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|---------------|---|
| Meeting       | Licensing & Regulation Committee          |
| Date and Time | Wednesday, 8th December, 2021 at 6.30 pm. |
| Venue         | Walton Suite, Guildhall, Winchester       |

**Note:** *This meeting is being held in person at the location specified above. In line with relevant legislation and public health guidance the following arrangements apply. Members of the public should note that a live audio feed of the meeting will be available from the councils website ([www.winchester.gov.uk](http://www.winchester.gov.uk)) and the video recording will be publicly available on the council's YouTube channel shortly after the meeting.*

*For members of the public and "visiting councillors" who are unable to utilise this facility a limited number of seats will be made available at the above named location however attendance must be notified to the council at least 3 clear working days before the meeting. Please note that priority will be given to those wishing to attend and address the meeting over those wishing to attend and observe.*

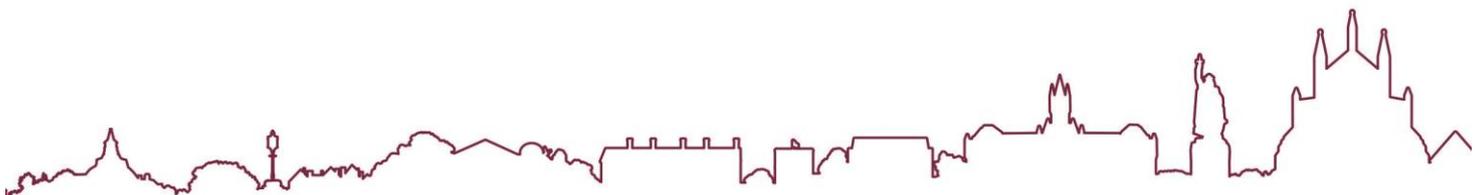
## AGENDA

### PROCEDURAL ITEMS

- 1. Apologies and Deputy Members**  
To record the names of apologies given and Deputy Members who are attending the meeting.
- 2. Disclosures of Interests**  
To receive any disclosure of interests from Members and Officers in matters to be discussed.

*Note: Councillors are reminded of their obligations to declare disclosable pecuniary interests, personal and/or prejudicial interests in accordance with legislation and the Council's Code of Conduct.*

If you require advice, please contact the appropriate Democratic Services Officer, prior to the meeting.



3. **Appointment of vice-chairperson for the 2021/22 municipal year**
4. **Minutes of the previous meeting held 23 February 2021 (Pages 5 - 6)**

## **BUSINESS ITEMS**

5. **Public Participation**

To receive and note questions asked and statements made from members of the public on issues relating to the responsibility of this Committee.

Members of the public and visiting councillors may speak at this Committee, provided they have registered to speak three working days in advance. Please contact Democratic Services **by 5pm on Thursday 2 December 2021** via [democracy@winchester.gov.uk](mailto:democracy@winchester.gov.uk) or (01962) 848 264 to register to speak and for further details.

6. **Review of statement of principles under the Gambling Act 2005 (LR549) (Pages 7 - 88)**
7. **Review of Pavement Licensing Policy (LR550) (Pages 89 - 108)**
8. **Proposed forthcoming changes to taxi policy - verbal update**

**Lisa Kirkman**  
**Strategic Director and Monitoring Officer**

All of the Council's publicly available agendas, reports and minutes are available to view and download from the Council's [Website](#) and are also open to inspection at the offices of the council. As part of our drive to minimise our use of paper we do not provide paper copies of the full agenda pack at meetings. We do however, provide a number of copies of the agenda front sheet at the meeting which contains the QR Code opposite. Scanning this code enables members of the public to easily access all of the meeting papers on their own electronic device. Please hold your device's camera or QR code App over the QR Code so that it's clearly visible within your screen and you will be redirected to the agenda pack.



30 November 2021

Agenda Contact: Nancy Graham, Senior Democratic Services Officer  
Tel: 01962 848 235 Email: [ngraham@winchester.gov.uk](mailto:ngraham@winchester.gov.uk)

*\*With the exception of exempt items, Agenda, reports and previous minutes are available on the Council's Website [www.winchester.gov.uk](http://www.winchester.gov.uk)*

## **MEMBERSHIP:**

Councillors

**Chairperson:** Bentote (Liberal Democrats)

**Vice Chairperson:**

### **Conservatives**

Cunningham

Kurn

McLean

Read

### **Liberal Democrats**

Green

Laming

Westwood

Williams

### **Deputy Members**

Pearson and Ruffell

Cramoysan and Fern

Quorum = 4 members

## **PUBLIC PARTICIPATION**

Representations will be limited to a maximum of 3 minutes, subject to a maximum 15 minutes set aside for all questions and answers. To reserve your place to speak, you are asked to **register with Democratic Services three clear working days prior to the meeting** – please see public participation agenda item for further details.

People will be invited to speak in the order that they have registered, subject to the maximum time period allowed for speaking not being exceeded. Public Participation is at the Chairperson's discretion.

## **FILMING AND BROADCAST NOTIFICATION**

This meeting will be recorded and broadcast live on the Council's website. The meeting may also be recorded and broadcast by the press and members of the public – please see the Access to Information Procedure Rules within the Council's Constitution for further information, which is available to view on the [Council's website](#).

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## LICENSING & REGULATION COMMITTEE

Tuesday, 23 February 2021

Attendance:

Councillors

Bentote (Chairperson)

Green  
Achwal  
Gordon-Smith  
Laming  
Mather

McLean  
Power  
Read  
Ruffell  
Williams

Others in attendance who did not address the meeting:

Councillor Pearson

[Full audio recording](#)

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1. **DISCLOSURES OF INTERESTS**

There were no disclosures of interest made.

2. **MINUTES**

RESOLVED:

That the minutes of the previous meeting held 15 December 2020 were agreed as a correct record.

3. **PUBLIC PARTICIPATION**

There were no statements made or questions asked.

4. **MID REVIEW UPDATE TO POLLING PLACES**  
(LR537)

The Governance Manager introduced the report which set out a mid-review update to polling places which was required due to changes in availability of polling places. She responded to questions from Members regarding the changes outlined together with the proposed measures to respond to the ongoing Covid pandemic.

RESOLVED:

1. That the following permanent changes to polling places are agreed:
  - a) Denmead ward: WR1: relocate to Church Hall, All Saints Church, Hambledon Road
  - b) Southwick and Wickham ward: YF2: relocate to Solent Nurseries, Fontley Road
  - c) Southwick and Wickham ward: XW3: new polling place Newlands Community Hall
  - d) Upper Meon Valley ward: WJ: relocate to Cemetery Lodge, Magdalen Hill
  - e) St Barnabas ward: XF: relocate to Wesley Methodist Church, Fromond Road
  - f) St Bartholomew ward: Y1 and Y11: relocate to Winchester Rugby and Football Club
  - g) St Bartholomew ward: YJ, YJ1, YK: relocate to The Winchester Hotel, Worthy Lane
  - h) St Bartholomew ward: YM: relocate to Winnall Community Centre, Garbett Road
  - i) St Michael ward: YS: relocate to St Lawrence Parish Room, Colebrook Street
  - j) St Paul ward: YW2: relocate to University of Winchester, Business School
  
2. That the list of polling places for the Winchester district as set out in Appendix C to the report are noted which includes a number of temporary changes for 2021 due to unavailability of accommodation due to the pandemic.
  
3. That it is noted that the Acting Returning Officer will make temporary arrangements to provide polling places for the 2021 polls due to changes in polling place availability due to the COVID19 pandemic.

The meeting commenced at 6.00 pm and concluded at 6.25 pm

Chairperson

REPORT TITLE: REVIEW OF STATEMENT OF PRINCIPLES UNDER THE  
GAMBLING ACT 2005

8 DECEMBER 2021

REPORT OF CABINET MEMBER: Cllr Lynda Murphy

Contact Officer: Briony Appletree Tel No: 01962 848 188  
Email [bappletree@winchester.gov.uk](mailto:bappletree@winchester.gov.uk)

WARD(S): ALL

PURPOSE

The City Council as the Licensing Authority is required to review and publish its Statement of Principles under the Gambling Act 2005 every three years. The next review is due for adoption in January 2022.

This report seeks to make amendments to the Statement of Principles as detailed in the report.

RECOMMENDATIONS:

That the Licensing and Regulation Committee:

1. Note and consider consultation responses received, and agree changes made to the draft Statement of Principles.
2. Recommend the draft Statement of Principles as set out at Appendix 1, including amendments, be adopted at the next available Council meeting.

## IMPLICATIONS:

### 1 COUNCIL PLAN OUTCOME

#### 1.1 Vibrant Local Economy

1.2 The Statement of Principles relates to the strategic outcome 'vibrant local economy' by working with industry bodies and the Gambling Commission to permit gambling activities to take place legally and safely in the hospitality and leisure sectors.

#### 1.3 Living Well

1.4 The Statement of Principles relates to the strategic outcome 'living well' by working closely with other regulatory bodies to ensure that gambling in the district is conducted in a fair and open way, and with regard to children and vulnerable persons.

#### 1.5 Your Services, Your Voice

1.6 The Statement of Principles relates to the strategic outcome 'your services, your voice' by publishing the terms under which gambling applications will be considered and enforcement undertaken to ensure transparency.

### 2 FINANCIAL IMPLICATIONS

2.1 None.

### 3 LEGAL AND PROCUREMENT IMPLICATIONS

3.1 The Gambling Act 2005 requires every licensing authority to publish a statement of principles that it proposes to apply in exercising its functions under the Act every three years. This policy covers the period 2022 to 2025. Whilst this policy sets out a general approach to making licensing decisions each application will be considered on its own individual merits. In producing this document the council has had regard to the licensing objectives, the guidance issued by the Gambling Commission and any responses from those consulted on this policy statement.

3.2 When exercising most of its functions under the Gambling Act 2005, the licensing authority will have regard to the licensing objectives set out in section 1 of the Act:

- 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.

3.3 The Statement of Principles must be reviewed every three years as required by the Gambling Act 2005.

3.4 There are no procurement implications as a result of this report.

#### 4 WORKFORCE IMPLICATIONS

4.1 None.

#### 5 PROPERTY AND ASSET IMPLICATIONS

5.1 None.

#### 6 CONSULTATION AND COMMUNICATION

6.1 The proposed changes to the Statement of Principles have undergone a 4-week public consultation process, ending on 21 October 2021. The full list of those consulted is included in the draft Statement of Principles at Appendix 1 to this report.

6.2 No concerns have been raised or adverse comments received in relation to the proposals.

#### 7 ENVIRONMENTAL CONSIDERATIONS

7.1 None.

#### 8 EQUALITY IMPACT ASSESSEMENT

8.1 See Appendix 3.

#### 9 DATA PROTECTION IMPACT ASSESSMENT

9.1 See Appendix 4.

10. RISK MANAGEMENT

| <b>Risk</b>            | <b>Mitigation</b>  | <b>Opportunities</b>   |
|------------------------|--|--|
| Financial Exposure     | N/A  |  |
| Exposure to challenge  | The Statement of Principles could be challenged by Judicial Review, but as the Council's decision-making process is lawful a challenge is considered unlikely.   | There is an opportunity through the public consultation to raise awareness of the Gambling Act and associated regulations  |
| Innovation             | N/A  |  |
| Reputation             | The Statement of Principles sets out the expectations of applicants and licence holders to balance the ability to provide facilities for gambling, which is held in a fair and open way, whilst ensuring that there is suitable protection for children and vulnerable people.   |  |
| Achievement of outcome | The council is required to review and publish its Statement of Principles under the Gambling Act 2005 every 3 years. To ensure WCC complies with this and meets the next review date of January 2022 a draft Statement of Principles has been prepared for the Licensing and Regulation Committee to recommended for adoption at the next available Council meeting. | Opportunity to review the statement to ensure it is fit for purpose and also an opportunity once the reviewed Statement of Principles is published to raise awareness of the Gambling Act and associated regulations |
| Property               | N/A  |  |
| Community Support      | All elected Members, Parish Clerks and recognised residential associations have been consulted.  |  |
| Timescales             | The current Statement of Principles will remain live until the reviewed version has been adopted.  |  |
| Project capacity       | N/A  |  |
| Other                  | N/A  |  |

## 11 SUPPORTING INFORMATION:

### Introduction

- 11.1 The Licensing Authority is required under section 249 of the Gambling Act 200 to prepare and publish a “Statement of Principles” every three years.
- 11.2 The current Statement of Principles was adopted by the Council on 28 February 2019, for the period of 31 January 2019 until 31 January 2022.
- 11.3 The Act contains three licensing objectives that underpin the functions that the Gambling Commission and Licensing Authorities perform and which are central to the regulatory regime. They are:
- preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime;
  - ensuring that gambling is conducted in a fair and open way; and
  - protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 11.4 [The Gambling Commission’s Guidance to Licensing Authorities](#) was last updated in May 2021, and therefore this review presents an opportunity to ensure that the Statement is consistent with the most current guidance from gambling’s main regulatory body.

### Changes proposed

- 11.5 The draft Statement of Principles at Appendix 1 details the proposed changes that are shown tracked.
- 11.6 The vast majority of proposed changes reflect updates to the Gambling Commission’s Guidance to Licensing Authorities:
- i. Page 3: Update the tourism statistics to reflect data from the Council’s last Economic Impact study.
  - ii. Page 3: Update the number of gambling premises and small society lotteries to reflect the number of current licences.
  - iii. Pages 3-4 and 8: Update the list of consultees who represent the interests of persons carrying on gambling businesses, and those who represent the interests of persons who are likely to be affected by the exercise of the Council’s functions under the Act.
  - iv. Page 7: Included reference to vulnerable persons, for clarity.
  - v. Pages 7-8: Added reference to the Gambling Commission’s National Strategy to Reduce Gambling Harms and the requirement for the Council to review this resource regularly.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- vi. Page 8: Added reference to the Gambling Commission's social responsibility codes, which require operators to assess local risks and have control measures in place to mitigate risk.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- vii. Page 9: Removal of information that is relevant to consulting on any review of the Statement of Principles.

**Reason:** This information should be made public at the time of consultation and is not relevant throughout the duration of the Statement of Principles' validity.

- viii. Page 9: Addition of the word '*permissions*', to cover those licensing functions not covered by 'licence' or 'permit' i.e. Temporary Use Notices.
  - ix. Pages 11, 47: Updated job titles for City Council representatives, following restructure.
  - x. Page 13: Added '*district and/or county*' to clarify that democratically elected members from either type of authority may be 'interested parties.'
  - xi. Page 13: Added '*in relation to an application*' to clarify that representations received must be relevant to the application being made.
  - xii. Page 13: Removal of references to 'complainant', in line with Gambling Commission's updated guidance.
  - xiii. Page 14: Addition of General Data Protection Regulation (GDPR) legislation, in relation to exchange of information.
  - xiv. Page 15: Addition of '*requested by and submitted to the Gambling Commission*', to add clarity regarding annual returns.
  - xv. Page 16: Added reference to Gambling Commission's guidance and resources in relation to compliance checks.
- Reason:** To ensure that any compliance checks undertaken are consistent with those of other licensing authorities across the country.
- xvi. Page 16: Removal of point 8.3 – this is already covered on page 15, section 7.4.
  - xvii. Page 17: Added reference to Local Authority Compliance Events (LACE) and how the Council will respond to non-compliance.

**Reason:** Engagement with LACE, and regard to the Gambling Commission's advice on how to deal with any suspected non-compliance identified following LACE, is recommended in the Gambling Commission's updated guidance to licensing authorities.

- xviii. Page 20: Clarification that the Licensing Department will provide information about gambling applications / premises on request to the Planning Committee and any other appropriate review panels.

**Reason:** The previous Statement placed the burden on the Licensing Authority to identify where other committees / panels may require information regarding gambling applications / premises. Information will be now be supplied on request to ease the administrative burden on the Licensing Department.

- xix. Page 21: Clarification of the types of regulatory regimes that the Statement of Principles seeks to avoid duplicating.

- xx. Pages 22, 26, 27: Addition of the requirement for the Licensing Authority to refer to the Gambling Commission's website for the most up-to-date mandatory or default conditions for licences.

**Reason:** Mandatory and default conditions may be subject to change, and so reference to having regard to the Gambling Commission's guidance ensures that the Licensing Authority is referring to the most current information.

- xxi. Pages 23 – 24: Updated list of types of premises that may be considered 'tracks' under the Gambling Act 2005, including reference to multi-purpose venues.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxii. Page 25: Amended section on track rules being displayed, to include taking a proportionate approach to the display of rules in circumstances where there are multiple locations of betting under one licence. Removed sentences where the Gambling Commission's guidance is directly quoted, as this is frequently reviewed.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxiii. Page 25: Amended section on requirements for plans submitted with applications to mirror Gambling Commission's guidance. Removed sentences where the Gambling Commission's guidance is directly quoted, as this is frequently reviewed.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxiv. Pages 26-27: Addition of reasonable steps that the Council should take to ensure that, where category C or above gaming machines are available on premises to which children are admitted, children are denied access to such machines.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxv. Page 26: Addition of requirement for Licensing Authority to have regard to the Secretary of State's guidance on running competitions for competitive bidding on casino premises.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxvi. Page 29: Clarification that Unlicensed Family Entertainment Centre gaming machine permits will not generally be permissible for entire premises; machines should be in a designated and/or enclosed area.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxvii. Page 30: Clarification that signage relating to preventing access to gaming machines by young people is actively encouraged.

**Reason:** Previous Statement advised that signage 'may also help.' Amended to confirm that the Licensing Authority actively encourages the use of signage by operators to prevent access to gaming machines by young people.

- xxviii. Page 31: Addition of list of circumstances where they may be an exemption to the requirement to obtain a prize gaming permit, and requirement for the Licensing Authority to refer to relevant legislation and guidance in deciding where a circumstance is exempt.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxix. Page 31: Addition of the requirement for the Licensing Authority to consult the Chief Officer of Police and, where appropriate, the local Safeguarding Children Board or equivalent, on applications for permits.

**Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.

- xxx. Page 32: Amended wording to reflect the correct names of the permits available: 'Club Machine Permits' and 'Club Gaming Permits'.

- xxxi. Page 32: Clarification that members' clubs do not need to be licensed for the supply of alcohol under the Licensing Act 2003 in order to be eligible for a club gaming or club machine permit.
- xxxii. Page 33: Addition of circumstances in which a commercial club can apply for a permit, and requirement for the Licensing Authority to refer to the Gambling Commission's guidance in determining a club's status.
- Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.
- xxxiii. Page 33: Addition of reference to regulations that define the statutory limits for Temporary Use Notices, for clarity.
- xxxiv. Page 33: Addition of requirement for Licensing Authority to refer to the Gambling Commission's guidance in determining what constitutes a 'set of premises' in relation to Temporary Use Notices.
- Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.
- xxxv. Page 33: Addition of requirement for Licensing Authority to refer to the Gambling Commission's guidance in determining the definition of a 'track' in relation to Occasional Use Notices.
- Reason:** This change is in line with the Gambling Commission's updated guidance to licensing authorities.
- xxxvi. Page 35: Clarification in relation to the type of hearing that would be held to determine applications.
- xxxvii. Pages 35 – 36: Addition of section relating to small society lotteries and how the Licensing Authority administrates this type of application, publishes guidance notes and refers to the Gambling Commission's guidance where necessary.
- Reason:** Small society lotteries are the Council's most common application received under the Gambling Act 2005; the previous Statement made no reference to how these applications were administrated. This section is based on the Gambling Commission's updated guidance to licensing authorities.
- xxxviii. Page 39: Removal of the term 'child' from the glossary, as the Gambling Act 2005 does not consistently use this term for either those under the age of 16 years of age or under the age of 18 years of age. The definition changes throughout the Act dependent on the type of gambling activity referred to.

- xxxix. Page 39: Removal of the term 'judicial review orders' from the glossary, as a judicial review can secure a declaration, order or award. Information is readily available on GOV.UK in relation to judicial reviews.
- xl. Page 49: Amendment to the definition of 'young person' to mirror that in the Gambling Commission's updated guidance to licensing authorities.
- xli. Appendix 3: Amended to reflect the Council's current application procedure for small society lotteries, and to reflect the Gambling Commission's updated guidance to licensing authorities.
- xlii. Replacing the term 'self-barring' with 'self-exclusion' throughout the Statement, to ensure consistency with the Gambling Commission's preferred terminology.
- xliii. Replacing his/her and /him/her with gender neutral language throughout.
- xliv. General amendments to grammar to match the Council's corporate communication style.

### Consultation

- 11.7 Before proposed adoption of the Statement of Principles, the Council has consulted:
- The Chief Constable of Hampshire Constabulary
  - One or more persons who appear to the Council to represent the interests of persons carrying on gambling businesses in the district, e.g. the Association of British Bookmakers.
  - One or more persons who appear to the Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act, e.g. all Ward Members.
- 11.8 The consultation period ran from 21 September 2021 to 21 October 2021. The draft Statement was available throughout the consultation period on the Council's website.
- 11.9 Three responses were received during the consultation period. All comments received can be seen at Appendix 2.
- 11.10 It is recommended that the final version of the Statement of Principles, following any amendments made at the Licensing and Regulation Committee meeting on 8 December 2021 to consider comments received, be submitted to full Council for adoption at the next available meeting.

12 OTHER OPTIONS CONSIDERED AND REJECTED

12.1 Not applicable.

BACKGROUND DOCUMENTS:-

Previous Committee Reports:-

LR 515      Review of Statement of Principles under the Gambling Act 2005  
(6 December 2018)

Other Background Documents:-

[Gambling Commission – Guidance to licensing authorities \(1 April 2021\)  
Last updated 13 May 2021](#)

APPENDICES:

Appendix 1   Draft Statement of Principles

Appendix 2   Comments received during consultation period

Appendix 3   Equality Impact Assessment

Appendix 4   Data Protection Impact Assessment

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## STATEMENT OF PRINCIPLES

### GAMBLING ACT 2005

David Ingram  
Service Lead for Public Protection  
Winchester City Council

September 2021

This Statement of Principles will remain  
in force from 31<sup>st</sup> ~~January~~ February 2022 until 31<sup>st</sup> January 2025

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## Introduction

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**Exchange of Information**  
**Compliance and Enforcement**

**Part B**      **Types of licence**

**Part C**      **Types of permit**

**Part D**      **Reviews and Appeals**

## Appendices:-

**Appendix 1**    **Scheme of Delegation**

**Appendix 2**    **Glossary**

**[Appendix 3](#)**    **[Guidance notes on the registration of a Small Society Lottery](#)**

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## WINCHESTER CITY COUNCIL

GAMBLING ACT 2005

SECTION 349

Statement of Principles

The contents of this document are provided as information on the policy and principles of Winchester City Council in carrying out its functions in relation to the regulation of gambling. The document is not a full and authoritative statement of the law or statutory guidance and does not constitute professional or legal advice.

The Statement of Principles as determined by Winchester City Council in respect of its licensing functions in relation to the Gambling Act 2005 for the three year period commencing ~~31<sup>st</sup> January February 2022~~<sup>19</sup> is set out in this document.

During the three year period, the document will be kept under regular review and, following a full consultation process, the Council will make such revisions to it, at such times, as it considers appropriate. Further statements of principles will be published every three years thereafter.

### Publication

This statement or any subsequent revision of the statement will be published on the Winchester City Council website ([www.winchester.gov.uk](http://www.winchester.gov.uk)). –The statement or any subsequent revision of the statement is also available for inspection at the following location:

Winchester City Council, ~~City~~ –Offices, ~~at~~ Colebrook Street, Winchester, Hampshire ~~SO23 9LJ, etc.~~

## Declaration

In publishing this document, Winchester City Council has had regard to the licensing objectives of the Gambling Act 2005 (the Act), the guidance issued by the Gambling Commission and any responses from those consulted on the policy statement.

The Act introduced a new regulator for commercial gambling, the Gambling Commission (~~the Gambling Commission~~),<sup>37</sup> which replaced the Gaming Board of Great Britain. Operators licences and personal licences are issued and regulated by the Gambling Commission whilst local authorities (such as Winchester City Council) are responsible for the issue and regulation of premises licences, and other permits.

The Act places responsibilities on licensing authorities in ways similar to the Licensing Act 2003. There are some interdependencies between the Licensing Act 2003 and the Gambling Act 2005 in terms of the framework for decision making and the procedures that must be followed. However Winchester City Council will take care to ensure that in dealing with applications under the Gambling Act it follows the procedures that the Gambling Act 2005 requires and only takes into account issues that are relevant to that Act. Care will be taken not to confuse Gambling Act considerations with those relevant to alcohol licensing or planning.

When using this document, reference should also be made to the Gambling Act 2005, any associated regulations and any guidance and advice issued by the Gambling Commission or the Department ~~for Digital, of~~ Culture, Media and Sport and information contained on the Winchester City Council web site ([www.winchester.gov.uk](http://www.winchester.gov.uk))

## Introduction

The Winchester area is situated in the central part of the County of Hampshire. It covers an area of approximately 250 square miles, and is largely countryside, with urban areas being Winchester itself (the largest urban area in the District), with smaller towns such as New Alresford, Bishop's Waltham, and Wickham and many villages.

Tourism is a major part of the local economy and every year approximately 5.054.25 million visits are made to the area, particularly to Winchester City Centre. This represents a spend of £339 million in the local economy which supports over 5352 jobs.

The Winchester area faces many challenges if its special character is not to be eroded by the modern day pressures of people, housing, industry and traffic. It has a number of premises conducting gambling activities as follows:

- 6 betting premises
- Approximately 42082 premises and members' clubs licensed under the Licensing Act 2003
- 4 adult gaming centres
- 8891 small society lotteries

At the time of publication, there are no bingo halls, tracks or casinos within the Winchester City Council area.

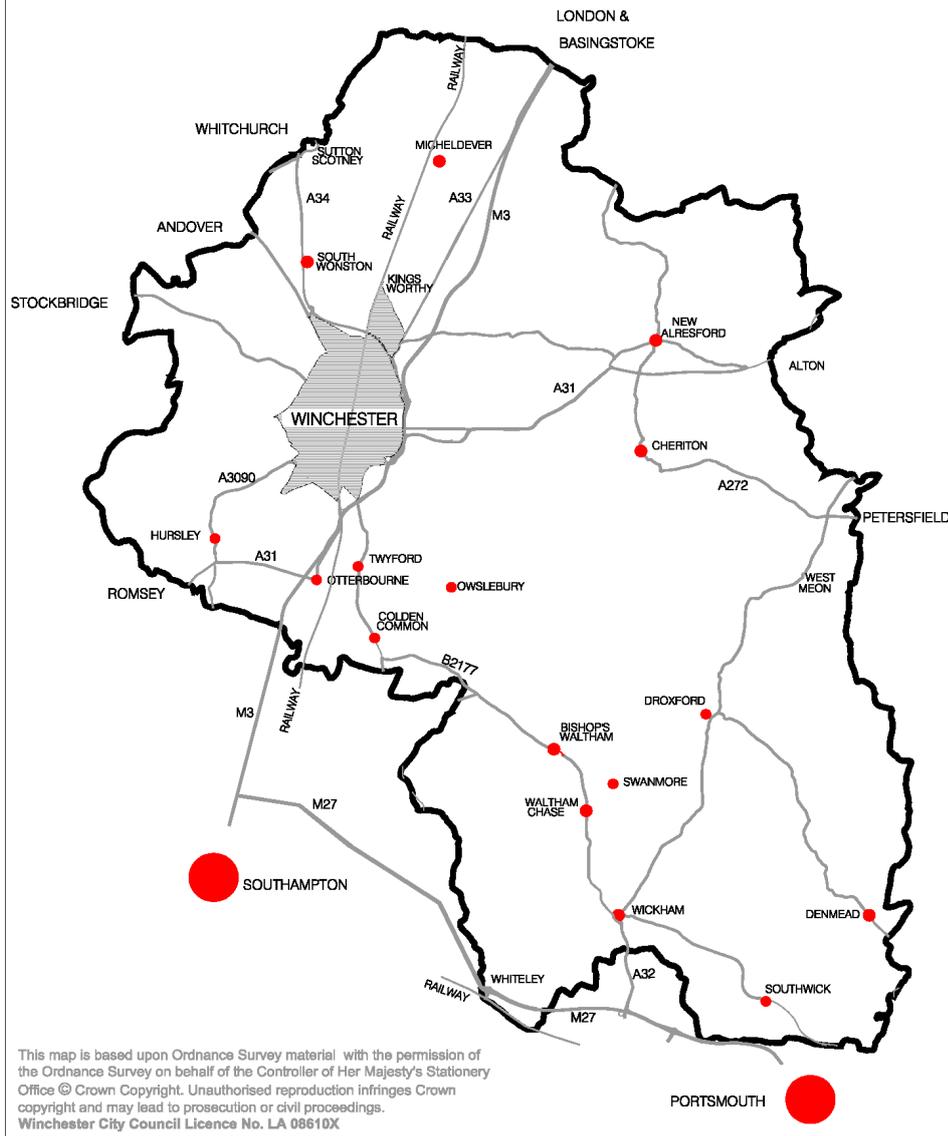
The Council recognises that legal gambling in a fair and open way, with suitable protection for vulnerable persons, is an important part of the District and contributes to the local economy and attention is drawn to the section 'Fundamental Principles' regarding demand, objections and locations for any application for gambling premises.

Winchester City Council has consulted the following on this Statement:

- The 'Responsible Authorities', namely the Chief Constable of Hampshire Constabulary; the Gambling Commission; Hampshire Fire and Rescue Service; Winchester City Council's ~~Head of Development Management~~ Service Lead for Built Environment and ~~Head of Environmental Health & Licensing~~ Service Lead for Public Protection, Hampshire County Council Safeguarding Unit, and H M Revenue and Customs;
- One or more persons who appeared to the City Council to represent the interests of persons carrying on gambling businesses in the Winchester area, namely the Association of British Bookmakers Ltd; BACTA; Regal Gaming and Leisure; Winchester Automatics Limited; Winchester BID; Winchester City Council's Service Lead for Economy and Tourism; and various breweries who hold Premises Licences within the District.

- One or more persons who appeared to the [City Council](#) to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act, namely all Ward Members;<sup>7</sup> Parish Councils;<sup>7</sup> Gamblers' Anonymous;<sup>7</sup> Gam Care;<sup>7</sup> National Problem Gambling Clinic;<sup>7</sup> [National Centre for Gaming Disorders](#); [The Gordon Moody Association](#); Winchester and Bishop's Waltham Citizens' Advice Bureau<sup>x</sup> offices; [Winchester City Council's Neighbourhood Services Team](#); <sup>7</sup> the Hampshire Hospitals NHS Foundation Trust;<sup>7</sup> and known residents' associations.

# General Location Map of Winchester City Council District



## **PART A**

### **1. Winchester City Council Functions**

1.1 As Licensing Authority for the purposes of the Gambling Act 2005, Winchester City Council will:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences ;
- Issue *Provisional Statements* ;
- Regulate *members' clubs* who wish to undertake certain gaming activities via issuing *Club Gaming Permits* and/or *Club Gaming Machine Permits* ;
- Issue *Club Gaming Machine Permits* to *Commercial Clubs* ;
- Grant permits for the use of certain lower stake gaming machines at ~~U~~*Unlicensed Family Entertainment Centres* ;
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) ~~for~~ the use of two or fewer gaming machines ;
- Grant *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where more than two machines are required ;
- Register *small society lotteries* below prescribed thresholds ;
- Issue *Prize Gaming Permits* ;
- Receive and ~~E~~endorse *Temporary Use Notices* ;
- Receive *Occasional Use Notices* ;
- Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange) ;
- Maintain registers of the permits and licences that are issued under these functions.

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1.2 "Remote gambling" (gambling by means such as the internet, or telephone) will be regulated by the Gambling Commission via Operator Licences, and not the ~~City~~Council.

*Note – terms in italics are defined terms in the Gambling Act 2005. The Glossary in Appendix 1 sets out these and other terms in the Act.*

### **2. Licensing Objectives**

2.1 In exercising most of the functions under the Gambling Act 2005, Winchester City Council must have regard to the licensing objectives contained in the ~~act~~ Act. In particular, it must have regard to the licensing objectives when exercising its functions in relation to premises licences, temporary use notices and some permits. The licensing objectives are:

- preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime;
- ensuring that gambling is conducted in a fair and open way; and

- protecting children and other vulnerable persons from being harmed or exploited by gambling.

2.2 In accordance with Section 153 of the Act, the ~~City~~ Council will aim to permit the use of premises for gambling in so far as the Council thinks is-

(a) in accordance with any relevant code of practice issued by the Gambling Commission;

(b) in accordance with any relevant guidance issued by the Gambling Commission;

(c) reasonably consistent with the pursuit of the licensing objectives;

(d) in accordance with this Statement of Principles.

**It should be noted that in considering gambling applications, these objectives are not the same as those in the Licensing Act 2003. In particular, they do not include considerations in relation to public safety or prevention of public nuisance.**

2.3 The Gambling Commission will play a leading role in preventing gambling from being a source of crime. Winchester City Council will ~~to~~ consider the location of premises in the context of preventing gambling from being a source of crime or disorder. In this context, disorder means activity that is more serious and disruptive than mere nuisance and ~~the Winchester City~~ Council will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. Issues of nuisance cannot be addressed via the Gambling Act 2005.~~s~~ provisions.

2.4 In ensuring that gambling is conducted in a fair and open way, Winchester City Council has noted that the Gambling Commission has stated that it would generally not expect licensing authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section of this document. Also, where appropriate, ~~the Winchester City~~ Council will pay attention to the information that is made available to customers using gambling facilities that are regulated by permits. Where ~~the Winchester City~~ Council suspects that gambling is not being conducted in a fair and open way, this would be brought to the attention of the Gambling Commission.

2.5 The requirement in relation to children and vulnerable persons is explicitly to protect them from being harmed or exploited by gambling. Winchester City Council will therefore consider 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. ~~The Winchester City~~ Council will also need to consider the location of premises in the context of protecting children and vulnerable persons. The Gambling Commission has also published a National Strategy to Reduce

Gambling Harms, and a database of national, regional and local initiatives can be found on its website. The ~~Winchester City~~ Council will review this resource at regular intervals to identify local initiatives that it can support and/or promote in order to reduce gambling-related harm.

- 2.6 Winchester City Council will encourage more dialogue with ~~Op~~erators to address social responsibility as advocated by the Gambling Commission. The Gambling Commission has introduced new social responsibility codes that require operators to ~~Operators must~~ assess local risks and have policies, procedures and control measures in place to mitigate risk. Operators will be required to make reference to ~~the this Council's~~ Statement of Principles in their risk assessments and share ~~this with the City Council~~ their risk assessments with the ~~C-city~~ council in certain circumstances.
- 2.7 Winchester City Council will seek to develop a Local Area Profile which will understand how gambling is provided within the district and what the risks are. The Local Area Profile will be separate to the Statement of Principles.

### 3. Consultation on the statement of principles

3.1 Winchester City Council has consulted the following on this statement:

- The Chief Constable of Hampshire Constabulary;
- One or more persons who appeared to the ~~City~~ Council to represent the interests of persons carrying on gambling businesses in the Winchester area, namely the Association of British Bookmakers Ltd; BACTA; Regal Gaming and Leisure; Winchester Automatics Limited; Winchester BID; Winchester City Council's Service Lead for Economy and Tourism; and various breweries who hold Premises Licences within the District.
- One or more persons who appeared to the ~~City~~ Council to represent the interests of persons who are likely to be affected by the exercise of the Council's functions under the Act, namely all Ward Members; Parish Councils; Gamblers' Anonymous; Game Care; National Problem Gambling Clinic; National Centre for Gaming Disorders; The Gordon Moody Association; Winchester and Bishop's Waltham Citizens' Advice Bureau~~x~~ offices; Winchester City Council's Neighbourhood Services Team; the NHS Foundation Trust, and known residents' associations.

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3.2 Winchester City Council will also consult the above for any subsequent revision of the statement.

3.3 A draft of ~~The Council's draft~~ this Statement ~~was will be~~ published for consultation on ~~1620 December 2018~~ August 2021 ~~giving and will allow until 20 January 2019~~ 16 September 2021 for comments.

3.4 The Statement will be presented ~~at at a meetings~~ of [the Licensing and Regulation Committee on 8 December 2021](#), and ~~a meeting of the~~ Full Council on ~~28 February 2019-12 January 2022~~ for [consideration and](#) approval.

3.5 In determining its Statement of Principles (or any revision thereof), Winchester City Council will always:

- Have regard to the Gambling Commission Guidance to Licensing Authorities;
- Give appropriate weight to the views of those it has consulted.

3.6 In determining what weight to give to particular representations on its statement, the factors taken into account will always include:

- Who is making the representation in terms of their expertise or interest;
- What their motivation may be for their views;
- How many other people have expressed the same or similar views;
- How far the representations relate to matters that the licensing authority should be including in its policy statement.

3.7 It will be for Winchester City Council to ensure that it looks at the views of consultees and considers carefully whether they should be taken into account, and to what extent (having regard to the above factors). [The Winchester City Council](#) will always give reasons for the decisions it has made following consultation, details of which can be viewed on the Winchester City Council web-site [www.winchester.gov.uk/licensing](http://www.winchester.gov.uk/licensing) or by contacting the [Licensing Department Section](#) at the [address below City Council Offices, Colebrook Street, Winchester](#).

~~3.8 Any comments on as regards this policy should be sent to:~~

~~Licensing Manager  
Winchester City Council  
City offices  
Colebrook Street  
Winchester  
SO23 9LJ~~

~~Email:~~

#### 4. Fundamental Principles

4.1 In carrying out its functions, Winchester City Council will regulate gambling in the public interest and will have regard to the guidance issued under Section 25 of the Act. With the exception of premises licensing and temporary use notices, [the Winchester City Council](#) may use its discretion where there are strong and defensible reasons for departing from the guidance, and [the Winchester City Council](#) considers it right to do so. In any such case the [City Council](#) will clearly express and explain its reasons for doing so.

4.2 This Statement of Principles does not override the right of any person to make an application under the Act and to have that application considered on its merits. Additionally, this Statement of Principles does not undermine the right of any person to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

4.3 The Statement of Principles ~~does not will not~~ comment on the need for gambling premises. Unmet demand is not a criterion in considering an application for a premises licence, and each application will be considered on its merits without regard to demand.

4.4 The location of premises will only be ~~considered~~commented on in so far as the location relates to the licensing objectives. Winchester City Council will consider very carefully applications for premises licences, permits and other ~~permissions~~authorities in respect of certain gambling premises that are located close to:

- Schools and young persons establishments;
- Young offenders premises;
- Centres established for assisting persons with a gambling addiction;
- Vulnerable adult centres;
- Residential areas where there is~~are~~ a high concentration of families with children;
- Temporary accommodation such as night shelters and hostels.

4.5 Each application will be considered on its merits, and will depend to a large extent on the type of gambling that it is proposed will be offered on the premises. If an applicant for a premises licence can show how licensing objective concerns can be overcome, that will be taken into account when reaching a decision on whether or not to grant a licence.

4.6 Moral objections to gambling will not be a reason to reject an application for premises licences. In rejecting an application, Winchester City Council will rely on reasons that demonstrate that the licensing objectives are not being met.

## 5. Operators

5.1 ~~The City Council expects~~ Operators are expected to share with the Council relevant information at regular intervals or on request, such as:-

- results of test purchasing;
- number of refusals to underage persons;
- risk assessments for premises licensed prior to April 2016;
- details of staff training.

5.2 This list is not exhaustive. Other information may be requested where the [City Council](#) considers the information relevant for the purposes of the Gambling Act 2005.

5.3 Operators should actively participate in local schemes in relation to the safety and security of gambling premises, where available.

## 6. Responsible authorities and interested parties

6.1 When dealing with applications for and reviews of premises licences, Winchester City Council ~~is~~ ~~are~~ obliged to consider representations from two categories of persons, referred to as “responsible authorities” and “interested parties.” (It should be noted that these are defined differently to those defined in the Licensing Act 2003). Representations made by persons other than responsible authorities or interested parties will be inadmissible.

6.2 Winchester City Council will only consider representations that are relevant, which are likely to be those that relate to the licensing objectives, or that raise issues under this ~~S-policy~~ statement, or the [Gambling Commission's](#) guidance or codes of practice (i.e. those matters mentioned in Section 153 of the Act).

6.3 Winchester City Council will examine closely all representations to ensure that they are not frivolous or vexatious, which will include:

- Who is making the representation, and whether there is a history of making representations that are not relevant;
- Whether it raises a ‘relevant’ issue; or
- Whether it raises issues specifically to do with the premises that are the subject of the application.

6.4 “Responsible authorities” are public bodies that must be notified of applications by the applicant. They are identified in Section 157 of the Gambling Act 2005, and include:-

- Winchester City Council as Licensing Authority;
- The Gambling Commission;
- The Chief Constable of Hampshire Constabulary;
- Hampshire Fire and Rescue Service;
- The ~~Service Lead for Built Environment~~ ~~Head of Development Management~~, Winchester City Council (the local planning authority);
- The ~~Service Lead for Public Protection~~ ~~Head of Environmental Health & Licensing~~, Winchester City Council (responsible for pollution to the environment/harm to human health);
- The local safeguarding children board for Hampshire;

- HM Revenue and Customs.

6.5 Although ~~they are~~ not a Responsible Authority, Winchester City Council will consult ~~Hampshire's the~~ Director of Public Health on all premises licence applications.

6.6 Winchester City Council 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.

6.7 Winchester City Council has designated the local safeguarding children board as the body which is competent to advise the authority about the protection of children, as the Board leads and co-ordinates arrangements for responsive work to protect children via a multi agency approach.

6.8 Winchester City Council will take care to ensure that the concerns that responsible authorities may have in relation to their own functions are not taken into account if they are not relevant to the application for a premises licence under the Act. The following are examples of representations not likely to be considered relevant:

- that there are already too many gambling premises in the locality (although may be relevant if it points to rising problems in crime, underage gambling or problem gambling);
- that the proposed premises is a fire risk;
- that the location of the premises is likely to lead to traffic congestion;
- that the premises will cause crowds of people to congregate in one area, which will be noisy and a nuisance.

This list is not exhaustive and each case will be decided on the facts.

6.9 Winchester City Council will be unlikely to turn down an application for a premises licence where relevant objections can be dealt with through the use of conditions attached to the licence.

6.10 "Interested parties" are persons who may make representations or apply for a review of a licence or permit. Winchester City Council must be able to take the view that the "interested party":

- lives sufficiently close to the premises to be likely to be affected by the authorised activities; or

- has business interests that might be affected by the authorised activities; or
- represents persons in either of those two groups.

6.11 Interested parties can be persons who are democratically elected such as district and/or county councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, the City Council 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.

6.12 If interested parties wish to approach councillors to ask them to represent their views in relation to an application, then care should be taken that the councillors are not part of the Licensing Sub-Committee dealing with the licence application. If there are any doubts then please contact the Democratic Services, Winchester City Council at City Council Offices, Colebrook Street, Winchester, SO23 9LJ, democracy@winchester.gov.uk, tel. 01962 848264.

6.13 Winchester City Council will take the following factors into account when determining what is "sufficiently close to the premises":-

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation;
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the circumstances of the person who lives close to the premises. This is not their personal characteristics, but their interests which may be relevant to the distance from the premises. **Formatted:** Tab stops: Not at 1.27 cm
- ~~the nature of the complainant. This will not include the personal character of the complainant, but the interests of the complainant which may be relevant to the distance from the premises.~~

6.14 Winchester City Council will take the following factors into account when determining who are "persons with business interests that could be affected":-

- the size of the premises;
- the catchment area of the premises i.e. how far persons travel to visit; and

- whether the person making the representation has business interests in that catchment area that might be affected.

6.15 Winchester City Council considers the following to be “persons representing those” in the above categories:-

- Residents and tenants associations;
- Elected Members;
- ~~Trade unions and trade associations.~~

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6.16 The ~~City Council~~ will only accept representations from such persons where they represent ~~someone who can be classed as~~ an interested party, i.e. someone who lives sufficiently close the premises to be likely to be affected by the activities being applied for, or someone with business interests that could be affected.

~~6.17~~ The above considerations are not exhaustive, and ~~the Winchester City Council~~ will have regard to anything an interested party, or persons representing them, say about his or her status to make representations.

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~~6.17~~

6.18 Admissible and relevant representations can be made in writing to the Licensing ~~Section-Department,~~ Winchester City Council ~~at,~~ City Council Offices, Colebrook Street, Winchester, SO23 9LJ, email [licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk)

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## 7. Exchange of Information

7.1 Winchester City Council will act in accordance with the relevant legislation and guidance from the [Gambling Commission](#) and will adopt the principles of better regulation in exercising the functions under ~~s~~Sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under ~~s~~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.

7.2 Winchester City Council will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the [General Data Protection Regulation and the Data Protection Act 2018](#)~~1998~~ will not be contravened. Winchester City Council will also have regard to any Guidance issued by the Gambling Commission to local authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

7.3 Winchester City Council is required to provide the following information to the Gambling Commission:

#### Premises Licences and provisional statements

- Grant or rejection of an application for a premises licence or provisional statement
- A premises licence that has lapsed
- Grant or rejection of an application to reinstate a premises licence
- Grant or rejection of an application to transfer or vary a premises licence
- Where a review of a premises licence has been completed and the decision made
- Where a hearing is to be held where the [Gambling Commission](#) has made a representation
- Where a premises licence has been surrendered or revoked

#### Club Permits

- Grant or rejection of club gaming permit

#### Small Society Lottery registration

- Where a society has registered to operate small lotteries
- Where a society's registration to operate a small lottery has been cancelled
- Where a society has exceeded the permitted proceeds for small lotteries

The issue of permits and temporary permissions and the number of inspections and reviews are provided as part of the annual return requested by and submitted to the Gambling Commission.

- 7.4 Should any protocols be established by the [City Council](#) as regards information exchange with other bodies then they will be made available on the Winchester City Council website [www.winchester.gov.uk/licensing](http://www.winchester.gov.uk/licensing).

### **8. Compliance and Enforcement**

- 8.1 The main enforcement and compliance role for Winchester City Council will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the enforcement body for the operator and personal licences it issues, and also [for](#) the manufacture, supply or repair of gaming machines.

8.2 Winchester City Council will act in accordance with relevant legislation and guidance from the [Gambling Commission](#) and adopt the principles of better regulation.

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~~8.28.3~~ Winchester City Council will utilise the Gambling Commission's guidance and resource documents in relation to conducting compliance checks at premises in the district, to ensure consistency with other licensing authorities across the country.

~~Should any protocols be established as regards information exchange with other bodies then they will be made available on the Winchester City Council web site [www.winchester.gov.uk](http://www.winchester.gov.uk)~~

8.4 Winchester City Council will adopt a risk-based inspection programme, which includes the targeting of high risk premises which require greater attention, whilst operating a lighter touch in respect of low risk premises.

8.5 In determining the level of risk in respect of premises, Winchester City Council will use the following criteria:

All regulatory inspections and enforcement will be:

- proportionate: intervention only when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
- accountable: decisions must be justified, and 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: focused on the problem, and minimise side effects.

8.6 Winchester City Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

8.7 Winchester City Council recognises that certain bookmakers may have a number of premises within the same area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give to the Council a single named point of contact, who should be a senior individual, ~~and whom~~ the Council will contact first should any compliance queries or issues arise.

~~8.8~~ Where there is strong/reliable intelligence or evidence linked to illegal gambling activity, the ~~City~~ Council will seek to work jointly with the Gambling Commission and Hampshire Constabulary.

~~8.88.9~~ Where the Gambling Commission notifies the licensing authority of complaints and/or intelligence received regarding non-compliance and illegality in its district through the Local Authority Compliance Events (LACE) referrals, the licensing authority shall have regard to any guidance from the Gambling

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Commission in relation to what action should be taken. It shall also notify the Gambling Commission of what, if any, action is taken.

## 9. Equal Opportunities & Race Equality

9.1 Subject to the general requirements of the Act, the Council will promote equality of opportunity. In such respects, nothing within this ~~S~~statement of ~~P~~principles shall undermine the right of any individual to apply for any of the licences and/or authorisations provided for under the terms of the Act.

9.2 No applicant and/or licence holder shall receive less favourable treatment on the grounds of age, sex, sexual orientation, gender reassignment, disability, marital status, marriage and civil partnership, colour, race or ethnic origin, pregnancy and maternity, religion and belief. No applicant and/or licence holder shall be disadvantaged by conditions or requirements which are not relevant to their application and/or their licence, the promotion of the ~~four~~ licensing objectives and this ~~S~~statement ~~of licensing policy~~.

9.3 Subject to the general requirements of the Act, nothing within this ~~S~~statement of ~~P~~principles shall undermine the right of any person to make representation(s) on an application or seek a review of an existing licence or certificate where provision has been made for them to do so under the Act.

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## **PART B**

### **Premises licences**

#### **1. Consideration of applications**

- 1.1 Winchester City Council will 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 under sSection 34 of the Gambling Act 2005;
  - in accordance with any relevant guidance issued by the Commission under sSection 25 of the Gambling Act 2005;
  - reasonably consistent with the licensing objectives; and
  - in accordance with this Statement of Principles.
- 1.2 The 'Fundamental Principles' section of this Statement are also relevant to the Council's approach to determining applications.

#### **2. Risk Assessments**

- 2.1 Operators applying for a new premises licence must provide a risk assessment in relation to the at premises detailing how they will address the licensing objectives. The risk assessments should include:-
- How the operator will address the risks associated with the proximity of schools, treatment/support centres, areas with a high concentration of residential properties and temporary accommodation;
  - How vulnerable people including people with gambling dependencies are protected;
  - The operator's Policy on how to adequately prevent children and young people from playing age restricted games or enter the premises, as applicable;
  - How staff will be trained to identify risks whilst the premises are open;
  - The operator's Policy for test purchasing;
  - The operator's Policy in relation to levels of staffing for peak and 'at risk' times, i.e. lone working;
  - The design and layout of premises to enable sight of entrance and machines;
  - How the Operator will engage with Winchester City Council and Hampshire Constabulary to appropriately address any issues in and around the premises.

2.2 Risk assessments should be kept on the premises and be made available for inspection by an Authorised Person.

### 3. Conditions on premises licences

3.1 Winchester City Council will not attach conditions that limit the use of premises for gambling except where ~~that is~~ necessary as a result of the requirement to act:-

- in accordance with the Gambling Commission guidance, the Gambling Commission codes of practice or this Statement of Principles; or
- in a way that is reasonably consistent with the licensing objectives.

3.2 Winchester City Council cannot issue conditions on premises licences which:-

- make it impossible to comply with an operating licence condition;
- relate to gaming machine categories, numbers, or methods of operation;
- requires membership of a club or body; and
- imposes conditions in relation to stakes, fees, winnings or prizes.

3.3 Winchester City Council will ensure that any conditions imposed are proportionate to the circumstances which they are seeking to address, and that any premises licence conditions:-

- are relevant to the need to make the proposed building suitable as a gambling facility;
- are directly related to the premises and the type of licence applied for;
- are fairly and reasonably related to the scale and type of premises; and
- are reasonable in all other respect.

3.4 Decisions upon individual conditions will be made on a case by case basis, although there ~~are~~ ~~will be~~ a number of measures which the ~~City~~ Council will consider ~~utilising~~ should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. The ~~City~~ Council will also expect the licence applicant to offer ~~their~~ ~~his/her~~ own suggestions as to ~~the~~ way in which the licensing objectives can be met effectively.

3.5 Winchester City Council 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 ~~rest~~ ~~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.

3.6 These considerations will apply to premises including buildings where multiple premises licences are applicable.

3.7 Winchester City Council will carefully consider the configuration of buildings in relation to the protection of children, particularly in multi-purpose developments. In particular [the Winchester City Council](#) will look for measures that:

- prevent children from participating in gambling, or being invited to gamble where this is not permitted by law;
- prevent children from having accidental access to, or to closely observe, gambling; and
- entrances and exits from parts of a building covered by one or more licences should be separate and identifiable so that the separation of different premises is not compromised.

3.8 Winchester City Council may require persons operating gambling premises to:

- supervise entrances;
- segregate gambling areas from non-gambling areas frequented by children;
- supervise gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives.

#### 4. Planning permission and building regulations

4.1 Winchester City Council recognises that there should be a clear separation of the planning and licensing systems and licensing applications will be viewed independently of planning applications. To achieve this, close liaison will be maintained between the Planning [Committee](#) and Licensing and Regulation Committees ("PC" and "L & R"). Licensing applications are not a re-run of the planning application and should not cut across decisions [or appeals where planning permission is refused taken by the PC or following appeals against decisions by that Committee.](#) ~~L & R~~ [The Licensing Department, upon request where appropriate, will provide reports information to PC and any appropriate review panels on the situation regarding licensed premises in the area including the general impact of gambling on the licensing objectives.](#)

4.2 Winchester City Council will not take into account matters not related to gambling and the licensing objectives, such as the likelihood of the applicant

obtaining planning permission or building regulations approval for the proposal. However, an applicant cannot obtain a full premises licence until the premises in which it is proposed to offer the gambling are constructed, but may apply for a provisional statement if the building is not yet complete.

- 4.3 It will be a question of fact and degree whether premises are finished to a degree that they can be considered for a premises licence.

## 5. Other legislation

- 5.1 Winchester City Council will not take into account matters not related to gambling and the licensing objectives when considering an application for a premises licence. However, it is for the operator to ensure that premises comply with all other relevant legislation, such as fire safety, food safety and health & safety. It should be noted that the list is not exhaustive, and applicants must ensure that they comply with all other regulatory regimes in respect of their employees and the public.
- 5.2 So far as is possible, this Statement of Principles will avoid duplicating those other regulatory regimes. For example, a range of general duties are imposed on the self-employed, employers and operators of gambling premises, both in respect of employees and of the general public, but legislation governing health and safety at work and fire safety. Such requirements need not be included in this Statement.

## 6. Provisional Statements

- 6.1 Winchester City Council will consider provisional statement applications from persons in respect of premises that:-
- are expected to be constructed;
  - expected to be altered; or
  - expected to be acquired as a right to occupy.
- 6.2 Responsible authorities and interested parties may make representations on applications for provisional statements.
- 6.3 Once the premises have been constructed, altered or acquired, the holder of a provisional statement can return to ~~the Winchester City~~ Council and put in an application for the necessary premises licence.
- 6.4 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.

- 6.5 Winchester City Council may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- a) which could not have been raised by objectors at the provisional licence stage; or
  - b) which in the ~~City~~ Council's opinion reflect a change in the operator's circumstances.

## 7. Adult Gaming Centres

- 7.1 Winchester City Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 7.2 The ~~City~~ Council will expect applicants to offer their own measures to meet the licensing objectives: however, appropriate measures/licence conditions may cover issues 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**barring** schemes;
  - Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

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- 7.3 The ~~City~~ Council will refer to the Gambling Commission's website and make itself aware of any mandatory conditions or default conditions on these licences when published.

## 8. Licensed Family Entertainment Centres

- 8.1 Winchester City Council 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 Council, 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.

8.2 The City Council will expect applicants to offer their own measures to meet the licensing objectives: however, appropriate measures/licence conditions may cover issues such as:-

- CCTV;
- Supervision of entrances / machine areas;
- Physical separation of areas;
- Location of entry;
- Notices / signage;
- Specific opening hours;
- Self-exclusion/barring 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.

~~8.3~~ This list is not mandatory, ~~n~~ or exhaustive, and is merely indicative of example measures.

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~~8.48.3~~ The ~~City~~ Council will refer to the ~~Gambling~~ 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. It will also make itself aware of any mandatory or default conditions on these premises licences when published.

## 9. Tracks

~~9.1~~ The Gambling Act 2005 does not give a list of premises that are officially recognised as 'tracks', but the following types of premises do undertake sporting events and accordingly could accommodate the provision of betting facilities:

- A horse racecourse;
- A greyhound track;
- A point-to-point horserace meeting;
- Football, cricket and rugby grounds;
- An ~~a~~ Athletics stadium;
- A golf course;
- Venues hosting darts, bowls or snooker tournaments;
- A premises staging boxing matches;
- A section of river hosting a fishing competition;
- A motor racing event.

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~~9.1~~ Although it is possible for athletics tracks, sports grounds or motor racing circuits to be granted a premises licence to allow on-course betting, most track premises licences are expected to be issued in respect of horse racecourse or dog tracks. There are no such tracks within the Winchester City Council area. However, the following are issues that would need to be considered should an application be received.

There are no such tracks within the Winchester City Council area. However, the following are issues that would need to be addressed should an application be received.

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9.2 Winchester City Council 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. ~~The Winchester City~~ Council 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.

~~9.3~~ ~~The Winchester City~~ Council 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.

~~9.39.4~~ ~~The City Council recognises that tracks may also be multi-purpose venues having a wide range of facilities that enable them to host other activities on non-event days, such as weddings and exhibitions. This will be considered when assessing the layout of the venue and other such matters in relation to meeting the licensing objectives.~~

~~9.49.5~~ The ~~City~~ Council will expect applicants to offer their own measures to meet the licensing objectives: however, appropriate measures/licence conditions may cover issues 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-~~barring~~ ~~exclusion~~ schemes;
- Provision of information leaflets/helpline numbers for organisations such as GamCare.

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

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~~9.59.6~~ ~~The Act recognises that tracks are primarily premises intended for entertainment other than gambling, and therefore places no restrictions on offering ancillary entertainment (e.g. music, dancing or other entertainment) and the sale of alcohol. The City Council shall also ensure that conditions restricting the above ancillary activities are not unreasonably imposed.~~

~~9.69.7~~ Gaming machines - Winchester City Council will consider the location of gaming machines at tracks, and applications for track premises licences will

need to demonstrate that, where the applicant holds a pool betting operating licence and is going to use his entitlement to four gaming machines, these machines are located in areas from which children are excluded. Children and young persons are not prohibited from playing category D gaming machines on a track.

~~9.79.8~~ Betting machines – Winchester City Council will 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 wants to offer. It will also take note of the Gambling Commission's suggestion that licensing authorities will want to consider restricting the number and location of such machines in respect of applications for track betting premises licences.

~~9.89.9~~ Condition on rules being displayed - ~~The Gambling Commission has advised in its Guidance for local authorities that "...licensing authorities should attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race card or made available in leaflet form from the track office."~~ It is a mandatory condition of premises licences that clear and accessible information about the terms on which a bet may be placed must be displayed at betting premises, including tracks. Where there are multiple locations of betting under one licence, the licensing authority will take a proportionate approach to requiring the display of betting rules, i.e. making the rules available at suitable central locations as opposed to being displayed at each betting location. The licensing authority shall refer to the Gambling Commission's guidance on this matter.

~~9.99.10~~ Applications and plans - ~~The City Council is in accordance with the Gambling Commission's suggestion "To ensure that licensing authorities gain a proper understanding of what they are being asked to license they should, in their licensing policies, set out the information that they will require, which should include detailed plans for the racetrack itself and the area that will be used for temporary "on-course" betting facilities (often known as the "betting ring") and in the case of dog tracks and horse racecourses fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities." and that "Plans should make clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence."~~ The City Council must be satisfied that any plans submitted provide sufficient information to enable the licensing authority to assess the application and determine whether the premises are fit for gambling. Plans should include the locations of all betting areas to be covered under the proposed licence, and other betting areas covered by alternative licensing permissions. Track owners should decide in conjunction with the betting operators offering facilities at their track which premises licensing arrangement best suits the specific nature and circumstances of their track.

~~9.10~~ The ~~City~~ Council also notes that in the ~~Gambling~~ Commission's view, it would be preferable for all self-contained premises operated by off-course betting operators on track to be the subject of separate premises licences, to ensure that there is clarity between the respective responsibilities of the track operator and the off-course betting operator running a self-contained unit on the premises.

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## 10. Casinos

10.1 ~~'No Casinos resolution'~~ – ~~the Winchester City~~ Council has not passed a 'no casino' resolution under ~~s~~Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this Statement of Principles with details of that resolution.

10.2 Casinos and competitive bidding – ~~the Winchester City~~ Council is aware that where a licensing authority area is enabled to grant a ~~p~~remises ~~l~~icence for a new style casino (i.e. the Secretary of State has made such regulations under ~~s~~Section 175 of the Gambling Act 2005) there are likely to be a number of operators which will want to run the casino. In such situations the local authority will run a 'competition' under Schedule 9 of the Gambling Act 2005. The Council will run such a competition in line with any regulations issued under the Gambling Act 2005 and in accordance with the Secretary of State's code of practice for competition of this nature.

10.3 Licence considerations/conditions – ~~the Winchester City~~ Council will have regard to the mandatory conditions and default conditions that are attached to premises licences, and attach additional conditions to cCasino premises licences in accordance with Guidance issued by the Gambling Commission and to meet the licensing objectives.

10.4 Betting machines – ~~the Winchester City~~ Council 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.

## 11. Bingo Premises

~~11.1~~ ~~The Winchester City~~ Council notes the Gambling Commission's Guidance that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted, ~~the Winchester City~~ Council will seek to ensure that:-

- all such machines are located in an area of the premises separate from the

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remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

- only adults are admitted to the area where the machines are located;
- access to the area where the machines are located is supervised;
- the area where the machines are located is arranged so that it can be observed by staff of the operator or the licence holder; and
- at the entrance to, and inside any such area there are prominently displayed notices indicating that access to the area is prohibited to persons under 18.

When looking at the suitability and layout of a bingo premises the licensing authority will take into consideration guidance issued by the Gambling Commission. It will also ensure that any gaming machines are made available for use in a manner consistent with the Gambling Commission's guidance.

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11.2 The Council will have regard to the mandatory conditions and default conditions that are attached to premises licences, and attach additional conditions to bingo premises licences in accordance with guidance issued by the Gambling Commission and to meet the licensing objectives.

## 12. Betting premises

12.1 ~~Betting machines~~ ~~Winchester City~~ ~~The~~ Council will take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of ~~the any betting~~ 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.

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~~12.1.2~~ The ~~Winchester City~~ Council will have regard to the Gambling Commission's guidance with regard to provision and restriction of certain categories of betting machines at betting premises.

## 13. Travelling Fairs

13.1 "Travelling Fairs" within the definition of the Gambling Act 2005 are able to provide gambling by certain types of machine, or by prize gaming, without a permit, provided they comply with certain restrictions.

13.2 Where category D machines and/or equal chance prize gaming without a permit are to be made available for use at travelling fairs, the ~~City~~ Council's role as licensing authority is to decide whether the facilities for gambling amount to no more than an ancillary amusement at the fair (which must be the case for the exemption to apply).

13.3 ~~The Winchester City~~ Council will also consider whether the applicant falls within the statutory definition of a 'travelling fair'.

13.4 Under the ~~Gambling Act, 2005~~, the exemption will only apply on land used as a fair for no more than 27 days per calendar year. This limit 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.

## **Part C**

### **1. Permits**

#### **Unlicensed Family Entertainment Centre gaming machine permits**

- 1.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to Winchester City Council 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 Gambling Act 2005). It will generally not be permissible for permits to apply to an entire shopping centre, airport, motorway service station or similar; the machines should typically be in a designated, enclosed area.
- 1.2 The Winchester City Council need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Gambling Commission under section 25.
- 1.3 The Winchester City Council cannot attach conditions to this type of permit.

### **2. Statement of Principles**

- 2.1 Winchester City-The Council 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 the following:-
- 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 The Winchester City Council will also expect:-
- applicants 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.

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### 3. (Alcohol) Licensed premises gaming machines

- 3.1 There is provision in the Gambling Act 2005 for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D, provided they have notified the City Council. The City Council can remove the automatic authorisation in respect of any particular premises if:-
- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
  - gaming has taken place on the premises that breaches a condition of Section 282 of the Act (which requires that written notice has been provided to the City Council, 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(s) has been complied with)
  - the premises are mainly used for gaming; or
  - an offence under the Gambling Act 2005 has been committed on the premises.
- 3.2 If a premises wishes to have more than 2 machines, then it needs to apply for a permit. The Winchester City Council will 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 it they thinks relevant. The City Council considers that "such matters" will be decided on a case by case basis but generally it will take into account the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the Council that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult-only gaming machines. Such measures might 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 are also encouraged. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 3.3 It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. Any such application would most likely need to be applied for, and dealt with, as an Adult Gaming Centre premises licence (see Part B Section 67 of this Statement).
- 3.4 Under the legislation, the Winchester City Council 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.
- 3.5 It should also be noted that the holder of a permit must comply with the *Gaming Machines in Alcohol Licensed Premises Code of Practice* and any other Code of Practice issued by the Gambling Commission. An aAuthorised Local Authority Officer may visit licensed premises to check compliance.

#### 4. Prize Gaming Permits

4.1 In making its decision on an application for this permit, Winchester City the Council ~~does not need~~ not, but may wish, to have regard to the licensing objectives, ~~but~~ It must have regard to any Gambling Commission guidance.

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~~4.1.2~~ There are a number of exemptions to the requirement to obtain a prize gaming permit, namely for licensed bingo premises, adult gaming centres, licensed and unlicensed family entertainment centres, travelling fairs and some casino premises. The City Council will refer to the Gambling Act 2005 and any relevant guidance issued by the Gambling Commission in determining whether this type of permit is required.

#### 5. Statement of Principles

5.1 The applicant should set out the types of gaming that ~~they he or she is~~ intending to offer and should be able to demonstrate:-

- that they understand the limits to stakes and prizes that are set out in Regulations; and
- that the gaming offered is within the law.

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5.2 The City Council will consult both the Chief Officer of Police for its area and, where the application gives rise to concerns relating to the protection of children from being harmed or exploited by gambling, the local Safeguarding Children Board or equivalent.

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~~5.2.3~~ It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the City Council 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.

## 6. Club Gaming and Club Machines Permits

- 6.1 Members' ~~C~~clubs (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club ~~s~~Gaming ~~m~~Machines ~~p~~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. A Club ~~Gaming machine~~Machine ~~p~~Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).
- 6.2 Before granting the permit, ~~Winchester City~~the Council will need to satisfy itself that the premises meet the requirements of a members' club and may only grant the permit if the majority of members are over 18.
- 6.3 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. A members' club must be permanent in nature, not established to make commercial profit, and must be controlled by its members equally. There is no requirement for the premises to be licensed under the Licensing Act 2003 to sell alcohol.
- 6.4 ~~The Winchester City~~ Council may only refuse an application on the grounds that:-
- (a) the applicant does not fulfil the requirements for a members' or commercial club 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 Gambling Commission or the Police.
- 6.5 There is a 'fast-track' procedure available for premises which hold a Club Premises Certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds on which the ~~City~~Council can refuse a permit are reduced. 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 of the Gambling Act;
- (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.

6.6 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.

~~6.6.7~~ Commercial clubs may apply only for Club Machine Permits. A commercial club is a club established for commercial gain, whether or not they are actually making a commercial gain. Examples include snooker clubs, clubs established as private companies and clubs established for personal profit. The City Council will refer to the Gambling Commission's guidance to determine a club's status at the point of application for a permit.

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## 7. Temporary Use Notices

7.1 There are a number of statutory limits as regards Temporary Use Notices, outlined in the Gambling Act 2005 (Temporary Use Notices) Regulations 2007.  
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~~7.1.2~~ Winchester City Council will have to decide what constitutes a 'set of premises' where Temporary Use Notices are received relating to the same building/site. In deciding this issue, the Council will look at the ownership/occupation and control of the premises, guidance from the Gambling Commission, and other relevant matters.

## 8. Occasional Use Notices

8.1 These notices only relate to "tracks". The Winchester City Council 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. However, the City Council will need to consider the definition of a 'track' and whether the applicant is permitted to avail ~~him/herself~~ themselves of the notice, taking into consideration relevant guidance issued by the Gambling Commission.

## **Part D**

### **MISCELLANEOUS**

#### **1. Reviews of premises licences**

- 1.1 The purpose of a review will be to determine whether Winchester City Council should take any action in relation to a licence. If action is justified, ~~Winchester City~~ Council will have the following options:
- revoke the licence;
  - suspend the premises licence for a period not exceeding three months;
  - exclude a default condition imposed by the Secretary of State, or remove or amend such an exclusion; and
  - add, remove or amend a licence condition imposed by the licensing authority.
- 1.2 In determining what action, if any, should be taken following a review, ~~Winchester City~~ Council must have regard to the principles set out in ~~s~~Section 153 of the Act, as well as any relevant representations.
- 1.3 An application for a review may be made by a responsible authority, an interested party or the authority itself. Generally, ~~Winchester City~~ Council must grant the application for a review, but may refuse it if it thinks that the grounds on which the review is sought:-
- a) are not relevant to the principles that must be applied by ~~Winchester City~~ Council in accordance with the ~~Gambling~~ Commission guidance/codes of practice, this Statement or the licensing objectives;
  - b) raises general objections to gambling as an activity, that is likely to be irrelevant to the principles contained in a) above;
  - c) are frivolous or vexatious;
  - d) will certainly not cause the ~~City~~ Council to revoke or suspend a licence or to remove, amend or attach conditions on the premises licence;
  - e) are substantially the same grounds cited in a previous application relating to the same premises. ~~The Winchester City~~ Council will take into account how much time has passed since the earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence; or
  - f) are substantially the same as representations made at the time the application for a premises licence was considered. As with e) above, ~~Winchester City~~ Council will take into account how much time has passed since ~~the~~ earlier application in reaching a judgement about whether it is reasonable to rely on this as a reason not to review the licence, but the underlying requirement will be that the licence should not be reviewed on the basis of the same arguments considered on the grant of the premises licence.

- 1.4 ~~The Winchester City~~ Council will process applications for review without delay, so that both the applicant for a review and the premises operator know where they stand.
- 1.5 ~~The Winchester City~~ Council will hold a **Licensing Sub-Committee** hearing unless the applicant and any person who has made relevant representations consent to the review being conducted without one.
- 1.6 ~~The Winchester City~~ Council will, 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 Constable of Hampshire Constabulary; and
  - Her Majesty's Commissioners for Revenue and Customs.

## 2. Rights of appeal and judicial review

- 2.1 The Act provides an appeal process for any decision of Winchester City Council as **the** licensing authority. The Council's decisions may also be challenged by an application for judicial review. ~~Winchester City~~**The** Council will:
- give clear and comprehensive reasons for a rejection of an application where there is a requirement in the Act to do so; and
  - wherever practicable, as best practice, give clear and comprehensive reasons for all decisions connected to its functions under the Act, regardless of whether there is a requirement under the Act to do so.
- 2.2 A person ("the appellant") wishing to appeal against the Council's decision must give notice of appeal to the local magistrates' court within a period of 21 days beginning with the day on which the appellant was notified by ~~Winchester City~~**the** Council of the decision.
- 2.3 Any person who wishes to pursue an appeal is strongly advised to seek independent **professional** legal advice from a legal advisor who specialises in the law on gambling.

## 3. Small Society Lotteries

- 3.1 The Gambling Act 2005 denotes local authorities as being responsible for registering societies to run small society lotteries.**
- 3.2 There are two types of lottery, the latter of which ~~Winchester City~~**the** Council will deal with in terms of receiving and processing applications;**
- **Licensed lotteries – these are large society lotteries and lotteries run for the benefit of local authorities that are regulated by the Gambling Commission and require operating licences;**
  - **Exempt lotteries – there are four types of exempt lottery that are expressly permitted under Schedule 11 of the Gambling Act 2005, including the small society lottery.**

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3.3 The ~~Winchester City~~ Council will refer to the relevant sections of the Gambling Act 2005 and guidance from the Gambling Commission in determining whether a lottery constitutes ~~as~~ one of the four exempt lotteries, and whether a 'society' is a non-commercial society for the purposes of holding small society lotteries.

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3.4 The ~~City~~ Council will publish guidance notes on the registration of a small society lottery, incorporating any relevant guidance from the Gambling Commission, relating to tickets, limits places on exempt lotteries, administration of applications and social responsibility. This can be seen at Appendix 3 to this Statement.

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3.—The Gambling Commission's advice note on promoting society and local authority lotteries shall be made available to potential applicants on the ~~City~~ Council's website.

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#### 4. Other matters

3.1 In order to ensure that applicants and persons who make representations have the necessary information to be able to do so, the information below will be available on the Winchester City Council ~~\_web-site~~ [www.winchester.gov.uk/licensing](http://www.winchester.gov.uk/licensing) or [on request](#) by contacting the Licensing Team at Winchester City Council:-

- Register of premises licences issued by ~~Winchester City~~the Council;
- Fees;
- Guidance on how to make an application;
- List of responsible authorities and contact details;
- Application forms, where appropriate;
- Making representations;
- Applying for a review of a licence.

# Winchester City Council Delegations

Appendix 1

| Matter to be dealt with   | Full Council | Sub-Committee of Licensing Committee                         | Officers   |
|---|--------------|--|--|
| Three year licensing policy                                       | x            |  |  |
| Policy not to permit casinos                                      | x            |  |  |
| Fee setting (when appropriate)                                    |              |  | x  |
| 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 premises licence                 |              | Where representations have been received and not withdrawn   | Where no representations received/ representations have been withdrawn |
| Application for a transfer of a premises licence                  |              | Where representations have been received from the Commission | Where no representations received from the Commission                  |
| Application for a provisional transfer                            |              | Where representations have been received and not withdrawn   | Where no representations received/ representations have been withdrawn |
| Review of a premises licence                                      |              | x  |  |
| Application for club gaming/ club machine permits                 |              | Where objections have been made (and not withdrawn)          | Where no objections made/ objections have been withdrawn               |
| Cancellation of club gaming/ club machine permits                 |              | x  |  |
| Applications for other permits                                    |              |  | x  |
| Cancellation of licensed premises gaming machine permits          |              |  | x  |
| Consideration of temporary use notice                             |              |  | x  |
| Decision to give a counter notice to a temporary use notice       |              | x  |  |
| Making representations or seeking reviews as Licensing Authority. |              |  | x  |

## Glossary

## Appendix 2

|   |   |
|---|---|
| <b>Admissible Representations</b>         | Representations submitted by a Responsible Authority or interested party  |
| <b>Authorised Local Authority Officer</b> | A Licensing Authority Officer who is an authorised person for a purpose relating to premises in that authority's area.  |
| <b>Authorised Person</b>                  | <p>A Licensing Officer and an officer of an authority other than a Licensing Authority, both of whom have been authorised for a purpose relating to premises in that authority's area. The following are considered authorised persons:</p> <ul style="list-style-type: none"><li>• Inspectors appointed under the Fire Precautions Act 1971;</li><li>• Inspectors appointed under the Health and Safety at Work, etc. Act 1974</li><li>• Inspectors or Surveyors of ships appointed under the Merchant Shipping Act 1995;</li><li>• A person in a class prescribed in regulations by the Secretary of State.</li></ul> |
| <b>Automated Roulette Equipment</b>       | <p>2 types:</p> <ol style="list-style-type: none"><li>a) Linked to a live game of chance, e.g. <a href="#">R</a>roulette</li><li>b) Plays live automated game, i.e. operates without human intervention</li></ol>   |
| <b>Automatic Conditions</b>               | Conditions attached automatically to premises licences or authorisations. The Licensing Authority has no discretion not to include or modify them.  |
| <b>AWP machines</b>                       | Amusement with Prizes Machines  |
| <b>BACTA</b>                              | British Amusement Catering Trade Association  |
| <b>Betting Intermediary</b>               | Offers services via remote communication, such as the internet.   |
| <b>Betting Ring</b>                       | An area that is used for temporary 'on course' betting facilities.  |

|   |  |
|---|--|
| <b>Betting Machines</b>                   | A machine designed or adapted for use to bet on future real events (not a Gaming Machine).   |
| <b>Bingo</b>                              | A game of equal chance.  |
| <b>Casino</b>                             | An arrangement whereby people are given an opportunity to participate in one or more casino games.   |
| <b>Casino Games</b>                       | Games of chance that are not equal chance gaming.  |
| <b>Casino Premises Licence Categories</b> | <ul style="list-style-type: none"> <li>a) Regional Casino Premises Licence</li> <li>b) Large Casino Premises Licence</li> <li>c) Small Casino Premises Licence</li> <li>d) Casinos permitted under transitional arrangements</li> </ul>  |
| <b>Casino Resolution</b>                  | Resolution not to issue Casino Premises Licences   |
| <b>Child</b>                              | <del>Individual who is less than 16 years old.</del>   |
| <b>Christmas Day Period</b>               | Covers the period of 24 hours from midnight on 24 December.  |
| <b>Club Gaming Machine Permit</b>         | Permit to enable the premises to provide gaming machines (3 machines of <del>c</del> Categories B, C or D)   |
| <b>Club Gaming Permit</b>                 | Permit to enable the premises to provide gaming machines (3 machines of <del>c</del> Categories B C or D), equal chance gaming and games of chance.  |
| <b>Commercial Club</b>                    | <p>A club which</p> <ul style="list-style-type: none"> <li>• is established and conducted wholly or mainly for purposes other than the provision of facilities for gaming</li> <li>• which is not established with the purpose of functioning only for a limited period of time, and</li> <li>• which has at least 25 individual members.</li> </ul> <p>Or</p> |

- is established or conducted wholly or mainly for the purpose of the provision of facilities for gaming of a prescribed kind, and
- facilities are not provided for any other kind of gaming in the course of the club's activities.

**Complex Lottery**

An arrangement where:

- Persons are required to pay to participate in the arrangement;
- In the course of the arrangement, one or more prizes are allocated to one or more members of a class;
- The prizes are allocated by a series of processes; and
- The first of those processes relies wholly on chance.

**Conditions**

Conditions to be attached to licences by way of:

- Automatic provision
- Regulations provided by Sec. Of State
- Conditions provided by Gambling Commission
- Conditions provided by Licensing Authority

Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence.

**Customer Lotteries**

Lotteries run by the occupiers of business premises who sell tickets only to customers present on their premises. These lotteries may not be conducted on vessels.

**Default Conditions**

Conditions that will apply unless the Licensing Authority decide to exclude them. This may apply to all Premises Licences, to a class of Premises Licence or Licences for specified circumstances.

**Delegated Powers**

Decisions delegated either to a Licensing Committee, Sub-Committee or Licensing Officers.

**Domestic Computer**

Definition in forthcoming Regulations. Exempt from a Gaming Machine Permit.

|                                    |   |
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| <b>Disorder</b>                    | No set interpretation but likely to be connected to the way gambling is being conducted. In the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.   |
| <b>Domestic Computer</b>           | Definition in forthcoming regulations. Exempt from a Gaming Machine Permit.   |
| <b>Dual Use Computer</b>           | Definition in forthcoming regulations. Exempt from a Gaming Machine Permit.   |
| <b>Equal Chance Gaming</b>         | Games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants  |
| <b>EBT</b>                         | Electronic Bingo Ticket Minder. Electronic equipment operated by a Bingo Operators Licence for the purposes of playing bingo.   |
| <b>Exempt Lotteries</b>            | <p>Lotteries specified in the Gambling Act <a href="#">2005</a> as permitted to be run without a licence from the Gambling Commission. There are 4 types:</p> <ul style="list-style-type: none"> <li>• Small Society Lottery (required to register with Licensing Authorities.</li> <li>• Incidental Non Commercial Lotteries</li> <li>• Private Lotteries</li> <li>• Customer Lotteries</li> </ul> |
| <b>External Lottery Manager</b>    | An individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.   |
| <b>Family Entertainment Centre</b> | <p>Family Entertainment Centre is</p> <ul style="list-style-type: none"> <li>• premises (other than an adult gaming centre) wholly or mainly used for making gaming machines available for use, and</li> <li>• Licensed Family Entertainment Centre means premises in respect of which a Family Entertainment Centre Premises Licence has effect.</li> </ul>  |

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| <b>Fixed Odds Betting</b>                | General betting on tracks.  |
| <b>Gaming</b>                            | Prize gaming if 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. The prizes will be determined by the operator before the play commences.   |
| <b>Gaming Machine</b>                    | Machine covering all types of gambling activity, including betting on virtual events.   |
| <b>Guidance to Licensing Authorities</b> | Guidance issued by the Gambling Commission.   |
| <b>Human Rights Act 1998</b>             | Article 1: Protocol 1 – the right to peaceful enjoyment of possessions  |
| <b>Articles: 1, 6, 8 and 10</b>          | Article 6: - the right to a fair hearing<br>Article 8: - the right of respect for private and family life<br>Article 10: - the right to freedom of expression   |
| <b>Inadmissible Representation</b>       | A representation not made by a Responsible Authority or Interested Party.   |
| <b>Incidental Non Commercial Lottery</b> | A lottery promoted wholly for purposes other than private gain, and which are incidental to non commercial events (commonly charity fund raising events, lottery held at a school fete or at a social event such as a dinner dance).  |
| <b>Information Exchange</b>              | Exchanging of information with other regulatory bodies under the Gambling Act <a href="#">2005</a> .  |
| <b>Interested Party</b>                  | A person who: <ul style="list-style-type: none"> <li>• Lives sufficiently close to the premises to be likely <a href="#">to be</a> affected by the authorised activities</li> <li>• Has business interests that might be affected by the authorised activities</li> <li>• Represents persons in either of the above groups</li> </ul> |

## Irrelevant Representations

- Where other legislation can cover the representation
- Demand
- Competition

## Judicial Review

Legal challenge where a party believes that the decision taken by the Licensing Authority is:

- Illegal, i.e. beyond the powers available to the Licensing Authority
- Procedural impropriety or unfairness
- Irrational

## ~~Judicial Review – Orders~~

~~1. Mandatory Order — compels the reviewed body to do something~~

~~2. Prohibitory Order — compels it to refrain from doing something~~

~~3. A 'declaration' — sets out the court's view on the legality of a particular course of action~~

~~4. Quashing Order — nullifies a decision and remits it for reconsideration~~

~~5. Injunction — similar to Mandatory or Prohibitory Order~~

## Large Lottery

Where the total value of tickets in any one lottery exceeds £20,000 OR tickets in separate lotteries in one calendar year exceeds £250,000. This requires an Operating Licence.

## Licensed Lottery

Large society lotteries and lotteries run for the benefit of local authorities which will be regulated by the Gambling Commission. Operating Licences will be required.

## Licensing Objectives

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

## Live Gaming

Gambling on a live game as it happens.

**Lottery**

An arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.

**Lottery Tickets**

Tickets that must:

- Identify the promoting society
- State the price of the ticket, which must be the same for all tickets
- State the name and address of the member of the Society who is designated as having responsibility at the Society for the promotion of the lottery, or, if there is one, the external lottery manager; and
- State the date of the draw, or enable the date of the draw to be determined.

**Mandatory Conditions**

Conditions that must be attached to a licence. This may apply to all [pP](#)remises Licences, to a class of [pP](#)remises [L](#)icence or licences for specified circumstances.

**Members' Club**

A club that must:

- have at least 25 members
- be established and conducted 'wholly or mainly' for purposes other than gaming
- be permanent in nature
- not [be](#) established to make commercial profit
- [be](#) controlled by its members equally.

**Non commercial event**

An event where all the money raised at the event, including entrance fees, goes entirely to purposes that are not for private gain.

**Non Commercial Society**

A society established and conducted:

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

|                                    |  |
|------------------------------------|--|
| <b>Occasional Use Notice</b>       | Betting may be permitted on a 'track' without the need for a full <a href="#">Premises Licence</a> .   |
| <b>Off Course Betting</b>          | Betting that takes place other than at a track, i.e. at a licensed betting shop.   |
| <b>Off Course Betting – Tracks</b> | Betting that takes place in self contained betting premises within the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operate only on race days. |
| <b>On Course Betting - Tracks</b>  | Betting that takes place on a track while races are taking place   |
| <b>Operating Licences</b>          | Licence to permit individuals and companies to provide facilities for certain types of gambling. They may authorise remote or non remote gambling.   |
| <b>Permits</b>                     | Authorisation to provide a gambling facility where the stakes and prizes are very low or gambling is not the main function of the premises.  |
| <b>Personal Licence</b>            | Formal authorisation to individuals who control facilities for gambling or are able to influence the outcome of gambling. These cannot be held by companies.   |
| <b>Pool Betting – Tracks</b>       | Betting offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track.  |
| <b>Premises</b>                    | Defined as 'any place'. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.   |
| <b>Premises Licence</b>            | Licence to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres  |

**Private Lotteries**

3 Types of Private Lotteries:

- Private Society Lotteries – tickets may only be sold to members of the Society or persons who are on the premises of the Society
- Work Lotteries – the promoters and purchasers of tickets must all work on a single set of work premises
- Residents' Lotteries – promoted by, and tickets may only be sold to, people who live at the same set of premises.

**Prize 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. The prizes will be determined by the operator before play commences.

**Prize Gaming Permit**

A permit to authorise the provision of facilities for gaming with prizes on specific premises.

**Provisional Statement**

Where an applicant can make an application to the Licensing Authority in respect of premises that he:

- ~~e~~ expects to be constructed
- ~~e~~ expects to be altered
- ~~e~~ expects to acquire a right to occupy.

**Racino**

Casino located at a racecourse.

**Relevant Representations**

Representations that relate to the Gambling Licensing Objectives, or that raise issues under the Licensing Policy or the Gambling Commission's Guidance or Codes of Practice.

**Responsible Authorities**

Public bodies that must be notified of all applications and who are entitled to make representations in relation to ~~p~~remises ~~l~~icences, as follows:

- The Licensing Authority in whose area the premises is partly or wholly situated;
- The Gambling Commission;
- The Chief Officer of Hampshire Constabulary;
- Hampshire Fire & Rescue Service;

- The ~~Service Lead - Built Environment~~~~Head of Development Management~~; Winchester City Council (the Local Planning Authority);
- The ~~Service Lead- Public Protection~~~~Head of Environmental Health & Licensing~~; Winchester City Council (responsible for pollution to the environment/harm to human health);
- The Local Safeguarding Children Board for Hampshire;
- HM Revenue & Customs
- Authority in relation to vulnerable adults (yet to be decided by Sec. of State)
- Vessels only – Navigation Authority whose statutory functions are in relation to waters where the vessel is usually moored or berthed, i.e.
  - Environment Agency
  - British Waterways Board
  - Maritime & Coastguard Agency

**SIA**

Security Industry Authority

**Simple Lottery**

An arrangement where:

- Persons are required to pay to participate in the arrangement
- In the course of the arrangement, one or more prizes are allocated to one or more members of a class; and
- The prizes are allocated by a process which relies wholly on chance.

**Skills with Prizes**

A machine on which the winning of a prize is determined only by the player's skill and there is no element of chance, e.g. trivia game machine, Formula 1 simulators, shooting game. Skills Machines are unregulated.

**Small Lottery**

Where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less.

|  |   |
|--|---|
| <b>Small Society Lottery</b>                   | A lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.   |
| <b>Small Operations</b>                        | Independent on course betting operators with only one or two employees or a bookmaker running just one shop.  |
| <b>Society</b>                                 | The society or any separate branch of such a society, on whose behalf a lottery is to be promoted.  |
| <b>Statement of Principles</b>                 | Matters taken into account when considering an applicant's suitability for applications for FEC Permits.  |
| <b>Temporary Use Notice</b>                    | To 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.                |
| <b>Totalisator or Tote</b>                     | Pool betting on tracks.   |
| <b>Touch Bet Roulette</b>                      | Where a player gambles on a live game of chance without actually being seated.  |
| <b>Track</b>                                   | Sites where races or other sporting events take place e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place. |
| <b>Travelling Fair</b>                         | A fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.  |
| <b>Vehicles</b>                                | Defined trains, aircraft, sea planes and amphibious vehicles other than hovercraft. No form of commercial betting and gaming is permitted   |
| <b>Vessel</b>                                  | Anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything, or part of any place, situated on or in water.                                  |
| <b>Vessel and Relevant Licensing Authority</b> | The Licensing Authority for the area in which the vessel is usually moored or berthed.  |

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**Virtual Betting**

Machine that takes bets on virtual races, i.e. mages generated by computer to resemble races or other events.

**Vulnerable Persons**

No set definition but likely to mean group to include people who gamble more than they want to, people who gamble beyond their means; people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.

**Young Person**

An individual who is ~~not a child but~~ not younger than 16 years only but not older~~who is less~~ than 18 years old.

## Appendix 3

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### GAMBLING ACT 2005 SCHEDULE 11 EXEMPT LOTTERIES

#### GUIDANCE NOTES ON THE REGISTRATION OF A SMALL SOCIETY LOTTERY

These guidance notes refer only to registration of a small society lottery. Please refer to [Lotteries and the Gambling Commission](#) for further clarification on the different types of lotteries, the licensing and registration of lotteries, and exempt lotteries.

#### DEFINITION

The Act's definition of a small society lottery falls into two distinct areas:

- **Society status** - the society in question must be 'non-commercial'
- **Lottery size** - the total value of tickets for sale per single lottery must not exceed £20,000, or the aggregate value of tickets for sale in all lotteries in a calendar year must not exceed £250,000.

If the operator plans to exceed either of these values, they may need to be licensed with the [Gambling Commission](#) to operate a large lottery.

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#### ~~KEY CHANGES FROM THE LOTTERIES AND AMUSEMENTS ACT 1976~~

~~The Act introduces some relaxation of society lottery law and, in particular it:~~

- ~~• removes the individual limits on the percentage of proceeds that may be used for expenses or prizes – although the maximum global amount that can be deducted for expenses and prizes remains at 80%, with a minimum of 20% going to the purposes of the society or to local authority expenditure~~
- ~~• allows rollovers of prize funds from one lottery to another promoted by the same society, provided the maximum single prize does not exceed £25,000 or 10% of the gross proceeds~~
- ~~• permits the sale of tickets by an automated process~~
- ~~• removes the £2 maximum limit on ticket prices.~~

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#### LIMITS PLACED ON SMALL SOCIETY LOTTERIES

- At least 20% of the lottery proceeds must be applied to the purposes of the society (para 33);
- No single prize can be worth more than £25,000 (para 34);
- Rollovers between lotteries are only permitted where every lottery affected is also a small society lottery promoted by the same society, and the maximum single prize is £25,000 (para 35);
- Every lottery ticket must cost the same, and the society must receive payment before entry into the draw is allowed (para 37).

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#### TICKETS

Lottery tickets may involve the issuing of physical or virtual tickets to participants ([i.e.](#) paper ticket, e-mail or text message). **All** tickets must state:

- the name of the promoting society
- the price of the ticket (which must be the same for all tickets)
- the name and address of the society member designated as having responsibility for promoting small lotteries, or (if there is one) the external lottery manager
- the date of the draw, or information enabling the date to be determined.

The requirement to provide this information for virtual tickets can be satisfied by the participant retaining the message electronically or printing it.

The Gambling Commission recommends that societies maintain written records of any unsold and returned tickets for a period of one year from the date of the lottery draw. The licensing authority is permitted to inspect the records of the lottery for any purpose related to it.

The Act requires that lottery tickets must only be sold by, and to, people over the age of 16 only.

#### **RETURNS** (*Lottery Return Statement form*)

Under para 39 of Schedule 11, the society must send returns to the licensing authority following each lottery held. The following information must be submitted:

- The arrangements for the lottery - specifically the date on which tickets were available for sale or supply, the dates of any draw, and the value of prizes, including any donated prizes and any rollover
- The total proceeds of the lottery
- The amounts deducted by the lottery promoters for prizes, including prizes in accordance with any rollovers
- The amounts deducted by the lottery promoters for costs incurred in organising the lottery
- The amount applied to the purpose for which the promoting society is conducted (this must be at least 20% of the proceeds)
- The amount of any expenses incurred in connection with the lottery not paid from the proceeds, and the sources from which they were paid
- The returns must be sent to the licensing authority within three months of the date of the lottery draw or, in the case of 'instant lotteries' (scratch cards), within three months of the last date on which tickets were on sale
- Returns must be signed (electronic signatures are acceptable) by two members of the society, over 18 years old, appointed for the purpose by the society or its governing body. A copy of their letter or letters of appointment must be included with the return.

#### **EXTERNAL LOTTERY MANAGERS**

An external lottery manager can be an individual, or a company appointed by the society to manage a lottery, or lotteries, on their behalf. They are consultants and generally take their fees from the expenses of the lottery.

External lottery managers must hold an operator's licence issued by the Commission to manage any lottery, including small society lotteries registered with a licensing authority. Societies must consult the register of operating licences held on the Commission's website at [www.gamblingcommission.gov.uk](http://www.gamblingcommission.gov.uk) before employing an external lottery manager. It is an offence to employ an unlicensed manager.

#### **NEW REGISTRATION**

- To register a new small society lottery, [complete the online application form on Winchester City Council's website, download the form Lottery Registration Application Form and complete as described or ask our Licensing Team for a copy.](#)
- Submit the [online application form, complete with £40.00 registration fee. form to the Council's Licensing Team with the £40 registration fee.](#)

- All new registration applications must be accompanied by a copy of the society's terms and conditions, or their constitution, to establish that they are a non-commercial society.
- All new registration applicants must provide a declaration, stating that they represent a bona-fide non-commercial society.
- A copy of appointment in writing of two members of the society, over the age of 18 years, authorised to sign return statements, or if it has one, ~~its~~ governing body.

#### ADMINISTRATION OF REGISTRATION

- The Council is required by para 44 of schedule 11 of the Act to record details of the society on a register, which must be made available to the public on request. ~~It~~They must also inform the Gambling Commission of all registrations.
- Once the application for registration has been accepted, the applicant will be notified as soon as practicable.
- Registrations run for an unlimited period, unless cancelled or revoked.
- There will be an annual fee of £20, which must be paid within the two months prior to the anniversary of registration. Renewal notices will be sent to all registered societies ~~as a courtesy.~~
- The anniversary of any registration will start from the date of first registration by the local authority.

#### REFUSAL OF APPLICATION

Paragraphs 47 and 48 of Schedule 11 of the Act set out the grounds for refusal of registrations. In summary these are:

- An operating licence held by the applicant for registration has been revoked, or an application for an operating licence made by the applicant for registration has been refused within the past five years;
- The society in question cannot be deemed non-commercial;
- A person who will, or may be, connected with the promotion of the lottery has been convicted of a relevant offence (as listed at schedule 7 of the Act); or
- Information provided in, or with, the application for registration is found to be false or misleading.

The licensing authority will only refuse an application after the society has had the opportunity to make representations. These can be made at a formal hearing or in writing. Further information on the procedure will be supplied on request.

#### REVOCAION OF REGISTERED STATUS

A licensing authority may revoke the registration of a society if it thinks they would have had to, or would have been entitled to, refuse an application being made at that time. The same procedure applies as above. Revocations cannot take place unless the society has been given an opportunity to make representations at a formal hearing or in writing. Further information on the procedure will be supplied on request.

#### APPEALS

Following conclusion of any hearings and receipt of representations, the licensing authority would notify the applicant or society as soon as possible if their registration is still to be revoked, or if their application for registration has still been rejected.

The process of appeal would be sent to the applicant with any decision notice. Any appeal against a decision must be made within 21 days of receipt of the decision notice. This must be made directly to the local ~~magistrates'~~ Magistrates' court.

### **FURTHER GUIDANCE**

Applicants are encouraged to consult the Gambling Commission's website for up-to-date advice and guidance on how to legally run a small society lottery. In particular, the Commission's Lottery Toolkit is particularly helpful and provides guidance on changes to draw dates, ticket vending machines and other variables.

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## Briony Appletree

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**From:** Licensing & Alcohol Harm Reduction Team Mailbox  
<[REDACTED]>  
**Sent:** 21 September 2021 12:33  
**To:** Licensing  
**Cc:** Cohen, Robert (2849)  
**Subject:** RE: Review of Statement of Principles - Gambling Act 2005

**Categories:** Briony

Afternoon

Hampshire Constabulary have no issues with venues in Winchester City Council that operate with the benefit of the Gambling Act 2005 and as such offer no comment to the proposed Statement of Principles.

Regards

***PC 2903 Brian Swallow***

*Licensing Officer  
Licensing and Alcohol Harm Reduction Team  
Bishops Waltham Police Station  
Hoe Road  
Hampshire  
SO32 1DS*

*Int: [REDACTED]  
Ext: [REDACTED]  
Mob: [REDACTED]*

[Licensing HomePage](#)

***National Pubwatch South East Representative***

[brian.swallow@nationalpubwatch.org.uk](mailto:brian.swallow@nationalpubwatch.org.uk)



## Briony Appletree

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**From:** Hambledon PC <[REDACTED]>  
**Sent:** 24 September 2021 12:56  
**To:** Licensing  
**Subject:** Re: Review of Statement of Principles - Gambling Act 2005

**Categories:** Briony

Good afternoon,

Hambledon PC supports the revised SoP and the changes it incorporates.

B/w

Joanna

Joanna Tester (Mrs)  
Clerk, Hambledon PC  
[REDACTED]

Please note that my working hours are as follows:

Monday - 11.15am to 2.15pm

Tuesday - 9.30am to 2.15pm

Thursday - 10am to 2.15pm

A further three hours worked flexibly throughout the week.



## Briony Appletree

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**From:** Belinda Baker, Clerk to Headbourne Worthy Parish Council  
<[REDACTED]>  
**Sent:** 13 October 2021 11:35  
**To:** Licensing  
**Subject:** RE: Review of Statement of Principles - Gambling Act 2005  
**Categories:** Briony

Dear Ms Appletree,

Headbourne Worthy Council reviewed WCC licensing statement of principles at a meeting of the Council held on Monday 11<sup>th</sup> October. The Council had no comment to make on WCC proposals.

Best Regards

Belinda Baker  
Clerk to Headbourne Worthy Parish Council  
[REDACTED]

Headbourne Worthy Parish Council only collects and uses personal information when it is necessary to deliver council services and to carry out associated legitimate business purposes, such as business administration and financial control.

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## Equality Impact Assessment Statement of Principles – Gambling Act 2005

| Service:          | Section:  | Assessment Author: | Date of Assessment: |
|-------------------|-----------|--------------------|---------------------|
| Public Protection | Licensing | Briony Appletree   | 09/11/2021          |

| Name of Policy to be Assessed: | Statement of Principles – Gambling Act 2005 |
|--------------------------------|---|
| New or Existing Policy         | Revision of existing policy                 |

|  |   |
|--|---|
| <b>1. Briefly describe the aims, objectives and purpose of the policy</b>    | The primary aim of the Statement of Principles is to set out how the Council will administrate applications and conduct compliance checks for applications for licences, permits and other permissions under the Gambling Act 2005.   |
| <b>2. Are there any associated objectives of the policy? Please explain.</b> | <ul style="list-style-type: none"> <li>• To ensure that the Council fulfils its duty to administrate applications for gambling licences and permits.</li> <li>• To outline how the Council will have regard to the Gambling Commission’s guidance in administrating applications and conducting compliance/enforcement.</li> <li>• To detail how the Council will consider applications, including consultation with relevant parties and determination procedures.</li> <li>• To outline the procedures for ensuring compliance with licences/permits, and for taking enforcement action where required.</li> <li>• To pass a ‘no Casino’ resolution (where relevant)</li> </ul> |
| <b>3. Who is intended to benefit from the policy, and in what way?</b>       | The Statement of Principles intends to benefit both persons carrying on gambling businesses in the Winchester area, and person who are likely to be affected by the exercise of the Council’s functions under the Gambling Act 2005.  |
| <b>4. What outcomes are wanted from this policy?</b>                         | The Statement of Principles supports the following Council Plan outcomes: Vibrant Local Economy, Living Well and Your Services, Your Voice.   |
| <b>5. What factors could contribute/detract from the outcomes?</b>           | <ul style="list-style-type: none"> <li>• Change in central Government policies or legislation</li> <li>• Changes to Gambling Commission guidance</li> <li>• Reduction or loss of local authority resources</li> </ul>   |
| <b>6. Who are the key people in relation to the policy?</b>                  | Winchester City Council’s Licensing Team; Ward Members; Parish Councils; the Gambling Commission; gambling businesses within the Winchester district; residents of and visitors to the Winchester district (including customers of gambling establishments)   |
| <b>7. Who implements the policy and who is responsible for the policy?</b>   | The Statement of Principles is implemented by the Council’s Licensing Department.<br>The Policy is, following public consultation, reviewed by the Licensing and Regulation Committee and then recommended for adoption by Full Council.  |

| <b>8. Could the policy have differential impact on racial groups?</b>              |  | <b>Yes / No</b> | <b>NO</b> |
|--|--|-----------------|-----------|
| <b>What existing evidence (either presumed or otherwise) do you have for this?</b> | <p>The Statement of Principles has no adverse impact on racial groups. Data regarding applicants' or individuals' race/ethnicity is not collected as part of any application process under the Gambling Act 2005, and is not a consideration in the consultation or determination of any application.</p> <p>Any representations submitted regarding an application, where the reason (or one of the reasons) for representation is the applicant's race/ethnicity, will be disregarded as irrelevant.</p> <p>Access by customers to gambling premises / activities should not be limited or determined by which racial group the customer belongs to. As a protected characteristic, racial group is not sufficient grounds for somebody to be refused access to gambling premises / activities.</p>  |                 |           |
| <b>9. Could the policy have differential impact due to gender?</b>                 |  | <b>Yes / No</b> | <b>NO</b> |
| <b>What existing evidence (either presumed or otherwise) do you have for this?</b> | <p>The Statement of Principles has no adverse impact on gender. Data regarding applicants' or individuals' gender is not collected as part of any application process under the Gambling Act 2005, and is not a consideration in the consultation or determination of any application.</p> <p>Any representations submitted regarding an application, where the reason (or one of the reasons) for representation is the applicant's gender, will be disregarded as irrelevant.</p> <p>Access by customers to gambling premises / activities should not be limited or determined by a customer's gender. As a protected characteristic, gender is not sufficient grounds for somebody to be refused access to gambling premises / activities.</p>  |                 |           |
| <b>10. Could the policy have differential impact due to disability?</b>            |  | <b>Yes / No</b> | <b>NO</b> |
| <b>What existing evidence (either presumed or otherwise) do you have for this?</b> | <p>The Statement of Principles has no adverse impact on disability. Data regarding applicants' disabilities is not collected as part of any application process under the Gambling Act 2005, and is not a consideration in the consultation or determination of any application.</p> <p>Any representations submitted regarding an application, where the reason (or one of the reasons) for representation is the applicant's disability, will be disregarded as irrelevant.</p> <p>Suitability of gambling premises for access/use by disabled persons is dealt with under the Equality Act 2010 and not a relevant consideration in determining gambling applications.</p> <p>An individual may refer to their own disability in a representation with respect to an application, either in passing or as a reason for the proposals adversely affecting them. In determining applications, the Council shall have regard to the Public Sector Equality Duty and ensure consideration is given to relevance of the disability to one or more of the three licensing objectives.</p> <p>Access by customers to gambling premises / activities should not be limited or determined by a customer's disability. As a protected characteristic, disability is not sufficient grounds for somebody to be refused access to gambling premises / activities.</p> |                 |           |

| <b>11. Could the policy have differential impact due to sexual orientation?</b>    |   | <b>Yes / No</b> | <b>NO</b>  |
|--|---|-----------------|------------|
| <b>What existing evidence (either presumed or otherwise) do you have for this?</b> | <p>The Statement of Principles has no adverse impact on sexual orientation. Data regarding applicants' or individuals' sexual orientation is not collected as part of any application process under the Gambling Act 2005, and is not a consideration in the consultation or determination of any application.</p> <p>Any representations submitted regarding an application, where the reason (or one of the reasons) for representation is the applicant's sexual orientation, will be disregarded as irrelevant.</p> <p>Access by customers to gambling premises / activities should not be limited or determined by a customer's sexual orientation. As a protected characteristic, sexual orientation is not sufficient grounds for somebody to be refused access to gambling premises / activities.</p>   |                 |            |
| <b>12. Could the policy have differential impact due to age?</b>                   |   | <b>Yes / No</b> | <b>YES</b> |
| <b>What existing evidence (either presumed or otherwise) do you have for this?</b> | <p>Applications for licences and permits under the Gambling Act 2005 may not be made by a child (under 18 years old). Applicants are required to declare that they are over the relevant age at the time of making an application, and may be required to provide their date of birth for specific applications.</p> <p>Any application made by a child, where the legislation prohibits this, will be rejected.</p> <p>Any representations submitted regarding an application, where the reason (or one of the reasons) for representation is the applicant's age, will be disregarded as irrelevant.</p> <p>Gambling activities permitted under licences/permits issued under the Gambling Act 2005 are largely restricted to those ages 18 years old and over. The policy details the legal requirements and expectations of licensees and permit holders to uphold the licensing objective 'protecting children and other vulnerable persons from being harmed or exploited by gambling.' These requirements and expectations are not beyond what would be considered reasonable by the Gambling Commission.</p> <p>Access by customers to gambling premises / activities may be limited or determined by a customer's age, in circumstances where they are below the legal age to participate in the gambling activities available at that premises. There is no upper age limit on gambling activities, and therefore a refusing a person access to gambling premises / activities on the grounds that they were 'too old' would not be sufficient grounds for refusal.</p> |                 |            |
| <b>13. Could the policy have differential impact due to religious belief(s)?</b>   |   | <b>Yes / No</b> | <b>YES</b> |
| <b>What existing evidence (either presumed or otherwise) do you have for this?</b> | <p>Data regarding applicants' or individuals' religion is not collected as part of any application process under the Gambling Act 2005, and is not a consideration in the consultation or determination of any application.</p> <p>Any representations submitted regarding an application, where the reason (or one of the reasons) for representation is the applicant's religion, will be disregarded as irrelevant.</p> <p>Representations received by or on behalf of religious persons or groups, where the representation cites religion as a reason for the representation, may be considered in the determination of a gambling application provided that it relates to one or more of the three licensing objectives.</p> <p>Access by customers to gambling premises / activities should not be limited or determined by a customer's religion. As a protected characteristic, religion is not sufficient grounds for somebody to be refused access to gambling premises / activities.</p>  |                 |            |

| 14. Could the adverse impacts identified in section 8-13 create the potential for the policy to discriminate against certain groups? |   | Yes / No | YES |
|--|---|----------|-----|
| What existing evidence (either presumed or otherwise) do you have for this?  | <p>In determining applications, the Council may not mitigate all concerns raised on the basis of disability, age or religion. For example, an application for a gambling premises may be granted despite representations received citing that it should not be granted due to its close proximity to a school or place of worship.</p> <p>It is essential that the Council clearly documents its decision-making process and reasons for making decisions, having regard to the Public Sector Equality Duty and considering both the representations and the applicant's proposals.</p> |          |     |

| 15. Can this adverse impact be justified on the grounds of promoting equality of opportunity for one group? Or any other reason? |  | Yes / No | YES |
|--|--|----------|-----|
| What existing evidence (either presumed or otherwise) do you have for this?  | <p>The shall Council clearly document its decision-making process and reasons for making decisions, having regard to the Public Sector Equality Duty and considering both the representations and the applicant's proposals.</p> |          |     |

Signed (completing officer): BRIONY APPLETREE

Signed (lead officer): \_\_\_\_\_

| Please list team members and service areas involved in this assessment: |
|---|
| Public Protection; Legal  |

## Data Protection Impact Assessment Statement of Principles – Gambling Act 2005

**Explain broadly what project aims to achieve and what type of processing it involves.** You may find it helpful to refer or link to other documents, such as a project proposal. Summarise why you identified the need for a DPIA.

Winchester City Council's Statement of Principles is required to be reviewed every three years under the Gambling Act 2005. The current Statement has effect from 2019 to 2022, and the revised Statement is intended to have effect from 2022 to 2025. The Statement outlines processes as defined by the relevant legislation and guidance, and local procedures as decided by the Council to ensure the fair and transparent administration of applications.

Applications procedures require the applicant(s) to submit personal data, such as their full name, date of birth, address, contact telephone number, and email address. The legislation allows these details to be submitted either via hard copy or electronic application.

The Council also requires applicants to provide proposed plans of premises with some applications. These documents may also include personal data.

The legislation also requires, for some applications, for the Council to publish notice of the application in the public domain (i.e. on its website). There is potential for personal data to be published in doing so if the application details are not correctly redacted.

I have identified a need for a Data Protection Impact Assessment as the application processes include the collection and publication of personal data; this needs to be controlled.

**Describe the scope of the processing:** what is the nature of the data, and does it include special category or criminal offence data? How much data will you be collecting and using? How often? How long will you keep it? How many individuals are affected? What geographical area does it cover?

### **Personal data collected for each application**

Full name of applicant; date of birth; home/business address; telephone number and email address for applicant and/or their agent.

The applicant, in some circumstances, is required to prove that they have the right to work in the UK. The vast majority of documentation submitted to demonstrate this contains personal data.

Individuals may submit representations with respect to an application, which will require their full name and address.

### **Data retention**

The above data will be retained for the duration of the licence (some permits are held for 12 months only, others are held in perpetuity until they are surrendered or revoked), including renewed licences. Email correspondence relating to the application or licence will be retained in accordance with the City Council's Mailmeter system (2 years).

### **Frequency of data collection**

It is difficult to say how often this type of data will be collected, as there is no limit on who can apply for a licence/permit and when the application can be made.

### **Individuals affected**

Personal data is collected from the applicant (an individual or company). Personal data of additional individuals may be present on supplementary documents required with the application. Persons making representations with respect to applications must include their full name and address.

**Geographical area affected**

Applicants for licences/permits must own or occupy a premises within the Winchester district. The applicant, however, does not need to be based in the district. Individuals making representations in relation to the application may also live within or outside of the Winchester district.

**Describe the context of the processing:** what is the nature of your relationship with the individuals? How much control will they have? Would they expect you to use their data in this way? Do they include children or other vulnerable groups? Are there prior concerns over this type of processing or security flaws? Is it novel in any way? What is the current state of technology in this area? Are there any current issues of public concern that you should factor in? Are you signed up to any approved code of conduct or certification scheme (once any have been approved)?

Personal data is collected and retained purely for the purposes of administrating the application processes for licences/permits under the Gambling Act 2005. Application forms include a statement confirming that personal data may be passed to other agencies in the processing and consultation of the application (i.e. responsible authorities).

Applicants must declare that they are age 18 or over at the time of making an application, and/or provide their date of birth depending on the statutory application form required to be completed. Applications which do not include this declaration will be rejected.

**Describe the purposes of the processing:** what do you want to achieve? What is the intended effect on individuals? What are the benefits of the processing – for you, and more broadly?

Personal data is collected and retained purely for the purposes of administrating the application processes for licences/permits under the Gambling Act 2005.

A full name and address is required to ensure that any licence/permit granted is attributed to an individual or business. These details are printed on the licence paperwork.

Contact details for the applicant are retained to assist with undertaking compliance and enforcement action (i.e. delivery of warning notices or similar).

The main benefit from processing this personal data is that it allows an individual or business to obtain a licence/permit under the Gambling Act 2005, which ultimately will assist in the production of income.

**Consider how to consult with relevant stakeholders:** describe when and how you will seek individuals' views – or justify why it's not appropriate to do so. Who else do you need to involve within your organisation? Do you need to ask your processors to assist? Do you plan to consult information security experts, or any other experts?

Where required, full applications and any supplementary documents are forwarded to Responsible Authorities via email for their consideration. Applications are not redacted for the purposes of consultation, giving Responsible Authorities opportunity to contact applicants and discuss their proposals and concerns with them directly.

Where required, notification of applications are sent to Ward Councillors and the Parish Council (where relevant). This notification is limited to the type of application, name and address of applicant, name and address of premises and days/times of proposed activities; the application form and any supplementary documents containing personal data are not shared.

Where required, notification of applications and grant/refusal of applications are sent to the Gambling Commission. This notification is limited to the type of application, name and address of applicant, name and address of premises and days/times of proposed activities, and the outcome of the application. The application form and any supplementary documents containing personal data are not shared. A copy of the licence/permit, where granted, may be shared.

The vast majority of applications undergo a public consultation period of 28 days. During this time, any person may request to view the application form and supplementary documents. Personal data will be redacted prior to any application form or supplementary documents being viewed.

Representations may be received with respect to an application, which may contain personal data. Representations can be submitted in either hard copy or electronic format.

The Council's Data Protection Officer will review this DPIA.

**Describe compliance and proportionality measures, in particular:** what is your lawful basis for processing? Does the processing actually achieve your purpose? Is there another way to achieve the same outcome? How will you prevent function creep? How will you ensure data quality and data minimisation? What information will you give individuals? How will you help to support their rights? What measures do you take to ensure processors comply? How do you safeguard any international transfers?

The Council's lawful basis for collecting and processing personal data in these circumstances is the requirement for the licensing authority to process applications under the Gambling Act 2005. The Council has specified the form of application in accordance with the relevant legislation.

**Function creep:** Prevented by each application under the Gambling Act 2005 having its own unique reference number on Uniform. The type of reference number specifically relates to applications for gambling licences/permits and is not shared with any other type of application.

**Data minimisation:** All data will be adequate to fulfil the requirements for processing applications, relevant only to that type of application, and limited to only what is necessary for processing said applications.

**Data quality:** The accuracy, completeness and reliability of the data collected depends on the applicant's ability to provide quality data. However, the application forms include mandatory fields for name, address and contact details that must be completed before the application is submitted. Furthermore, the applicant must declare on the application form that they understand that any false statement made in connection with the application will result in the application being refused. Only relevant data will be collected; the Council has specified the form of application in such a way to reduce the amount of personal data collected to the bare minimum required for processing the application. The consultation and determination periods for applications under the Gambling Act 2005 range between 7 days and 28 days, depending on the type of application.

#### Identify and assess risks

| <b>Describe source of risk and nature of potential impact on individuals.</b> Include associated compliance and corporate risks as necessary. | <b>Likelihood of harm</b> | <b>Severity of harm</b> | <b>Overall risk</b> |
|---|---------------------------|-------------------------|---------------------|
| Illegitimate access to personal data held in connection with an application   | Possible                  | Significant             | Medium              |
| Loss of personal data by City Council   | Possible                  | Minimal                 | Medium              |
| Modification of personal data by City Council or third party  | Possible                  | Significant             | Medium              |

| <b>Identify measures to reduce risks</b>                                    |   |                       |                      |                         |
|---|---|-----------------------|----------------------|-------------------------|
| <b>Risk</b>   | <b>Options to reduce or eliminate risk</b>  | <b>Effect on risk</b> | <b>Residual Risk</b> | <b>Measure approved</b> |
| Illegitimate access to personal data held in connection with an application | <ul style="list-style-type: none"> <li>- City Council has secure network, can only be accessed with staff username/password.</li> <li>- Vast majority of applications submitted electronically</li> <li>- Personal data only forwarded to responsible authorities for consultation purposes. These authorities will have their own data protection policies/procedures to prevent illegitimate access to data.</li> <li>- All personal data redacted from application and supplementary documents before provided to third parties upon request (e.g. Ward Councillors, members of public)</li> </ul> | Reduced               | Low                  |                         |
| Loss of personal data by City Council                                       | <ul style="list-style-type: none"> <li>- Data is subject to organisation's data retention policies. No deletion of data is necessary as the data retention tools in Outlook and IDOX do this automatically.</li> </ul>  | Reduced               | Low                  |                         |
| Modification of personal data by City Council or third party                | <ul style="list-style-type: none"> <li>- Data does not need to be amended by case officer or any other City Council staff member during the processing of the application, unless the applicant specifically requests that details are updated (i.e. change of address). In which case these changes will have an audit trail.</li> <li>- Uniform has function that allows officers to record changes to name/address/contact details to ensure an audit trail.</li> </ul>  | Reduced               | Low                  |                         |

| <b>Sign off and record outcomes</b>     |                           |   |
|---|---------------------------|---|
| <b>Item</b>                             | <b>Name/position/date</b> | <b>Notes</b>  |
| Measures approved by:                   |                           | <i>Integrate actions back into project plan, with date and responsibility for completion.</i> |
| Residual risks approved by:             |                           | <i>If accepting any residual high risk, consult the ICO before going ahead</i>                |
| DPO advice provided:                    |                           | <i>DPO should advise on compliance, step 6 measures and whether processing can proceed.</i>   |
| Summary of DPO advice:                  |                           |   |
| DPO advice accepted or overruled by:    |                           | <i>If overruled, you must explain your reasons</i>  |
| Comments:                               |                           |   |
| Consultation responses reviewed by:     |                           | <i>If your decision departs from individuals' views, you must explain your reasons</i>        |
| Comments:                               |                           |   |
| This DPIA will be kept under review by: |                           | <i>The DPO should also review ongoing compliance with DPIA.</i>                               |
|   |                           |   |
|   |                           |   |
|   |                           |   |
|   |                           |   |

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REPORT TITLE: REVIEW OF PAVEMENT LICENSING POLICY

8 DECEMBER 2021

REPORT OF CABINET MEMBER: Cllr Lynda Murphy

Contact Officer: Briony Appletree Tel No: 01962 848 188

Email [licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk)

WARD(S): ALL

## PURPOSE

The Government has extended the provision for Pavement Licences under the Business and Planning Act 2020 until 30 September 2022.

This report seeks to make minor amendments to the Council's existing Pavement Licensing Policy to ensure that it is consistent with the amended legislation.

## RECOMMENDATIONS:

That the Licensing and Regulation Committee:

1. Agree the minor amendments to the Council's Pavement Licensing Policy, as set out in Appendix 1, to ensure that it is consistent with updated legislation.

## IMPLICATIONS:

### 1 COUNCIL PLAN OUTCOME

- 1.1 Vibrant Local Economy
- 1.2 By clearly outlining the process for businesses to obtain Pavement Licences, the Council will continue to contribute to the essential post-lockdown recovery of the hospitality industry. Outdoor, 'al-fresco' style dining contributes to ensuring that the city, market towns and rural communities have attractive visitor offer.
- 1.3 Living Well
- 1.4 Outdoor furniture licensed by Pavement Licences can contribute to the enhancement of open spaces and public areas, encouraging residents and visitors to enjoy the outdoors whilst dining.
- 1.5 Your Services, Your Voice
- 1.6 The publication of a Pavement Licensing Policy ensures that the application and determination processes for Pavement Licences are open and transparent.

### 2 FINANCIAL IMPLICATIONS

- 2.1 Application fees for Pavement Licences are capped at a maximum of £100 under section 2(1)(c) of the Business and Planning Act 2020 (as amended).
- 2.2 The council's current application fee for a Pavement Licence is £100. This report does not propose to amend this fee.
- 2.3 The application fee fully covers the cost of administering any application, including consultation and determination periods. However, this fee does not necessarily cover the costs incurred for any enforcement action taken; i.e. sending notices and conducting compliance checks.

### 3 LEGAL AND PROCUREMENT IMPLICATIONS

- 3.1 The Business and Planning Act 2020 (the 2020 Act) requires that the local authority administer pavement licences and as such it is a service that must be provided as a statutory and not a discretionary function.
- 3.2 The administration of Pavement Licences is a non-executive function (outside the scope of Cabinet) in accordance with section 8 of the Business and Planning Act 2020.
- 3.3 This report seeks to simply extend the provisions of the Pavement Licensing Policy until the Government's revised deadline for the provisions under the Business and Planning Act 2020.

3.4 There are no procurement implications as a direct result of this report.

#### 4 WORKFORCE IMPLICATIONS

4.1 The Licensing team will continue to manage any requests for Pavement Licences within existing resources.

#### 5 PROPERTY AND ASSET IMPLICATIONS

5.1 Colleagues from Estates will continue to be consulted on applications where they relate to Council owned property.

#### 6 CONSULTATION AND COMMUNICATION

6.1 Section 8 of the Business and Planning Act 2020 shows that the legislative functions in relation to Pavement Licences are not to be the responsibility of an authority's executive, and that there is no need for formal consultation.

6.2 However, the following agencies were consulted on the proposed Pavement Licensing Policy prior to its implementation in September 2020: Hampshire County Council as the Highways Authority; Winchester City Council's Environmental Health Team; Chair of the Licensing and Regulation Committee and the Cabinet Member for Built Environment.

6.3 This report proposes no changes to the way in which applications for Pavement Licences are administered and therefore further consultation is not required.

#### 7 ENVIRONMENTAL CONSIDERATIONS

7.1 Continuing to encourage local people to visit local hospitality venues in our city centre and market towns supports the principals of local sustainability.

#### 8 EQUALITY IMPACT ASSESSEMENT

8.1 These proposals raise no additional equality considerations beyond those identified in the existing equality impact assessment published in September 2020.

#### 9 DATA PROTECTION IMPACT ASSESSMENT

9.1 These proposals raise no additional data protection considerations beyond those identified in the existing data protection impact assessment published in September 2020.

10 RISK MANAGEMENT

| <b>Risk</b>            | <b>Mitigation</b>  | <b>Opportunities</b>  |
|------------------------|--|---|
| Financial Exposure     | N/A  |   |
| Exposure to challenge  | The Policy could be challenged by Judicial Review, but as the Council's decision-making process is considered to be lawful, a challenge is considered to be unlikely.                |   |
| Innovation             |  |   |
| Reputation             |  | The Council could seek to highlight and publicise the engagement work it has undertaken in relation to assisting businesses with obtaining Pavement Licences.       |
| Achievement of outcome | The proposals seek to ensure that the Pavement Licensing Policy continues to be relevant to the legislation to which it relates.   | Opportunity to review the Policy to ensure that it is fit for purpose and complies with the relevant provisions of the Business and Planning Act 2020 (as amended). |
| Property               | N/A  |   |
| Community Support      | The Council acknowledges the need for the hospitality industry to recover following the COVID-19 lockdown, and therefore will continue to grant Pavement Licences wherever possible. |   |
| Timescales             | The proposed amendment to the policy seeks to ensure that applications continue to be considered in line with a relevant and up-to-date policy.                                      |   |
| Project capacity       | N/A  |   |
| Other                  | N/A  |   |

## 11 SUPPORTING INFORMATION:

### Background

- 11.1 The Business and Planning Act 2020 received Royal Assent on 22 July 2020. The Act introduced a new, expedited process for obtaining permission to place furniture on the highway in the form of a Pavement Licence.
- 11.2 The Act introduced a shorter consultation and determination period for applications, a maximum application fee and national conditions made by the Secretary of State. It also specifies that furniture can be used for both the service and consumption of food/drink, and that furniture must be removable i.e. not permanently fixed to the ground or any other structure.
- 11.3 The provision for Pavement Licences was due to expire on 30 September 2021. At the time that it was introduced in July 2020, the Government did not anticipate further tightening of COVID-19 restrictions beyond this date.
- 11.4 In March 2021, the then Housing and Communities Secretary Robert Jenrick confirmed that the provision for Pavement Licences under the Act would be extended until the end of September 2022. The Act makes provision for the legislation to be extended at section 26.
- 11.5 The proposed extension of provisions does not entitle holders of Pavement Licences to an automatic extension of their existing permission. Those who wish to continue to place furniture on the highway beyond September 2021 will have to reapply and pay the £100 fee.
- 11.6 The licensing authority is now required to administrate applications for Pavement Licences under the Business and Planning Act 2020 until 30 September 2022.

### Changes Proposed

- 12 The revised Pavement Licensing Policy shown at Appendix 1 details the proposed changes that are shown tracked.
- 12.1 The proposed changes are to ensure that the Pavement Licensing Policy remains current with the amendments to the legislation, and to clarify the expiry date of existing Pavement Licences.
  - i) Page 7: Explanation of extension to provisions under the relevant legislation, and confirmation of new expiry date of provisions under that legislation.
  - ii) Page 7: Clarification that Pavement Licences with an expiry date of 30 September 2021 will not be automatically extended, and that licence holders must make a new application and pay the £100 fee.

iii) Page 8: Amended '2021' to '2022.'

### 13 OTHER OPTIONS CONSIDERED AND REJECTED

- 13.1 None. The amendment to the legislation extends the pavement licensing regime, the administration and monitoring of which is still the responsibility of the licensing authority.
- 13.2 There is a clear expectation that this licensing regime continues to be administered. Failure to continue making provision for applications of this nature would most likely result in action against the council from local businesses that would be significantly impacted.

#### BACKGROUND DOCUMENTS:-

##### Previous Committee Reports:-

LR 534 Introduction of 'Pavement Licence' Policy under the Business and Planning Act 2020 (15 September 2021)

##### Other Background Documents:-

GOV.UK: ['Jenrick confirms extension of pavement licences to help high streets recover'](#)

#### APPENDICES:

Appendix 1: Revised Pavement Licensing Policy



## PAVEMENT LICENSING POLICY

### 1.0 Introduction

The coronavirus (COVID-19) pandemic has affected the hospitality industry significantly, causing many to cease trading for several months and/or diversify the nature of their business.

On 25 June 2020, the Government announced an urgent relaxation to planning and licensing laws to assist the hospitality industry with recovering from the COVID-19 lockdown. The Business and Planning Act 2020 introduces a temporary fast-track process for these businesses to obtain permission, in the form of a 'pavement licence', from Winchester City Council for the placement of furniture on the pavement outside their premises. This will enable them to maximise their capacity whilst adhering to social distancing. The Business and Planning Act 2020 received Royal Assent on 22 July 2020.

Currently, tables and chairs permissions are granted as Tables and Chairs Permits by Winchester City Council, with consent from Hampshire's Highways Authority, under Part 7A of the Highways Act 1980. The process includes a 28 day consultation period and a fee of £225.

The temporary measures under the Business and Planning Act 2020 place a cap on the application fee for businesses, and introduces a new consultation period of 10 working days. This ensures that businesses can obtain licences in a timely and cost effective manner, aiding their financial recovery.

### 2.0 Scope

A pavement licence is a licence granted by the local authority, or deemed to have been granted, which allows the licence-holder to place removable furniture over certain highways adjacent to the premises in relation to which the application was made, for certain purposes.

#### 2.1 Eligible businesses

Businesses that can apply for a licence include:-

A business which uses (or proposes to use) premises for the sale of food or drink for consumption (on or off the premises) including but not limited to cafes, bars, restaurants, snack bars, coffee shops, and ice cream parlours; and Public houses, wine bars, and other drinking establishments,

A licence permits the business to use furniture placed on the highway to sell or serve food or drink and/or allow it to be used by people for consumption of food or drink supplied from, or in connection with the use of the premises.

## 2.2 Eligible locations

Pavement Licences can be granted in respect of highways listed in section 115A(1) of the Highways Act 1980. These are generally footpaths restricted to pedestrians or are roads and places to which vehicles access is restricted or prohibited. Highways maintained by Network Rail or over the Crown land are exempt, and therefore a licence cannot be granted.

Applications for locations which are not adjacent (i.e. adjoining or next to) the premises to which the application relates will not normally be considered. However, the Council may use its discretion to consider applications of this nature where it is appropriate.

## 2.3 Type of furniture permitted

The furniture which may be used is:

- counters or stalls for selling or serving food or drink;
- tables, counters or shelves on which food or drink can be placed;
- chairs, benches or other forms of seating; and
- umbrellas, barriers, heaters and other articles used in connection with the outdoor consumption of food or drink.

The furniture must be removable (i.e. not permanently fixed to the ground or any other structure), and can be easily stored somewhere other than the highway outside of licensable hours.

The style and type of furniture must be approved by the City Council. It will be considered whether the furniture is 'in keeping' with the local area.

Please note that Advanced Warning Signs (A boards and other free standing signs) are not considered 'furniture' under the Business and Planning Act 2020, and therefore cannot be considered under this regime. Applicants intending to install Advanced Warning Signs outside their premises may be subject to enforcement action under the Highways Act 1980.

The use of removable barriers (e.g. solid or rope barriers) to mark the boundary of the area used for furniture is highly encouraged by the City Council. Details of any barriers must be included on the application alongside details of furniture and other articles used in connection with the outdoor consumption of food or drink.

## 2.4 Planning permission

Once a licence is granted, or deemed to be granted, the applicant will also benefit from deemed planning permission to use the land for anything done pursuant to the licence while the licence is valid.

### **3. Application**

#### **3.1 Submission of the application**

An application for a Pavement Licence must be made to the Council (in an electronic format that the Council approves), and the following will be required to be submitted with the application:

- a completed application form
- the required fee of £100, paid by electronic means
- a plan of the proposed area to be used for the furniture, including measurements of the premises, the width and depth of the area to be used, and the width of the highway. The proposed licensable area must be clearly shown with a red line or border. Plans do not need to be to scale, provided that the measurements are clear.
- photos or brochures showing the proposed type and style of furniture (optional).
- Proof of the applicant's right to occupy the premises to which the application relates (e.g a copy of the lease).
- proof of written consent from all owners and occupiers (including residents) of premises adjoining the highway on which the furniture is proposed to be placed. These persons are known as 'frontagers.' If the frontager is a company, then consent must be provided by an authorised officer of that company who should confirm that they are duly authorised to give consent. Where the applicant has received no response from a frontager in relation to their proposal, they must provide evidence to the Council that they have made efforts to obtain consent and/or engage with frontagers on the proposal.

Omission of any of the above documents will invalidate the application.

It is recommended that applicants also submit photographs of any existing damage to the relevant areas of the highway. This may be used in evidence should the Highways Authority seek to recover costs for the repair of damage caused by the use of removable furniture.

#### **3.2 Fees**

The fee for applying for a Pavement Licence under the Business and Planning Act 2020 is set locally, but is capped at £100. The Council has determined that the fee for applications will be £100.

Application fees must accompany the application in order for the application to be considered valid and for the consultation period to commence.

The fee is an 'application fee' for the processing of the application. The fee will not be refunded if the application is withdrawn or refused, or if a licence is surrendered or revoked before expiration.

### 3.3 Notice of intention

An applicant for a Pavement Licence must on the day the application is made, fix a 'notice of intention' to the premises so that the notice is readily visible to, and can be readily easily by, members of the public who are not on the premises. The notice must be in a format prescribed by the Council. Variations of this format will not be accepted and will invalidate the application.

The notice must be secured and suitably weatherproofed so that it remains in place until the end of the public consultation period. Evidence of compliance with the requirement to display the notice must be supplied to the Council upon request.

The notice must:

- state the date on which the application was made;
- state the statutory provisions under which the application is made;
- state the address of the premises and the name of the business;
- describe the proposed use of the furniture;
- state the days and times applied for;
- indicate that representations relating to the application may be made to the Council during the public consultation period and when that period comes to and end;
- state details of the Council's website and where the application and any accompanying material can be viewed during the consultation period
- state the postal address and email address to which representations should be sent during the consultation period; and
- state the end date of the consultation period (7 days, not including bank holidays, starting with the day after the application is submitted to the Council).

A template notice is shown in Appendix 1.

### 4.0 Consultation

Applications are consulted upon for 7 days (not including bank holidays), starting on the day after the day on which a valid application was made to the Council.

The Council will publish details of the application and supporting information on its website at <https://www.winchester.gov.uk/licensing/tables-chairs>

The Council is required by law to consult with the Highways Authority. If the Highways Authority does not respond to the application within the consultation period then the Council may still consider the application.

The Council will also notify relevant Ward Councillors, Parish Council(s) and Hampshire Constabulary's South East Counter Terrorism Unit of the application for information.

Members of the public can contact the Council to make representations in respect of the application. These must be received in writing either to

[licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk) or Licensing Manager, City Offices, Colebrook Street, Winchester SO23 9LJ to arrive before the end of the consultation period.

The Council must take into account representations received during the public consultation period and consider these when determining the application. Representations received outside of the public consultation period will not be considered in the determination of the application.

## 5.0 Determination

The following matters will be taking into account by the Council in considering the suitability of the proposed application:

- public health and safety – for example, ensuring that users of the furniture are able to comply with the latest guidance on social distancing and any reasonable crowd management measures needed as a result of a licence being granted;
- public amenity – will the use of the licence create nuisance to neighbouring occupiers by generating anti-social behaviour, excessive noise and litter, and;
- accessibility - taking a proportionate approach to considering the nature of the site in relation to which the application for a licence is made, taking account of:
  - any other temporary measures in place that may be relevant to the proposal, for example, the reallocation of road space. This could include pedestrianised streets and any subsequent reallocation of this space to vehicles.
  - whether there are any other permanent street furniture or structures in place on the footway that already reduce access (i.e. benches, bollards and hostile vehicle mitigation barriers);
  - the impact on access and egress to the premises;
  - the impact on neighbouring premises;
  - the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in section 3.1 of the [Department for Transport's Inclusive Mobility guidance](#), and;
  - other users of the space, for example, if there are high levels of pedestrian or cycle traffic.
- whether the proposed activities would have one or more of the following effects;
  - preventing traffic, other than vehicular traffic, from;
    - (i) entering the relevant highway at a place where such traffic could otherwise enter it (ignoring any pedestrian planning order or traffic order made in relation to the highway,
    - (ii) passing along the relevant highway, or
    - (iii) having normal access to premises adjoining the relevant highway
  - preventing any use of vehicles which is permitted by a pedestrian planning order or which is not prohibited by a traffic order,
  - preventing statutory undertakers having access to any apparatus of theirs under, in, on or over the highway, or

- preventing the operator of an electronic communications code network having access to any electronic communications apparatus kept installed for the purposes of that network under, in, on or over the highway.

Applicants are strongly advised to speak with neighbouring businesses and occupiers (whether considered frontagers or not) prior to applying to the Council for a Pavement Licence and take any issues around health and safety, nuisance and access into consideration as part of the proposal.

### 5.1 Determination period

Once a valid application is submitted to the Council, it has 14 days (not including bank holidays) from the day after the application is made to consult on and determine the application. This consists of 7 days for public consultation, and then a further 7 to consider and determine the application after the consultation period has ended.

If the Council determines the application before the end of the determination period, the Council can:

- grant the licence in respect of any or all of the purposes specified in the application,
- grant the licence for some or all of the part of the highway specified in the application,
- impose conditions on any licence granted,
- refuse the application.

If the local authority does not determine the application within the 7 day determination period, the application will be deemed to have been granted subject to any published local and national conditions.

### 5.2 Approval of applications

The Council may approve applications meeting the criteria specified within this Policy.

On approving the application, the Council will issue a Pavement Licence to which conditions will be attached. The licence will also contain specific terms such as days and hours when furniture is permitted on the highway and the location of the furniture corresponding to the application. A site plan will be attached to the licence.

A copy of the Council's standard conditions will be attached to all Pavement Licences. These are listed in Appendix 2. Additional conditions may be attached to individual licences if the Council considers it appropriate.

The Council will generally only permit furniture to be placed on the highway no later than the terminal hour for the sale of food / drink at the premises to which the application relates. Applications outside of these hours will be assessed in terms of criteria detailed in section 5 of this Policy. The Council retains the right to specify permitted hours for furniture to be placed on the Highway in accordance with the premises' trading hours and/or any relevant road closures or temporary traffic orders.

### 5.3 Licence duration

If the Council determines an application before the end of the determination period (which is 7 days, beginning on the day after the end of the public consultation period), the duration of the licence will be specified, subject to a minimum duration of 3 months.

The expectation from the Government is that local authorities will grant licences for 12 months or more unless there are good reasons for granting a licence for a shorter period, such as plans for future changes in use of road space.

As such, the Council will normally grant licences for a period of 12 months.

If a licence is 'deemed' granted because the authority does not make a decision on an application before the end of the determination period, then the licence will be valid for a period of 12 months.

The Business and Planning Act 2020 was initially in effect until 30 September 2021. The Government confirmed in March 2021 that its provision would be extended to ~~is in effect until~~ 30 September 2024. A licence granted or deemed to be granted will not be valid beyond 30 September 2024.

Pavement Licences that expired on or before 30 September 2021 will not be automatically extended. Licence holders must make a new application, and pay the relevant fee, if they wish to continue to place removable furniture on the highway.

### 5.4 Refusal of applications

The Council may refuse an application if:

- it considers the proposals unsuitable as a result of their consideration of the points in section 5 of this Policy;
- the Highways Authority refuses to give consent to the proposal;
- it receives representations which cannot be mitigated by imposing conditions

There is no statutory appeal process against a decision to refuse an application.

## 6.0 Conditions

The Council's standard conditions are set out in Appendix 2. In some cases, extra measures may be required. This will be determined when assessing any application, on a case by case basis.

Where a local authority sets a local condition that covers the same matter as set out in national published conditions, the locally set condition takes precedence over the national condition to the extent that it is inconsistent with it.

The national 'no obstruction' condition and the national 'smoke-free seating' condition apply to all licences. The national 'no obstruction' condition is shown in Appendix 3.

## 7.0 Enforcement

The Council aims to work closely with other enforcement authorities to enforce the provisions of all appropriate legislation. The case remains that any obstruction of the highway is an offence under The Highways Act 1980 and will be dealt with by the Highways Authority or the Police.

Obtaining a Pavement Licence does not confer the licence holder immunity in regard to other legislation that may apply, e.g. public liability, health and safety at work, food Hygiene and safety, alcohol and entertainment licensing, and social distancing controls. Applicants must ensure all such permissions etc. are in place prior to operating under a Pavement Licence.

If a condition imposed on a licence either by the Council or via a national condition is breached then the Council will be able to issue a notice requiring the breach to be remedied within a time scale specified by the Council. If the notice is not complied with, the Council may revoke the licence or take the required steps itself and recover the costs of doing so from the licence holder.

The authority may revoke a licence in the following circumstances:

- For breach of condition (whether or not a remediation notice has been issued) or where:
  - there are risks to public health or safety – for example by encouraging users of the furniture to breach government guidance on social distancing by placing furniture too close together;
  - the highway is being obstructed (other than by anything permitted by the licence);
  - there is anti-social behaviour or public nuisance – for example, the use of the furniture is increasing the amount of noise generated or litter not being cleaned up;
  - it comes to the light that the applicant provided false or misleading statements in their application – for example they are operating a stall selling food within the licensable area, and had applied for tables and chairs on which drinks could be consumed; or
  - the applicant did not comply with the requirement to affix the ‘notice of intention’ to notify the public of the application for the relevant period.
- Where all or part of the area of the relevant highway to which the licence relates has become unsuitable for any purpose for which the licence was granted or deemed to be granted. For example, the licensed area (or road adjacent) is no longer to be pedestrianised.

## 8.0 Review

This policy covers the temporary permissions for the administration of Pavement Licences under the Business and Planning Act 2020, which are scheduled to expire on 30 September 2024.

The Policy will be reviewed should changes occur in the relevant legislation or guidance that affect the administration of Pavement Licences, or as a result of local considerations or policies within the Winchester District.



Service Lead for Public Protection

Licensing Department  
Public Protection  
Winchester City Council  
City Offices  
Colebrook Street  
Winchester  
SO23 9LJ

Tel: 01962 848 188

Email: [licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk)

Web: [www.winchester.gov.uk/licensing](http://www.winchester.gov.uk/licensing)

Appendix 1 – Notice of Intention (Template)



**BUSINESS AND PLANNING ACT 2020**

**NOTICE OF INTENTION TO USE FURNITURE ON THE  
HIGHWAY UNDER A 'PAVEMENT LICENCE'**

I / We, *(name of applicant/s)*:

HEREBY GIVE NOTICE that an application has been made on  
**DD/MM/YYYY** to Winchester City Council for the consideration of  
permission to place furniture on the highway for the following purposes:

**Service of food / service of drinks / service of food and drinks  
Consumption of food / Consumption of drinks / Consumption of food  
and drinks**

*\*Delete as applicable*

Name and address of premises where furniture is to be located, including  
names of any streets or areas to be used that are not directly outside the  
premises:

Description of furniture to be used:

The furniture is proposed to be in place on the highway on the following  
days / times:

**E.G. MONDAY TO SATURDAY 11:00 - 17:00**

Any person who wishes to submit representations in connection with this  
application should send their representations in writing to  
[licensing@winchester.gov.uk](mailto:licensing@winchester.gov.uk), to arrive within 7 days (not including bank  
holidays) of the date of this notice. Representations will be taken into  
consideration in the determination of the application.

Full details of the application are available to view on the City Council's  
website: <https://www.winchester.gov.uk/licensing/tables-chairs>

**THIS NOTICE MUST BE DISPLAYED CLEARLY VISIBLE FROM OUTSIDE THE PREMISES**

## Appendix 2 – Conditions

1. Outside of the hours mentioned in the Licence, the removable furniture must be removed and stored safely outside the area and in any event not on the highway.
2. The removable furniture shall be immediately removed upon request by the City Council, Police or Highways Authority if the area is required in whole or in part for repairs to be undertaken **or for any other reason**. In the case of planned maintenance work the City Council or Highways Authority shall endeavour to give reasonable notice to the Licensee. In the event of emergency repairs no notice may be given. Maintenance works/repairs included work undertaken by statutory undertakers as well as surface repairs.
3. In the event that any removable furniture is found outside the area, notification will be given by the Council to replace them within the area within one hour.

The Licensee will receive a remediation notice from the City Council both via email and delivered to the premises. The notice will outline the reasons why it is believed that the Licensee has breached condition(s) of the Licence, and will be given 7 days to remedy the breach. In the event that the breach is not remedied within this time period, the City Council may take steps to remove the furniture and/or consider revocation of the Licence.

In the event that the furniture is removed by the City Council and the Licensee wishes to reclaim them, prior to their return the Licensee shall;

- i) Contact the Licensing Department to request the return of confiscated furniture,
- ii) Make payment, electronically, of a £100 fee to the Licensing Department
- iii) Contact the Special Maintenance Team on 01962 848 574 to arrange collection of the furniture from the location that the Special Maintenance Team has designated for storage.

If furniture remains unclaimed after 14 days, the Council will dispose of the furniture as it sees fit.

4. No nuisance is to be caused, by the placing of the removable furniture on the highway, to users of the adjoining pedestrianised area.
5. Emergency routes to and from the premises and adjacent buildings must not be obstructed by the use of removable furniture at these premises.
6. The Licensee shall ensure that the use of removable furniture conforms to latest guidance issued by government on social distancing.

7. The Licensee must ensure that the permitted area is regularly monitored to manage crowds and ensure that customers are not creating a public nuisance.
8. The Licensee shall not be permitted to place Advance Warning Signs (A-boards and other free-standing signage) within the designated area.
9. The Licensee shall be responsible for keeping the area in a clean and tidy condition at all times.
10. The Licensee must make reasonable provision for seating where smoking is not permitted, and have regard to the [Government's guidance](#) in doing so.
11. The Licensee shall be responsible for any damage caused to the paved surface of the area through any act, or, omission during the period of the Licence and any damage is to be made good entirely at the Licensee's expense.
12. The Licensee shall ensure that valid Public Liability Insurance, indemnifying the Council against any claim arising from the operation of the Licence (minimum £5,000,000 cover), is maintained throughout the period of the Licence.
13. This Licence is not transferable between Licensees or premises.

### **Appendix 3 – National Conditions**

The Secretary of State publishes this condition in exercise of his powers under [Section 5(6)] of the Business and Planning Act 2020:

Condition relating to clear routes of access:

It is a condition that clear routes of access along the highway must be maintained, taking into account the needs of disabled people, and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#).

Guidance on the effect of this condition

1. To the extent that conditions imposed or deemed to be imposed on a pavement licence do not require the licence holder to require clear routes of access to be maintained, taking into account the needs of disabled people and the recommended minimum footway widths and distances required for access by mobility impaired and visually impaired people as set out in Section 3.1 of [Inclusive Mobility](#), the licence is granted subject to those requirements.
2. To the extent that a licence is granted subject to a condition which imposes requirements to maintain clear routes of access that are inconsistent with the requirements set out in this condition this condition is not imposed on the licence.

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