultation period the Functional Lead Quality Environment Specialist, in conjunction with the Chair of the Licensing Committee, be delegated to consider the consultation responses and make any minor changes to the Statement of Gambling Principles and then recommend the same to Full Council for approval. That in the event of substantial changes being suggested by the consultation to the Statement of Gambling Principles that a report be brought back to a Licensing Committee.</b>
<b>Reasons for recommendations:</b>	<b>Statutory requirement to review the Statement of Principles every three years.</b>
<b>Contact Officer(s):</b>	<b>Name: Paul Thornton</b> <b>Post title: Specialist Advisor Regulatory Services</b> <b>E-mail: paul.thornton@lewes-eastbourne.gov.uk</b> <b>Telephone number: 01323 514140</b>

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## **1 Introduction**

- 1.1 The Gambling Act 2005 (“the Act”) requires Licensing Authorities to prepare and publish for a three-year period, a Statement of Gambling Principles for their area which apply when exercising it’s functions under the Act.
- 1.2 The Act places a duty on the Licensing Authority to develop a Statement of Gambling Principles that promotes the three licensing objectives:

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

1.3 The current Statement of Gambling Principles was approved by Full Council after review and public consultation and came into effect on 20th February 2019.

1.4 The Act requires Licensing Authorities to review the Statement of Principles every three years.

1.5 The amended Statement of Principles attached as Appendix A will be the subject of a 6-week consultation which will include members of the trade, responsible authorities, current licence holders and elected members.

1.6 Further details of who will be consulted can be found on page 4 of the Statement of Principles (Appendix 1).

## **2 Changes to the Statement of Principles**

2.1 There are no significant changes to the Statement of Principles.

2.2 There is a minor amendment to the procedure for obtaining a permit for three or more Gaming Machines in Licensed Premises.

2.3 Currently Premises licensed for the sale of alcohol for consumption on site are automatically permitted to have two Gaming Machines of Category C or D. To have three or more, an application must be made to the Licensing Authority.

2.4 The current Statement requires applicants to show how the extra machines will be monitored and those under 18 will be prevented from using them.

2.5 The amendment adds a requirement by the applicant to supply a plan of the premises showing the intended positions of the extra machines. This will assist the Council when determining the application for the maximum supervision of the machines by the premises staff.

2.6 The change is highlighted in Part C Section 2 of the Statement in Appendix 1.

2.7 The draft of the amended Statement of Principles is included at Appendix 1 and will be published for a six-week consultation period starting on the XXXXXXXX. We propose to consult with the Chief Officer for Sussex Police, representatives of those in the Gambling Trade, those likely to be affected by the authority's functions, and through Public Consultation via [www.lewes-eastbourne.gov.uk](http://www.lewes-eastbourne.gov.uk).

## **3 Financial Impact**

3.1 There are no additional financial implications to this report.

## **4 Legal implications**

- 4.1 Under section 349 Gambling Act 2005 a licensing authority shall before each successive period of three years prepare a statement of the principles which they will apply in exercising their functions under the Act during that period. The same section states that the Licensing Authority shall consult with the Chief Officer of Police, those who represent the interests of people carrying on gambling businesses in the authority's area and those who appear to the authority to represent the interests of people who are likely to be affected by the exercise of the authority's functions.
- 4.2 The Licensing Authority should also take account of The Gambling Act 2005 (Licensing Authority Policy Statement) Regulations 2006 which states the legal rules for the form of the Statement and the procedure to be followed in preparing and publishing a Statement.
- 4.3 This Report was considered by the Legal Section on 2 July 2021 (IKEN-10270-MW).

## **5 Risk management implications**

- 5.1 In accordance with the Council's Risk Management Strategy, consideration has been given to the potential risks associated with the recommendations set out in this report. A failure by the Council to review and adopt a Statement of Principles contravenes Section Gambling Act 2005 and renders it impossible for the Gambling Sector within the District to be properly administered and enforced.

## **6 Equality analysis**

- 6.1 There are no Equality implications associated with this report.

## **7 Environmental sustainability implications**

- 7.1 There are no sustainability and/or carbon reduction implications associated with this report.

## **8 Appendices**

- 8.1 Appendix 1 - Proposed new Gambling Act 2005 Statement of Principles.

## **9 Background papers**

- 9.1 Gambling Commission Guidance to Licensing Authorities.

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# EASTBOURNE BOROUGH COUNCIL STATEMENT OF GAMBLING PRINCIPLES 2022 - 2025

Gambling Act 2005 Licensing Authority Policy Statement to take effect from 31st  
January 2022 for 3 years

Eastbourne Borough Council  
Licensing  
1 Grove Road  
Eastbourne  
East Sussex BN21 4TW  
[customerfirst@lewes-eastbourne.gov.uk](mailto:customerfirst@lewes-eastbourne.gov.uk)  
Tel no: 01323 410000

**DRAFT V1 30.6.2021**

## Contents

Item	Page
<b>Part A</b>	
1. Introduction	2
2. Geographical Area	3
<b>Part A</b>	
1.The Licensing Objectives	4
2. Declaration	6
3. Responsible Authorities	6
4. Interested parties	6
5. Exchange of information	8
6. Enforcement	8
7. Licensing authority functions	10
8. Illegal Gaming Machines	11
<b>Part B - Premises licences</b>	
1. General Principles	12
2. Conditions	19
3. Door Supervisors	21
4. Adult Gaming Centres	22
5. (Licensed) Family Entertainment Centres	22
6. Casinos	23
7. Bingo	24
8. Betting premises	24
9.Tracks	24
10. Applications and Plans	26
11. Travelling fairs	27
12. Provisional Statements	28
13. Reviews	29
<b>Part C - Permits/Temporary and Occasional Use Notices</b>	
1. Unlicensed Family Entertainment Centre gaming machine permits	32
2. Statement of Principles	33
3. (Alcohol) Licensed premises gaming machine permits	33
4. Prize Gaming Permits	35
5. Club Gaming and Club Machines Permits	36
6. Temporary Use Notices	37
7. Occasional Use Notices	38

This Statement of Licensing Principles was approved by **Eastbourne Borough Council**

*All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5<sup>th</sup> Edition.*

## **1.0 Introduction**

The Gambling Statement of Principles sets out how Eastbourne Borough Council, acting as the Licensing Authority for gambling, intends to exercise its functions under the Gambling Act 2005 for the next three years. The Policy, which incorporates the 'Statement of Principles' as required by the Act, has been prepared having regard to the Licensing Objectives of the Gambling Act 2005, the guidance issued by the Gambling Commission and stakeholders' comments.

The ability of the Council to regulate gambling activities in the Borough provides an opportunity for the Council and its partners to have more direct influence on the determination of licence applications. Residents who are, or who could be, affected by the premises providing gambling will have an opportunity to influence decisions and the Council will be able to work with others to protect children and vulnerable people from being harmed or exploited by gambling activities.

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

- 'Gaming' means playing a game for the chance to win a prize;
- 'Betting' means making or accepting a bet on the outcome of a race, competition or other event;
- the likelihood of anything occurring or not occurring;
- whether something is true or not;
- a 'Lottery' is where participants are involved in an arrangement where prizes are allocated wholly by a process of chance.

The responsibility for regulating gambling is shared between the Gambling Commission and Local Authorities. The Gambling Commission is responsible for issuing operating licences to organizations and individuals who provide facilities for gambling and personal licences to persons working in the gambling industry. The Commission will take the lead role on ensuring that gambling is conducted in a fair and open way through the administration and enforcement of operating and personal licence requirements. The Commission will also be responsible for remote gambling activities such as facilities provided via the Internet, television or radio.

The main functions covered by Licensing Authorities are:

- licensing premises for gambling activities;
- considering notices for the temporary use of premises for gambling;

- granting permits for gaming and gaming machines in clubs;
- regulating gaming and gaming machines in alcohol licensed premises;
- granting permits for family entertainment centers with lower stake gaming machines;
- granting permits for prize gaming;
- considering occasional use notices for betting at tracks;
- registering small lotteries.

## **2.0 Geographical Area**

2.1 Eastbourne Borough Council is situated in the County of East Sussex, which contains five Local Authorities in total. Eastbourne Borough Council has within its administration a population of 99,400 persons making it the second most populous Local Authority in the County. In terms of area it is the second smallest, covering 4532 hectares.

2.3 Licensing authorities are required by the Gambling Act 2005 to publish a Statement of the Principles which they propose to apply when exercising their functions under the Act. This Statement must be consulted upon and published at least every three years. The Statement must also be reviewed from "time to time," and any amended parts re-consulted upon. The Statement must be then re-published.

## **PART A**

### **1.0 The Licensing Objectives**

1.1 In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the Licensing Objectives as set out in Section 1 of the Act. The Licensing Objectives are:

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

It should be noted that the Gambling Commission has stated: "The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling".

1.2 This Licensing Authority is aware that, as per Section 153, 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;
- Is in accordance with any relevant guidance issued by the Gambling Commission;
- Is reasonably consistent with the licensing objectives
- Is in accordance with the Authority's Statement of Gambling Principles .

1.3 Eastbourne Borough Council consulted widely on this Statement before finalising and publishing it. A list of those persons consulted is provided below.

1.4 The Gambling Act requires that the following parties are consulted by Licensing Authorities:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be

affected by the exercise of the authority's functions under the Gambling Act 2005.

1.5 List of persons this Authority consulted:

- Sussex Police Service;
- Eastbourne Borough Council Planning Team;
- East Sussex County Council Child Protection Services;
- Primary Healthcare Care Trust;
- East Sussex County Council Adult Social Services;
- Gambling Industry Trade Associations;
- Eastbourne Resident and Community Group Associations;
- Eastbourne Borough Council Economic Development Team;
- Eastbourne Borough Council Tourism Development Team;
- Eastbourne Hospitality Association.
- Eastbourne Chamber of Commerce
- Eastbourne Borough Councillors
- GamCare
- The Gambling Commission

1.6 The consultation took place from xxxxxxxx The Statement was published via our website with an online survey to invite comment. As part of the process, the HM Government Code of Principles was considered:

<https://www.gov.uk/government/publications/consultation-principles-guidance>

1.7 The full list of comments made in relation to the consultation and the consideration by the Council of those comments is available by request to customerfirst@lewes-eastbourne.gov.uk

1.8 The final Statement of Principles was approved at a meeting of the Full Council on xxxxxxxx and was published via our website on xxxxxxxx.

1.9 It should be noted that this Statement of Licensing Principles will not override the right of any person to make an application, make representations about an application, or apply for a review of a licence. Each will be considered on its own merits and according to the statutory requirements of the Gambling Act 2005.

## 2.0 Declaration

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

### **3.0 Responsible Authorities**

- 3.1 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Authority about the protection of children from harm. The principles are:
- The need for the body to be responsible for an area covering the whole of the licensing authority's area; and
  - The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.
- 3.2 In accordance with the suggestion in the Gambling Commission's Guidance to Licensing Authorities, this authority designates the East Sussex Local Safeguarding Children Board for this purpose.
- 3.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available at **Appendix 3**.

### **4.0 Interested parties**

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

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

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities, or

c) represents persons who satisfy paragraph (a) or (b)“

- 4.2 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are:
- Each case will be decided upon its merits.
  - This Authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities
  - It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.
  - Where it deviates from the Commissions guidance, the Authority will detail its reasons for doing so.
- 4.3 Interested parties can also be persons who are democratically elected such as Councillors and MP's. No specific evidence of being asked to represent an interested person will be required as long as the Councillor / MP represent the Ward likely to be affected.
- 4.4 Other than these however, this Authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 4.5 If individuals wish to approach Councillors to ask them to represent their views, then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Department.
- 4.6 The Licensing Authority will not take into account representations which are:
- Repetitive, vexatious or frivolous.
  - From a rival business where the basis of the representation is unwanted competition.



- Moral objections to gambling.
- Concerns about the expected demand for gambling.
- Anonymous.

4.7 Details of applications and representations referred to a Licensing Sub Committee for determination will be published in reports that are made publically available and placed on the Councils website in accordance with the Local Government Act 1972 and the Freedom of Information Act 2000. Personal details will however be removed from representations in the final website version of reports.

4.8 Names and addresses of people making representations will be disclosed to applicants and only be withheld from publication on the grounds of public safety where the Licensing Authority is specifically asked to do so.

## **5.0 Exchange of Information**

5.1 Licensing Authorities are required to include in their Statements the principles to be applied by the Authority in exercising the functions under Sections 29 and 30 of the Act. This relates to the exchange of information between it and the Gambling Commission, and the functions under Section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act.

5.2 The principle that this Licensing Authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information to include the provision that the Data Protection Act 1998 will not be contravened. The Licensing Authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

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

## **6.0 Enforcement**

6.1 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under

Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

- 6.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:
- Proportionate: regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
  - Accountable: regulators must be able to justify decisions, and be subject to public scrutiny;
  - Consistent: rules and standards must be joined up and implemented fairly;
  - Transparent: regulators should be open, and keep regulations simple and user friendly; and
  - Targeted: regulation should be focused on the problem, and minimise side effects.
- 6.3 As per the Gambling Commission's Guidance to Licensing Authorities, this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 6.4 This Licensing Authority has adopted and implemented a risk-based inspection programme, based on;
- The Licensing Objectives
  - Relevant Codes of Practice
  - Guidance issued by the Gambling Commission
  - The principles set out in this Statement of Licensing Policy
- 6.5 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licence and other permissions which it authorises.
- 6.6 The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the Licensing Authority but should be notified to the Gambling Commission.

6.7 This Licensing Authority also keeps itself informed of developments as regards the work of the Better Regulation Executive in its consideration of the regulatory functions of Local Authorities.

6.8 Bearing in mind the principle of transparency, this Licensing Authority's enforcement/compliance protocols/written agreements are available upon request to EBC, Customer First, 1 Grove Road, Eastbourne, East Sussex, BN21 4TW Email: [customerfirst@lewes-eastbourne.gov.uk](mailto:customerfirst@lewes-eastbourne.gov.uk)

## **7.0 Licensing Authority Functions**

- 7.1 We as a Licensing Authority are required under the Act to:
- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
  - Issue Provisional Statements
  - Regulate members clubs and miners welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming permits and/or Club Machine Permits
  - Issue Club Machine Permits to Commercial Clubs
  - Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
  - Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
  - Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines.
  - Register small society lotteries below the prescribed thresholds
  - Issue Prize Gaming Permits
  - Receive and endorse Temporary Use Notices
  - Receive Occasional Use Notices for betting tracks
  - Provide information to the Gambling Commission regarding details of licences, permits and other permissions issued
  - Maintain registers of the permits and licences that are issued under these functions

## **8.0 Illegal Gaming Machines**

- 8.1 The Licensing Authority has particular concerns about illegally cited "gaming machines." The provision of these machines may be illegal because they are:
- Provided in prohibited places such as takeaways and taxi offices;
  - Provided without a relevant permit;
  - The gaming machines are provided from an unregistered supplier and/or are uncategorised.
- 8.2 There are a variety of reasons why the provision of gaming machines may be illegal and operators are advised to seek the advice of the Licensing Authority or the Gambling Commission before making them available.
- 8.3 In circumstances where illegal machines are being provided, the following actions may be taken by the Authority.
- Initial enforcement, visit and verbal/written warning issued to remove the machines;
  - Removal of the machines by the Licensing Authority or in partnership with the Gambling Commission and/or Sussex Police
  - Prosecution and/or destruction of machines.

**PART B**  
**Premises Licences**  
**Consideration of Applications**

**1.0 General Principles**

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

**(i) Decision-making**

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

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the Licensing Objectives; and
- in accordance with the Authority's Statement of Licensing Policy.

1.3 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral objections to gambling are not a valid reason to reject applications for premises licences" (except as regards any 'no casino resolution' - see section on Casinos) and also that unmet demand is not a criterion for a Licensing Authority.

**(ii) Definition of "premises"**

1.4 In the Act, "premises" is defined as including "any place". Section 152 therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in

place. However, Licensing Authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

1.5 The Gambling Commission, in its Guidance to Licensing Authorities, states that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street. But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing officer. However, the Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises."

1.6 This Licensing Authority takes particular note of the Gambling Commission's Guidance to Licensing Authorities which states that:

Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

premises with a permit.

- Customers should be able to participate in the activity named on the premises licence.

1.7 The Guidance also gives a list of factors which the Licensing Authority should be aware of, which may include:

- Do the premises have a separate registration for Business Rates;
- Is the premises' neighbouring premises owned by the same person or someone else?
- Can each of the premises be accessed from the street or a public passageway?
- Can the premises only be accessed from any other gambling premises?

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

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

**Casinos**

- The principal access entrance to the premises must be from a street (as defined at 7.23 of the Guidance;)
- No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons;
- No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence.

**Adult Gaming Centre**

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

**Betting Shops**

- Access must be from a street (as per para 7.23 Guidance to Licensing Authorities) or from another premises with a betting premises licence;
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect

there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

## **Tracks**

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

## **Bingo Premises**

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

## **Family Entertainment Centre**

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

1.9 Part 7 of the Gambling Commission’s Guidance to Licensing Authorities contains further guidance on this issue, which this Authority will also take into account in its decision-making.

### **(iii) Premises “ready for gambling”**

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

1.11 In accordance with the guidance and case law, if the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made.



- 1.12 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-
- First, whether the premises ought to be permitted to be used for gambling;
  - Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 1.13 Applicants should note that this Authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
- 1.14 More detailed examples of the circumstances in which such a licence may be granted can be found at paragraphs 7.59-7.66 of the Guidance.

**(iv) Location**

- 1.15 This Licensing Authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the Licensing Objectives are relevant to its decision-making. As per the Gambling Commission's Guidance to Licensing Authorities, this Authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 1.16 Should further legislative amendments be forthcoming this statement will be updated.

**(v) Planning**

- 1.17 The Gambling Commission Guidance to Licensing Authorities states at 7.59

"In determining applications, the licensing authority has a duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, i.e. those not related to gambling and the licensing objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval

for their proposal.”

- 1.18 This Authority will not take into account irrelevant matters as per the above guidance. In addition, this Authority notes the following excerpt from the Guidance:

“7.66 - When dealing with a premises licence application for finished buildings, the Licensing Authority should not take into account whether those buildings have, or comply with, the necessary planning or building consents. Those matters should be dealt with under relevant planning control and building regulation powers, and not form part of the consideration for the premises licence. Section 210 of the 2005 Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to planning or building.”

**(vi ) Duplication with other regulatory regimes**

- 1.19 This Licensing Authority seeks to avoid any duplication with other statutory / regulatory systems where possible, including planning. This Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 1.20 When dealing with a premises licence application for finished buildings, this Authority will not take into account whether those buildings have to comply with the necessary planning or buildings consents. Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

**Licensing objectives**

- 1.21 Premises licences granted must be reasonably consistent with the Licensing Objectives. With regard to these objectives, this

Licensing Authority has considered the Gambling Commission's Guidance to Licensing Authorities, and some comments are made below.

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

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

### **Ensuring that gambling is conducted in a fair and open way**

- 1.24 This Licensing Authority has noted that the Gambling Commission states that it generally does not expect Licensing Authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' sections (see pages 15 and 24).

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

- 1.25 This Licensing Authority has noted the Gambling Commission's Guidance, which identifies that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children).

- 1.26 The Licensing Authority will therefore consider, as suggested, in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this Licensing Objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.
- 1.27 This Licensing Authority is also aware of the Gambling Commission Codes of Practice as regards this Licensing Objective, in relation to specific premises.
- 1.28 As regards the term "vulnerable persons" it is noted that the Gambling Commission does not seek to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gambling beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs."
- 1.29 This Licensing Authority will consider this Licensing Objective on a case by case basis.

## **2.0 Conditions**

- 2.1 Under the Gambling Act 2005 premises are subject to robust mandatory and default conditions. In the vast majority of applications, these conditions will be sufficient. Any further additional conditions will only be required where there are specific risks within a locality and will be:
- Relevant to the need to make the proposed building suitable as a gambling facility;
  - Directly related to the premises and the type of licence applied for;
  - Fairly and reasonably related to the scale and type of premises; and
  - Reasonable in all other respects.
- 2.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising should there be a perceived need. This may include the use of door supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below.

- 2.3 This Licensing Authority will also expect the licence applicant to offer his/her own suggestions as to way in which the licensing objectives can be met effectively.
- 2.4 This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the Licensing Objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 2.5 This Licensing Authority will also ensure that where Category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
  - only adults are admitted to the area where these machines are located;
  - access to the area where the machines are located is supervised;
  - the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
  - at the entrance to and inside any such areas there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.
- 2.6 These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 2.7 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.
- 2.8 As per the Gambling Commission's Guidance, this Licensing Authority will consider the impact upon the third Licensing Objective, and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 2.9 It is noted that there are conditions which the Licensing

Authority cannot attach to premises licences which are:

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

### **3.0 Door Supervisors**

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

3.2 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be Security Industry Authority (SIA) licensed, or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary (as per the Guidance, Part 33).

### **4.0 Adult Gaming Centres**

4.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling, and will expect the applicant to satisfy the Authority that there will be sufficient measures to protect children. For example, to ensure that under 18 year olds do not have access to the premises.

4.2 This Licensing Authority may consider measures to meet the Licensing Objectives such as:

- Proof of age schemes;
- Close Circuit Television Cameras (CCTV;)
- Supervision of entrances / machine areas;
- Physical separation of areas;

- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

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

## **5.0 (Licensed) Family Entertainment Centres:**

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

5.2 This Licensing Authority may consider a range of measures to meet the Licensing Objectives such as:

- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-exclusion schemes;
- Provision of information leaflets / helpline numbers for organisations such as GamCare;
- Measures / training for staff on how to deal with suspected truant school children on the premises.

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

5.4 This Licensing Authority will, as per the Gambling Commission's guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the Category C machines should be delineated.

5.5 This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences,

when they have been published.

## **6.0 Casinos**

- 6.1 This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

### **Casinos and competitive bidding – Small/Large casinos**

- 6.2 This Licensing Authority is aware that where a Licensing Authority area is enabled to grant a Premises Licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino.
- 6.3 In such situations the Local Authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. This Licensing Authority will run such a competition in line with the Gambling (Inviting Competing Applications for Large and Small Casino Premises Licences) Regulations 2008, as well as following the procedure set out in Part 17 of the Guidance.
- 6.4 Licence considerations / conditions – This Licensing Authority will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance at paragraph 9, bearing in mind the mandatory conditions listed in paragraph 17 of the Guidance, and the Licence Conditions and Codes of Practice published by the Gambling Commission.
- 6.5 Betting machines - This Licensing Authority will, as per the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.



## **7.0 Bingo premises**

7.1 This Licensing Authority notes that the Gambling Commission's Guidance at 18.4 states:

"Licensing authorities will need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas."

7.2 This Authority also notes the Guidance at paragraph 18.8 regarding the unusual circumstances in which the splitting of a pre-existing premises into two adjacent premises might be permitted, and in particular that it is not permissible to locate sixteen category B3 gaming machines in one of the resulting premises, as the gaming machine entitlement for that premises would be exceeded.

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

## **8.0 Betting premises**

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

## **9.0 Tracks**

9.1 This Licensing Authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling

Commission's Guidance, this Licensing Authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

- 9.2 This Authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.
- 9.3 This Licensing Authority may consider measures to meet the Licensing Objectives such as:
- Proof of age schemes;
  - CCTV;
  - Supervision of entrances / machine areas;
  - Physical separation of areas;
  - Location of entry;
  - Notices / signage;
  - Specific opening hours;
  - Self-exclusion schemes;
  - Provision of information leaflets / helpline numbers for organisations such as GamCare.
- 9.4 This list is not mandatory, nor exhaustive, and is merely indicative of example measures.
- 9.5 **Gaming machines** - Where the applicant holds a pool betting operating licence and is going to use the entitlement to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.
- 9.6 **Betting machines** - This Licensing Authority will, as per Part 6 of the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when

considering the number/nature/circumstances of betting machines an operator proposes to offer.

## **10.0 Applications and plans**

- 10.1 The Gambling Act (Section 51) requires applicants to submit plans of the premises with their application, in order to ensure that the Licensing Authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the Licensing Authority to plan future premises inspection activity. (See Guidance to Licensing Authorities, para 20.28).
- 10.2 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations. (See Guidance to Licensing Authorities, para 20.29).
- 10.3 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises (See Guidance to Licensing Authorities, para 20.31).
- 10.4 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined. (See Guidance to Licensing Authorities, para 20.32).
- 10.5 This Authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the "five times rule" (commonly known as betting rings) must be indicated on the plan. (See Guidance to Licensing Authorities, para 20.33).

- 10.6 The Council will need to be satisfied there is sufficient evidence that the particular location of the premises would be harmful to the licensing objectives. From 6 April 2016, it is a requirement of the Gambling Commission's Licence Conditions and Codes of Practice (LCCP), under Section 10, for licensees to assess the local risks to the licensing objectives posed by the provisions of gambling facilities at each of their premises, and have policies, procedures and control measure to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in this policy statement. The LCCP say that licensees must review (and update as necessary) their local risk assessments:
- to take account of significant changes in local circumstances, including those identified in this policy statement;
  - when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
  - when applying for a variation of a premises licence; and
  - in any case, undertake a local risk assessment when applying for a new premises licence.

The Council will expect the local risk assessment to consider as a minimum:

- the location of services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- the demographics of the area in relation to vulnerable groups;
- whether the premises is in an area subject to high levels of crime and/or disorder.

Local risk assessments should show how vulnerable people, including people with gambling dependencies are protected.

## **11.0 Travelling Fairs**

- 11.1 This Licensing Authority is responsible for deciding whether, where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 11.2 The Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

11.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This Licensing Authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

## **12.0 Provisional Statements**

12.1 Developers may wish to apply to this Authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.

12.2 Section 204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

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

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

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

12.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises

licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:

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

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

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

### **13.0 Reviews:**

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

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

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

13.3 The Licensing Authority can also initiate a review of a particular

premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

- 13.4 Once a valid application for a review has been received by the licensing authority, representations can be made by Responsible Authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 13.5 The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.
- 13.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are:-
- add, remove or amend a licence condition imposed by the licensing authority;
  - exclude a default condition imposed by the Secretary of State (e.g. opening hours) or remove or amend such an exclusion;
  - suspend the premises licence for a period not exceeding three months; and
  - revoke the premises licence.
- 13.7 In determining what action, if any, should be taken following a review, the licensing authority must have regard to the principles set out in Section 153 of the Act, as well as any relevant representations.
- 13.8 In particular, the Licensing Authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 13.9 Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:
- the licence holder
  - the applicant for review (if any)
  - the Gambling Commission
  - any person who made representations

- the Chief Officer of Police; and
- Her Majesty's Commissioners for Revenue and Customs



## **PART C**

### **Permits/Temporary & Occasional Use Notices**

#### **1.0 Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)**

- 1.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the Licensing Authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a Licensing Authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the Licensing Objectives and shall have regard to any relevant guidance issued by the Commission under Section 25.
- 1.3 The Gambling Commission's Guidance to Licensing Authorities also states: "In their three year Licensing Policy statement, Licensing Authorities may include a statement of principles that they propose to apply when exercising their functions in considering applications for permits, Licensing Authorities will want to give weight to child protection issues." (24.6)
- 1.4 Guidance also states: "...An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed Family Entertainment Centre (FEC) if the Chief Officer of Police has been consulted on the application. Licensing authorities might wish to consider asking applications to demonstrate:
- a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs;
  - that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act; and
  - that staff are trained to have a full understanding of the maximum stakes and prizes. (24.7)
- 1.5 It should be noted that a Licensing Authority cannot attach conditions to this type of permit.

## **2.0 Statement of Principles**

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

## **3.0 (Alcohol) Licensed premises gaming machine permits (Schedule 13 paragraph 4(1))**

### **Automatic entitlement: 2 machines**

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

- an offence under the Gambling Act has been committed on the premises.

### **Permit: 3 or more machines**

- 3.3 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Licensing Authority must consider that application based upon the Licensing Objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and "such matters as they think relevant."
- 3.4 This Licensing Authority considers that "such matters" will be decided on a case by case basis. Generally there will be regard to the need to protect children and vulnerable persons from being harmed or exploited by gambling. The Licensing Authority expects the applicant to satisfy it that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines.
- 3.5 Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also be help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.
- 3.6 The Council will expect applicants to submit a plan showing the precise location of all machines applied for in this section. The plan should be the same version as that currently submitted with the Licensing Act 2003 Premises Licence
- 3.7 If it is not satisfied that appropriate measures have been taken by the applicant to comply with the policy the Licensing Authority will refuse to grant the permit or it may vary the number or category of machines authorised by the permit.
- 3.8 It is recognised that some alcohol licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with as an Adult Gaming Centre premises licence.
- 3.9 It should be noted that the Licensing Authority can decide to grant the application with a smaller number of machines and/or

a different category of machines than that applied for. Conditions (other than these) cannot be attached.

- 3.10 It should also be noted that the holder of a permit must comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machine.

#### **4.0 Prize Gaming Permits**

4.1 The Gambling Act 2005 states that a Licensing Authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.

4.2 This Licensing Authority has prepared a Statement of Principles which is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant should be able to demonstrate:

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

4.3 In making its decision on an application for this permit the Licensing Authority does not need to (but may) have regard to the Licensing Objectives but must have regard to any Gambling Commission guidance. (Gambling Act 2005, Schedule 14 paragraph 8(3)).

4.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the Licensing Authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one

day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;

- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

## **5.0 Club Gaming and Club Machines Permits**

- 5.1 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.
- 5.2 Members Clubs and Miner's welfare institutes – and also Commercial Clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB: Commercial Clubs may not site category B3A gaming machines offering lottery games in their club.
- 5.3 Gambling Commission Guidance states: "Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. The Secretary of State has made regulation and these cover bridge and whist clubs, which replicates the position under the Gambling Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations."
- 5.4 The Commission Guidance also notes that "Licensing Authorities may only refuse an application on the grounds that:
- (a) the applicant does not fulfil the requirements for a members' or commercial club or miners' welfare institute and therefore is not entitled to receive the type of permit for which it has

applied;

(b) the applicant's premises are used wholly or mainly by children and/or young persons;

(c) an offence under the Act or a breach of a permit has been committed by the applicant while providing gaming facilities;

(d) a permit held by the applicant has been cancelled in the previous ten years; or

(e) an objection has been lodged by the Commission or the police.

5.5 There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). As the Gambling Commission's Guidance to Licensing Authorities states: "Under the fast-track procedure there is no opportunity for objections to be made by the Commission or the police, and the ground upon which an authority can refuse a permit are reduced." and "The grounds on which an application under the process may be refused are:

(a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;

(b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or

(c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled."

5.6 There are statutory conditions on club gaming permits that no child uses a category B or C machine on the premises and that the holder complies with any relevant provision of a code of practice about the location and operation of gaming machines.

## **6.0 Temporary Use Notices**

6.1 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice, according to the Gambling Commission,

would include hotels, conference centres and sporting venues.

- 6.2 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.
- 6.3 The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.
- 6.4 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 6.5 In considering whether a place falls within the definition of "a set of premises", the Licensing Authority needs to look at, amongst other things, the ownership/occupation and control of the premises.
- 6.6 This Licensing Authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

## **7.0 Occasional Use Notices:**

- 7.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice.

## **Part D Annexes**

### **Annex 1: Local Responsible Authorities**

#### Gambling Commission

The Gambling Commission  
Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

Phone: 0121 233 1058

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

#### HM Revenue and Customs

##### Crown House

11 Regent Hill Brighton

BN1 3ES Phone:0845 300 0627

#### Child Protection

Head of Children's Safeguards and Quality Assurance  
P.O Box 5  
East Sussex County Council  
County Hall  
Lewes  
BN7 1SW

Phone: 01273 481000

#### Police

Sussex Police  
Licensing Unit  
Police Station  
Terminus Road  
Bexhill on Sea  
East Sussex  
TN39 3NR

Phone: 0845 6070999

#### Fire Authority



Fire Safety Officer  
East Sussex Fire and Rescue Service  
Eastbourne Fire Safety Office  
Whitley Road  
Eastbourne  
BN22 8LA

Phone: 0845 1308855  
Fax: 01323 462026

#### Health and Safety

Health and Safety Team  
Environmental Health  
Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
BN21 4TW

Phone: 01323 410000

#### Environmental Health - Pollution Control

Environmental Health  
Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
BN21 4TW

Phone: 01323 410000

#### Planning

Development Control Manager  
Eastbourne Borough Council  
1 Grove Road  
Eastbourne  
BN21 4TW

Phone: 01323 410000

## **Annex 2: Glossary of Terms**

### **Glossary of Terms**

Adult Gaming Centres	<p>Adult gaming centres (AGCs) are a new category of premises introduced by the Act. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the Council. They will be able to make category B, C and D gaming machines available to their customers.</p> <p>Although the term "adult gaming centre" has been commonly used in relation to some premises with licences under section 34 of the Gaming Act 1968, such as amusement arcades, that is perhaps a misleading description. Arcades licensed by virtue of section 34 are not permitted to have machines that are the equivalent of category B machines, nor is there a statutory ban on children and young persons entering the premises (though most arcades located in city centres choose not to admit under 18s)</p>
Alcohol licensed premises gaming machine permits	<p>The Council can issue such permits for any number of category C or D machines in licensed premises. There is an automatic entitlement for alcohol on licence holders to make available 2 gaming machines of category C or D for use in alcohol licensed premises.</p>
Applications	<p>Applications for licences and permits.</p>
Authorisations	<p>This policy relates to all authorisations, permits, licences etc, which the Council is responsible for under the Gambling Act 2005.</p>
Betting Machines	<p>A machine designed or adapted for the use to bet on future real events (not Gaming Machine).</p>
Bingo	<p>A game of equal chance.</p> <p>Bingo has no statutory definition. It is to have its ordinary and natural meaning. Under the previous legislation, two types of bingo could be offered:</p> <ul style="list-style-type: none"> <li>• Cash bingo, where the stakes paid made up the cash prizes that were won; or</li> <li>• Prize bingo, where various forms of prizes were won, not directly related to the stakes paid.</li> </ul> <p>Traditionally cash bingo was the main type of bingo played in commercial bingo halls (Part II of the Gaming Act 1968). They could also offer prize bingo, largely as interval games (section 21 of the 1968 Act). Under the 2005 Act, the distinction between these two versions of the game is being abolished for commercial operators, and the holder of a bingo operating licence will be able to offer any type of bingo game, whether cash or prize. That means that premises with a bingo premises licence, or a casino premises licence (where the operator holds a bingo as well as a casino operating licence), will be able to offer bingo in all its forms.</p> <p>Apart from commercial bingo halls, prize bingo is traditionally a game played in arcades, especially seaside amusement arcades, or travelling funfairs. For these operators, prize bingo is being</p>

	<p>subsumed within the allowances for prize gaming in the Act. This means that adult gaming centres, both licensed and unlicensed family entertainment centres, and travelling fairs,(or any premises with a prize gaming permit) will be able to offer prize gaming, which includes prize bingo.</p> <p>In this form of gaming , the nature of the prize must not be determined by reference to the number of people playing the game and the nature or the size of the prize must not be determined by reference to the amount paid for or raised by the gaming.</p>
Casino	An arrangement whereby people are given an opportunity to participate in one or more casino games.
Children	Individual who is less than 16 years old.
Club Gaming Machine Permit	Permit to enable the premises to provide gaming machines (3 machines of Category B, C or D).
Club Gaming Permits and Club Machine Permits	Club gaming permits allow members' clubs and miners' welfare institutes (but not a commercial club) to provide gaming machines and games of chance. These clubs and commercial clubs may apply for a club machine permit which allows the holder to have up to 3 gaming machines of Category B, C or D.
Code of Practice	Means any relevant current code of practice under section 24 of the Gambling Act 2005.
Default Conditions	Conditions that will apply unless the Council decide to exclude them. This may apply to all Premises Licenses, to a class of Premises Licence or Licenses for specified circumstances.
Disorder	Disorder is intended to mean activity that is more serious and disruptive than mere nuisance.
FECs	Family entertainment centres.
Gaming	Prize gaming if the nature and size of the prize is not determined by the number of people playing the amount paid for or raised by the gaming. The prizes will be determined by the operator before the play commences.
Gaming Change Gaming	Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants.
Occasional Use Notices	Where there is betting on a track on up to eight days in a calendar year, betting may be permitted by an occasional use notice without the need for a premises licence. A track includes a horse race course, dock track and temporary tracks for races or sporting events.
Operating Licence	Authorised individuals or companies to provide facilities for certain types of remote or non remote gambling. These licenses are issued by the Gambling Commission and generally cover the principal commercial forms of gambling operating. A single licence cannot authorise both remote and non remote activities; separate operating licenses are needed for this. Conditions may be attached.

Personal Licence	Except for small scale operations, for each operating licence, at least one person who holds a specified management office must hold a personal licence. These licences are issued by the Gaming Commission with the aim of ensuring that individuals who control facilities for gambling or are able to influence the outcome of gambling are suitable to carry out those functions. These licences are not transferable and cannot be held by companies but companies are likely to want their key staff to hold a personal licence.
Premises	Premises is defined in the Act as "any place". Different premises licence cannot apply in respect of a single premises at different times. However, it is possible for a single building to be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being separate premises will always be a question, of fact in the circumstances. However, the Council does not consider that areas of a building that are artificially or temporarily separate can be properly regarded as different premises.
Premise Licence	Authorises the provision of facilities for gambling on premises for casinos, bingo, betting including tracks, adult gaming centres and family entertainment centres. The premises licence may also include details of conditions. These licences will be valid for the life of the premises, subject to any review that may be triggered and lapse in certain circumstances, with no annual renewal required, although there is an annual fee. These licenses are transferable to someone else holding a valid operating licence.
Prize Gaming Permits	This permit allows the provision of facilities for gaming and prizes on specified premises. "Prize gaming" refers to gaming where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming.
Temporary Use Permits	These licences authorise the person or company holding a relevant operating licence to use the premises temporarily for providing facilities for gambling where there is no premises licence. Such premises may include hotels, conference centres and sporting venues.
Unlicensed Family Entertainment Centre Gaming Machine Permits	These allow the use of Category D gaming machines in these premises to a person who occupies or plans to occupy the premises to be used as an unlicensed family entertainment centre. An application for this permit cannot be made where a premises licence is in effect on the same premises.
Vulnerable Persons	The Act does not seek to prohibit particular groups of adults from gambling in the same way that it prohibits children. The Commission will not seek to define "vulnerable persons", but it will for regulatory purposes assume 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 due to mental health needs, learning disability or substance misuse relating to alcohol or drugs.
Young Person	Persons who are 16 to 18 years old

### **Annex 3: Categories of Gaming Machine**

<b>Machine category</b>	<b>Maximum stake (from January 2014)</b>	<b>Maximum prize (from January 2014)</b>	<b>Allowed premises</b>
<b>A</b>	Unlimited	Unlimited	Regional Casino
<b>B1</b>	£5	£10,000 (with the option of a maximum £20,000 linked progressive jackpot on a premises basis only)	Large Casino, Small Casino, Pre-2005 Act casino and Regional Casinos
<b>B2</b>	£2	£500	Betting premises and tracks occupied by pool betting and all of the above
<b>B3</b>	£2	£500	Bingo premises, Adult gaming centre and all of the above
<b>B3A</b>	£2	£500	Members' club or Miners' welfare institute only
<b>B4</b>	£2	£400	Members' club or Miners' welfare club, commercial club and all of the above.
<b>C</b>	£1	£100	Family entertainment centre (with Commission operating licence), Qualifying alcohol licensed premises (without additional gaming machine permit), Qualifying alcohol licensed premises (with additional LA gaming machine permit) and all of the above.
<b>D money prize</b>	10p	£5	Travelling fairs, unlicensed (permit) Family entertainment centre and all of the above
<b>D non-money prize (other than crane grab machine)</b>	£1	£50	All of the above.

<b>D non-money prize (crane grab machine)</b>	£1	£50	All of the above.
<b>D combined money and non-money prize (other than coin pusher or penny falls machines)</b>	10p	£8 (of which no more than £5 may be a money prize)	All of the above.
<b>D combined money and non-money prize (coin pusher or penny falls machine)</b>	20p	£20 (of which no more than £10 may be a money prize)	All of the above.

## **Annex 4: Table of Exemptions**

**Table of Exemptions**

<b>Exemptions from</b>	<b>Types of Gambling Permissions</b>
Operating Licence	<ul style="list-style-type: none"> <li>• Small society lotteries</li> <li>• Incidental non commercial lottery</li> <li>• Private lottery</li> <li>• Customer lottery</li> </ul>
Premises Licence	<ul style="list-style-type: none"> <li>• Occasional use notice</li> <li>• Football pools</li> <li>• Temporary use notice</li> </ul>
Operating Licence and Premises Licence	<ul style="list-style-type: none"> <li>• Family entertainment centre gaming machine permit</li> <li>• Club/miners' welfare institute: equal chance gaming</li> <li>• Club gaming permit</li> <li>• Club machine permit</li> <li>• Equal chance gaming, on licensed premises</li> <li>• Gaming machines: automatic entitlement, on licensed premises</li> <li>• Licensed premises gaming machine permit</li> <li>• Travelling fair gaming machine</li> <li>• Prize gaming permit</li> <li>• Other prize gaming</li> <li>• Ancillary equal chance gaming at travelling fairs</li> <li>• Private gaming and betting</li> <li>• Non commercial prize gaming</li> <li>• Non commercial equal chance gaming</li> </ul>

## **Annex 5: Table of Delegations of Licensing Functions**

**Table of Delegations of Licensing Functions**

<b>Matter to be Dealt with</b>	<b>Full Council</b>	<b>Sub-Committee</b>	<b>Officers</b>
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee setting – where appropriate			Strategic Manager – Public Protection
Application for premises licence		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 representations have been received from the Commission
Application for a provisional statement		Where representations have been received and not withdrawn	Where representations have been received and not withdrawn
Review of a premises licence		X	
Application for club gaming/club machine permits		Where representations have been received and not withdrawn	Where representations have been received and not withdrawn
Cancellation of club gaming/club machine permits			X
Applications for other permits			X
Cancellation of licensed premises gaming machine permits			X
Consider for temporary use notice			X
Decision to give a counter notice to a temporary use notice			