

Licensing and Safety Committee – 12 October 2022

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Licensing and Safety Committee

Wednesday 12 October 2022

Conference Room 2 at the Council House, Lichfield Street, Walsall

Livestream link:

Membership:

Councillor Gandham (Chair)
Councillor Bains
Councillor C. Bott
Councillor Cooper
Councillor A. Hussain
Councillor I. Hussain
Councillor K. Hussain
Councillor P. Kaur
Councillor Nawaz
Councillor S. Nasreen
Councillor W. Rasab
Councillor Samra
Vacancy
Vacancy

Quorum:

Five Members

Democratic Services, The Council House, Lichfield Street, Walsall, WS1 1TW

Contact Name: **Helen Owen** Telephone: (01922) **654522**

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please contact the person above

AGENDA

PART I – Public Session

1. **Apologies.**

2. **Changes in membership**

To note that since the last meeting:

- Councillors Harrison and Sears have left the committee
- Councillor I Hussain has been appointed to the Committee
- Councillor Samra was appointed Vice Chair at the Council meeting on 3 October.

3. **Declarations of Interest**

4. **Local Government (Access to Information) Act, 1985 (as amended):**

There are no items for discussion in the private session of the agenda.

5. **Taxi Licensing Sub-Committees ‘A’ & ‘B’ – appointment to vacant posts**

- To appoint to the vacant post for each sub-committee.

***Note:** In accordance with the decision of the Licensing and Safety Committee on 31 May 2022 regarding the political balance of these sub-committees, this appointment should be drawn from the Conservative Group members of the Licensing and Safety Committee.*

6. **Licensing Sub-Committee – amendment to hearing procedure**

- Report of Democratic Services - **enclosed**

7. **Licensing Act 2003 – Deadlines for receipt of representations**

- Report of Director, Resilient Communities - **enclosed**

8. **Gambling Act – Draft Policy**

- Report of the Director, Resilient Communities - **enclosed**

9. **Pavement Café licences – update**
 - Report of Director, Resilient Communities - **enclosed**

10. **Work programme.**
 - Copy enclosed

11. **Date of next meeting**
 - 23 November 2022 – 6.00 p.m.

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The Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012

Specified pecuniary interests

The pecuniary interests which are specified for the purposes of Chapter 7 of Part 1 of the Localism Act 2011 are the interests specified in the second column of the following:

Subject	Prescribed description
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by a member in carrying out duties as a member, or towards the election expenses of a member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Regulations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority:</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to a member's knowledge):</p> <p>(a) the landlord is the relevant authority;</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where:</p> <p>(a) that body (to a member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either:</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

Licensing and Safety Committee

Minutes of the meeting held on Tuesday 31 May 2022 in the in a Conference Room at the Council House, Lichfield Street, Walsall at 6.00pm.

Present: Councillor Gandham (Chair)
Councillor Sears (Vice-Chair)
Councillor Bains
Councillor C. Bott
Councillor Cooper
Councillor Harrison
Councillor A. Hussain
Councillor K. Hussain
Councillor P. Kaur
Councillor Nawaz
Councillor S. Nasreen
Councillor W. Rasab
Councillor Samra
Vacancy

In Attendance: Mr P. Gordon, Director Resilient Communities
Mrs H. Owen, Democratic Services Officer

1/22 Welcome

Councillor Gandham welcomed everyone to the first meeting of the Municipal Year Introductions took place and a quorum of members present in-person was established.

2/22 Change of Membership

The following change in membership was noted:
Councillor W. Rasab for Councillor G. Clarke.

3/22 Apologies

There were no apologies

4/22 Declarations of Interest

There were no declarations of interest

5/22 Local Government (Access to Information) Act, 1985

There were no items to be considered in private session.

6/22 **Establishment of a Licensing sub-Committee**

A report was submitted which sought approval to establish a licensing sub-committee to determine applications under the Licensing Act 2003 and the Gambling Act 2005

(see annexed)

Resolved

- 1) That a Licensing Sub-Committee be established for the 2022/23 municipal year in accordance with Section 9 of the Licensing Act, 2003 to determine applications under that legislation in circumstances set out in appendix 1 attached to the report and under the Gambling Act 2005 in the circumstances detailed in Appendix 2 attached to the report.
- 2) That membership of the sub-committee shall comprise three members of the Licensing and Safety Committee on a rota basis, subject to availability.
- 3) That the Chair of the sub-committee shall be appointed at each meeting of the Licensing Sub-Committee
- 4) That the Director of Resilient Communities be authorised to determine applications under the Licensing Act 2003 and the Gambling Act 2005 , in the circumstances identified in appendix 1 and 2 attached to the report.

7/22 **Establishment of Taxi Licensing Sub-Committees**

A report was submitted which sought approval to establish two taxi Licensing sub-committees and to appoint members thereto.

(see annexed)

In response to a question from members in relation to the need for such sub-committees, the Democratic Services officer explained that it was at the discretion of the committee to decide if it wished to appoint the sub-committees however, the committee was recommended to appoint at least one sub-committee for the following reasons:

- As the sub-committees were hearings they needed to have regard to natural justice and fairness so should limit the number of late evening hearings for example, some applicants may wish to bring legal representatives which would attract premium rates in the evening.
- Applicants would have to sit in front of the full 14 member committee which they may find daunting.
- It gives flexibility to call hearings at short notice to deal with matters needing a speedy determination.

It was Moved by Councillor Gandham, Seconded by Councillor Samra and

Resolved (unanimous)

- 1) That Taxi Licensing Sub-Committee 'A' and Taxi Licensing Sub-committee 'B' be established to deal with taxi licensing applications under the Local government (Miscellaneous Provisions) Act 1976 for the 2022/23 municipal year
- 2) That, by convention, 7 members of the Licensing and Safety Committee be appointed to each of the sub committees in accordance with political balance regulations as follows:
 - 4 Conservative Councillors
 - 3 Labour Councillors
- 3) That a chair and vice-chair be nominated to each sub-committee
- 4) To note that Taxi Licensing Sub Committee 'A' shall convene at 10.00 a.m. and that Taxi Licensing Sub Committee 'B' shall convene at 6.00 p.m.

In accordance with Resolution (2) above:

Members were nominated and appointed as follows:

Taxi 'A'

Councillors Bains, Cooper, Harrison, K Hussain, Nasreen, Nawaz, Samra

Taxi 'B'

Councillors C. Bott, A Hussain, Nasreen, Nawaz, Rasab, Kaur

In accordance with Resolution (3) above:

The Chair of each sub-committee was nominated and appointed as follows:

Taxi 'A'

Councillor Cooper – 6 members voting in favour
Councillor Harrison – 2 members voting in favour
Councillor Cooper appointed

Taxi 'B'

Councillor Rasab – 6 members voting in favour
Councillor Sears – 2 members voting in favour
Councillor Rasab appointed

No appointments were made as vice-chairs at this meeting.

A report was submitted which sought approval to establish the Taxi/Private Hire Liaison Group:

(see annexed)

Resolved

That a taxi/Private Hire Liaison Group be established in accordance with the terms of reference set out in the appendix to the report and that all members of the Licensing and Safety Committee be appointed thereto.

The Meeting terminated at 6.15 p.m.

Chair:

Date:



Walsall Council

Licensing and Safety Committee 12 October 2022

Licensing Act 2003 – amendment to hearing procedure

1.0 Purpose of report

To advise Members of a revised order of proceedings for Walsall Council Licensing and Safety Sub-committee hearings relating to applications for premises licences.

2.0 Recommendations

That the revised procedure for hearings by the Licensing and Safety Sub-committee relating to applications for premises licences be approved.

3.0 Background information

3.1 The Licensing Act 2003 (Hearings) Regulations 2005, as amended, makes provision for the holding of hearings under the 2003 Act. Those regulations require each licensing authority to produce its own procedure.

3.2 The order in which the various interested parties address the sub-committee after the licensing officer has presented the report currently allows for representations from the Responsible Authorities and other Interested parties before the applicant presents their case. However, normal practice in hearings of this nature both in local authorities and at court, allows the applicant to state their case first which provides context upon which other parties make their representations. All other hearings are conducted in this way.

3.3 To regularise this, a revised procedure relating to applications for premises licences is attached as appendix 1 and reflects the advice at 3.2 above. The procedure for hearings relating to licence reviews already reflects this and does not therefore need amending.

4.0 Resource Considerations

4.1 **Financial:** None

4.2 **Legal:** The hearings conducted by the Licensing sub-committee are quasi-judicial in nature and adhere to the principles of natural justice and fairness.

4.3 **Staffing:** None

5.0 Citizen Impact:

None

6.0 Community Safety

None

7.0 Environmental Impact

None

8.0 Performance and risk management issues

None

9.0 Equality implications

These hearings are quasi-judicial in nature and therefore, in the interests of Natural Justice and Fairness, the procedure provides all parties with an opportunity to make their case, ask questions and be questioned.

10.0 Consultation

None required

11.0 Background papers

None

Contact Officers

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LICENSING SUB-COMMITTEE
Applications relating to premises licences

ORDER OF PROCEEDINGS

1. Introductions.
2. Licensing Officer to present report outlining the application, relevant representations and relevance to the Local Authority licensing policy statement and statutory guidance.
3. Questions to the Licensing Officer from the Sub-Committee or other parties.
4. The applicant to present their case.
5. Responsible Authorities, interested parties and Sub-Committee to ask questions of the applicant.
6. The responsible Authorities to make relevant representations in relation to the application.
7. The applicant, interested parties and Sub-Committee to ask questions of the responsible Authorities.
8. Interested parties to make representations.
9. The applicant, responsible Authorities and Sub-Committee to ask questions of the interested parties.
10. All parties to briefly summarise their case.
11. The Chair to check that all parties have said all they wish to.
12. The Sub-Committee to deliberate in private, all persons except the Legal Adviser and Committee Administrator, to withdraw from the hearing.

13. All parties to be recalled and advised of the Sub-Committee's decision and inform parties in regard to the right of appeal to the Magistrates Court under Section 181 of the Licensing Act 2003

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**Report of the Director of Resilient Communities to the
Licensing and Safety Committee**

14 October 2022

**Timeframe for supporting documents to be accepted under the
Licensing Act 2003**

1.0 Summary of Report

- 1.1 Agree to a time frame in relation to when it is acceptable for the Licensing Authority to receive supporting information from 3rd parties or responsible authorities prior to the date of committee.
- 1.2 The council's role is to ensure that a fair hearing takes place and all parties have had a fair chance to consider and respond to any concerns raised through representations and supporting information submitted.

2.0 Recommendation

- 2.1 That the Licensing Authority recommends that any further information submitted from any party is to be supplied at least 10 clear working days before the date on when the hearing is to take place for any applications other than Temporary Event Notice (TEN), where supporting information is to be provided 5 clear working days prior to the date of committee.
- 2.2 That introduction of late evidence is only likely to be permitted if there is:
 - a) good reason for its late submission and
 - b) its admission will not undermine the fairness of proceedings

3.0 Background

- 3.1 Over the past few years, Walsall Council has held a number of Licensing Sub-Committees to deal with Licensing Act 2003 application, whether it be a new premises application or a review of the licence. However the Licensing Authority has noted that there has been an emerging pattern of supporting information from Responsible Authorities being submitted at the 11th hour. The lateness of that submitted, has the potential to compromise the rule of natural justice in that it risks inadequate time being available for both the applicant(s) and members of the committee to properly consider the supporting information and prepare for the hearing as appropriate.

3.2 Where supporting information is provided at short notice and those hearings proceed, the council may be exposed to an increased risk of challenge and criticism of those committee decisions made under such circumstances.

3.3 Section 18 of the Hearing regulations 2005 state:

“In considering any representations or notice made by a party the authority may take into account documentary or other information produced by a party in support of their application, representations or notice (as applicable) either before the hearing or, with the consent of all the other parties, at the hearing”.

3.4 The Licensing Authority moving forward would also include a written statement in their acknowledgement of representations on the time frame by when supporting documents must be provided.

4.0 Resource Considerations

4.1 **Financial:** Where there is concerns around the fairness to a committee, the council will leave itself open to challenge and judicial appeals.

4.2 **Legal:** The Council can exercise its functions by way of committees or officers. When exercising delegated authority, in addition to any policies the Council may have, both committees and officers are bound by natural justice, human rights, the legal framework, and relevant and statutory guidance.

4.3 182 Guidance issued under the Licensing Act 2003 states:

9.34 - “The hearing process must meet the requirements of regulations made under the 2003 Act. Where matters arise which are not covered by the regulations, licensing authorities may make arrangements as they see fit as long as they are lawful”

9.37 – “As a matter of practice, licensing authorities should seek to focus the hearing on the steps considered appropriate to promote the particular licensing objective or objectives that have given rise to the specific representation and avoid straying into undisputed areas. A responsible authority or other person may choose to rely on their written representation. They may not add further representations to those disclosed to the applicant prior to the hearing, but they may expand on their existing representation and should be allowed sufficient time to do so, within reasonable and practicable limits”

5.0 Staffing issues:

None

6.0 Citizen Impact

None

7.0 Community Safety

None.

8.0 Environmental Impact

None

9.0 Performance and Risk Management Issues

Decisions by the committee must be compliant with all relevant legislation. One of the overwhelming priorities of the Licensing Authority is to ensure fairness in its decision making process.

10.0 Equality Implications

Nothing arising from this report.

11.0 Consultation

None required.

Contact Officer

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Licensing Team Leader
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Email: sayful.alom@walsall.gov.uk



**Report of the Director of Resilient Communities to the
Licensing and Safety Committee
12 October 2022**

Gambling Act 2005 – Revision of Statement of Principles

1.0 Summary of report

To advise Members of a revised draft Statement of Principles that is required to go out to statutory consultation. This draft statement of principles is issued under Section 349 of the Gambling Act 2005. The consultation period will run from the 1st November 2022 to the 31st January 2023.

2.0 Recommendations

That Members consider the report and the attached draft policy and approve the draft statement of principles for statutory consultation.

3.0 Background information

- 3.1 The Gambling Act received Royal Assent on the 7 April 2005. It put in place a comprehensive framework for the regulation of gambling. The act has the following stated objectives:
- (a) Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime.
 - (b) Ensuring that gambling is conducted in a fair and open way.
 - (c) Protecting children and other vulnerable persons from being harmed or exploited by gambling.
- 3.2 The licensing authority is responsible for the licensing of gambling premises, permits and registrations, the Gambling Commission issue all other associated licences (Operating and Personal Licences).
- 3.3 The Act places a duty on the licensing authority to determine its statement of principles with respect to the exercise of its functions, and to publish that statement before it starts the exercise of those functions.

- 3.4 During this three year period, the policy must be kept under review and the licensing authority may make any revisions to it as it considers necessary.
- 3.5 The first statutory three year period began on the 31 January 2007. The current statement of principles was effective from the 19 April 2019 and is given as **Appendix 1**.
- 3.6 Before the licensing authority determines its statement of principles for the next three years it must have consulted those persons listed in Section 349(3) of the act:
- (a) The Chief Officer of Police.
 - (b) One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area.
 - (c) One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Act.
- 3.7 Consultation took place with those listed above on the 28th February 2022.
- 3.8 The draft revised statement has undergone some changes these are identified in the Walsall Council Gambling Licensing Consultation Guide attached as **Appendix 2**.
- 3.9 The final Statement of Principles following consultation and any revisions necessary, will subsequently be re- presented to the Licensing and Safety Committee for approval and for this Committee to formally recommend to Council, the adoption of this draft licensing policy statement which we anticipate will be effective from January 2023.
- 3.10 The draft revised statement of principles is given as **Appendix 3**.
- 3.11 For the benefit of members, **Appendix 4** is a table to show the number of applications received between 2019 – 2022 for the different types of licences under the Gambling Act 2005 together with a total number of licensed premises. The total number of licensed venues has dropped from 80 44 licensed premises since the last review.
- 3.12 Since the introduction of the 2005 Act no for reviews have had to be put before the relevant sub committees for determination.

4.0 Resource Considerations

- 4.1 **Financial:** Fees for premises licences and temporary use notices are set by the licensing authority.
- 4.2 **Legal:** The Act places a duty on the licensing authority to determine its statement of principles with respect to the exercise of its functions and to publish that statement before it starts the exercise of those functions on a three yearly cycle.

The revised statement of principles will be effective from **February 2023**. However, the statement needs to be published once the council approves the draft policy to comply with prescribed regulation. Any challenge of the licensing authority's statement of principles is initiated by way of Judicial Review.

- 4.3 **Staffing:** Nothing arising from this report.

5.0 Citizen Impact

- 5.1 The Gambling regime is permissive, this means that the Council has a statutory duty to permit gambling where it is reasonably consistent with the licensing objectives. Moral or ethical objections are not considered a valid reason to reject applications neither is expected demand or whether the proposal by an applicant is permitted by planning or building law.
- 5.2 However the licensing objectives the council must have regard to in its decision making are:
- Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
 - Ensuring that gambling is conducted in a fair and open way
 - Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 5.3 As regards the term "vulnerable persons" This draft statement of principles defines this group as people who gamble more than they want to; people whose gambling is beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.
- 5.4 Therefore this consultation seeks to ensure those with an interest in gambling have the ability to make their concerns known impact on the citizens of Walsall from the adoption of this Policy and Statement of Principles should be positive and seek to protect those most at risk of any harm that may be caused by Gambling.

6.0 Community Safety

Nothing arising from this report.

7.0 Environmental Impact

Nothing arising from this report.

8.0 Performance and risk management issues

Failure to adequately consult on this draft Statement of Principles or take into consideration relevant comments made during the course of the consultation could bring the Gambling Licensing regime within Walsall into disrepute.

9.0 Equality implications

Nothing arising from this report.

10.0 Consultation

As prescribed by regulation.

11.0 Associated Papers

Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015 Parts 17, 18 & 19 updated September 2016.

Appendix 1 – Current Statement of Principles

Appendix 2 – Guide to the proposed changes to the Statement of Principles

Appendix 3 – Draft Statement of Principles 2023 – 2025

Appendix 4 – Table of applications

Contact Officer

Muhammed Sayful Alom,
Licensing Team Leader



Gambling Act 2005

Statement of Principles

Effective from: 19 April 2019



Walsall Council

WALSALL MBC STATEMENT OF PRINCIPLES Gambling Act 2005

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All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, 5th Edition, published September 2015.

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PART A

1. The Licensing Objectives

In exercising its functions under the Gambling Act 2005 (the Act), Walsall Council in its role as licensing authority will regulate gambling in the public interest and by having regard to the licensing objectives as set out in Section 1 of the Act.

The licensing objectives are:

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

In making decisions about whether to issue premises licences and temporary use notices Walsall Council will have regard to s153 of the Act and aim to permit the use of premises for gambling in so far as it thinks fit:

- and in accordance with any relevant code of practice issued by the Gambling Commission
- and in accordance with any relevant guidance issued by the Gambling Commission
- and where the decision is reasonably consistent with the licensing objectives
- and in accordance with the authority's statement of licensing policy

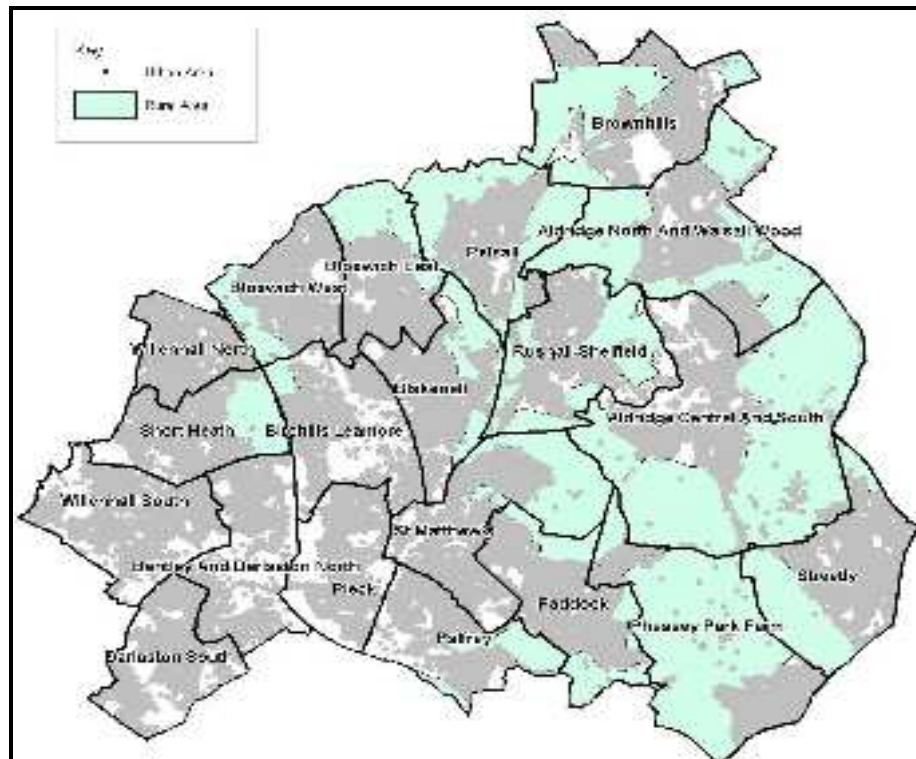
The Gambling Act 2005 specifically references factors which Walsall Council as Licensing Authority must not consider in exercising its functions including

- The expected demand for facilities (s.153(2))
- Whether the application is to be permitted in accordance with the law relating to planning or building (s.210(1))

2. Introduction

Walsall Council is situated in the West Midlands area, which contains seven Metropolitan Borough Councils in total. The Council area has a population of 269,300 (2011 Census) making it the third largest in the County in terms of population. In terms of area Walsall covers 40.02 square miles, meaning it is neither the largest nor smallest district in the West Midlands. The Council area is mainly urban covering an area of 24.83 square miles. These areas are shown on the map below.

The key provided identifies the urban / rural areas.



The towns of Willenhall and Darlaston, west of the M6, contrast with the eastern parts of the borough, which are more residential and in parts agricultural in character. Traditional and growth industries are spread throughout the borough. Walsall benefits from its position at the cross-roads of the motorway network and communications have been improved further by the M6 Toll Road; Birmingham airport and the Genting Arena are within easy reach, and frequent trains to Birmingham provide links to the Inter-City network. Regeneration projects focussing on Walsall town centre, the district and local centres, and key transport corridors are transforming the borough's new economic well-being.

In line with the requirements of the Act the following persons, groups or organisations will be consulted with before the Statement of Policy is finalised and published:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

The consultation period took place between 8th November 2018 – 20th December 2018. The list of persons consulted can be found at **APPENDIX 1**

The policy was approved at a meeting of the Council on 23rd January 2019 and was published via our website on 22 March 2019. This Policy is effective from 19 April 2019.

Comments on Statement of Principles

The Statement of Principles will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Licensing Service
Walsall M.B.C
Civic Centre
Darwall Street
Walsall
WS1 1TP

Telephone Number: 01922 653050

e-mail: licensing@walsall.gov.uk

website : www.walsall.gov.uk

It should be noted that this statement of licensing policy does not

1. override the right of any person to make an application and to have that application considered on its merits in accordance with the statutory requirements of the Act.
2. restrict the right of persons to make representations on an application or to seek a review of a licence where provision has been made for them to do so.

3. Declaration

In producing the final statement, Walsall Council declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

4. Responsible Authorities and Interested Parties

Responsible Authorities

The Act allows for two different types of groups to make representations regarding applications and also to apply to have existing licences reviewed by the Authority. These groups are “Responsible Authorities” and “Interested Parties”

The Act defines Responsible Authorities as:

S.157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:

- (a) a licensing authority in England and Wales in whose area the premises is wholly or partly situated
- (b) the Gambling Commission
- (c) the chief officer of police or chief constable for the area in which the premises is wholly or partially situated
- (d) the fire and rescue authority for the same area
- (e) in England and Wales, the local planning authority, or in Scotland, the planning authority
- (f) the relevant authority as defined in s.6 of the Fire (Scotland) Act 2005
- (g) an authority which has functions in relation to pollution to the environment or harm to human health
- (h) anybody, designated in writing by the licensing authority, as competent to advise about the protection of children from harm
- (i) HM Revenue & Customs
- (j) any other person prescribed in regulations by the Secretary of State.

In relation to a vessel:

- (i) a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any water where it is or is proposed to be navigated at a time when it is used for licensable activities;
- (ii) the Environment Agency;
- (iii) the Canal and River Trust;
- (iv) the Secretary of State; or
- (v) any other person prescribed in regulations by the Secretary of State.

The contact details of Responsible Authorities under the Gambling Act 2005 are attached at **Appendix 2** and are also available via the Council’s website www.walsall.gov.uk

Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence.

Walsall Council will consider a person an interested party in relation to an application for or in respect of a premises licence where the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- b) has business interests that might be affected by the authorised activities or
- c) represents persons who satisfy paragraph (a) or (b)

Walsall Council will apply the following principles when determining whether a person is an interested party.

1. A rigid rule will not be applied to decision making and each case will be decided upon its merits
2. Where automatic representations are made between rival businesses with no specific or reasonable evidence base those businesses will not be considered interested parties
3. If a business is likely to be affected by an application due to its
 - a. size,
 - b. being in the catchment area of the premises or the size of the catchment area
 - c. the distance people travel to visit the premises

It will be considered an Interested Party.

4. Democratically elected persons will generally be considered Interested Parties as long as the Councillor / MP represents the ward likely to be affected. Those elected members who are also members of the Licensing and Safety Committee must seek advice prior to agreeing to represent any person(s)
5. Trade Associations and Trade Unions will generally be considered Interested Parties
6. Representatives of Community Groups for example those supporting vulnerable persons living near the proposed premises, Residents and Tenants Associations, Governors of schools, partnerships, charities, faith groups and medical practices located near proposed premises will generally be considered Interested Parties.

Other than democratically elected persons each case will be decided upon its merits. Where necessary written evidence for example in the form of a letter from the Interested Person(s) will be requested to assist in making a decision. The letter or written evidence should show 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

5. Competent authority for protection of children from harm

In accordance with the powers under s157(h) of the Act and having regard to the Gambling Commission's Guidance to Licensing Authorities, the Walsall Safeguarding Children Board is designated as the competent body to advise Walsall Council about the protection of children from harm.

In making this determination consideration has been given to the following principles

1. the need for the body to be responsible for an area covering the whole of the licensing authority's area; and
2. That the Safeguarding Board has the overarching responsibility to meet the requirements of section 14(1) of the Children Act 2004
 1. to co-ordinate what is done by each person or body represented on the Board for the purpose of safeguarding and promoting the welfare of children in the area of authority
 2. to ensure the effectiveness of what is done by each person or body for that purpose.

In 2019 the Safeguarding Childrens Boards will be discontinued and will be replaced by Safeguarding Partnership Arrangements. For the purposes of this Statement of Principles the Walsall Safeguarding Childrens Board will continue to be the competent authority until such time as it ceases to exist. The Safeguarding Partnership Arrangements or any such alternative we are presently unaware of will then act as the competent authority for the remainder of the time period for which this Statement of Principles is active.

6. Exchange of Information

The principles that Walsall Council will apply in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with the respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act are as follows;

1. Regard will always be given to the Guidance to licensing authorities document issued by the Gambling commission as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005

2. Information will be provided to the Commission in a manner determined by it as long as it forms part of a register maintained under the Act and that the information is in the possession of the authority in connection with the provisions of the Act.
3. Information will be exchanged with
 - a. A constable or police force
 - b. an enforcement officer
 - c. a licensing authority
 - d. HMRC
 - e. the First Tier Tribunal
 - f. the Secretary of State

In the course of their duties relating to Gambling or wider socio-economic impacts

4. Information will be exchanged in compliance with the General Data Protection Regulation, the Data Protection Act 2018, the Freedom of Information Act 2000 and any other act or Regulation that forms a relevant part of the UK data protection regime.

The council is committed to keeping information about customers and employees safe and secure. The council's Information Governance Policy Framework consists of an overarching strategy supported by three separate Policies. These are:

- a) The Information Rights Policy
- b) The Records Management Policy
- c) The Information Risk and Security Policy

For more information about how the Council uses personal data and your rights with regards to this please see our privacy notice at

https://go.walsall.gov.uk/privacy_statement

or contact Informationmgmt@walsall.gov.uk

All Information the licensing service collects is held within a secure access controlled building. The electronic databases exist within a password protected server and any paper records are kept in locked cabinets. The service has a data retention policy for both electronic and paper records and any archive material is kept within a secure access controlled building.

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

7. Inspection and criminal proceedings

Walsall Council will adopt the principles of good regulation and will have regard to its Enforcement Policy, current Gambling Commission Statement of Principles for Licensing and the Gambling Commission Licensing, Compliance and Enforcement Policy Statement where appropriate.

Walsall Council will exercise its regulatory activities in a way which is:

- (i) Proportionate – the Regulators’ Code promotes proportionate regulatory activity, which includes taking appropriate action where non-compliance is identified. The Public Interest Stage contained in the Code for Crown Prosecutors and can be accessed at www.cps.gov.uk/publication/code-crown-prosecutors will always be considered when determining whether it is right to prosecute. Our activities will reflect the impact of the offending on those living in, working in and visiting the area and enforcement action taken will relate to the seriousness of the offence.
- (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,
- (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in a consistent manner.
- (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities and intelligence.

Walsall Council will endeavour to avoid duplication with other regulatory regimes so far as possible.

Walsall Councils main role is to ensure compliance with the premises licences and other permissions which it authorises.

In terms of Inspections of such premises this will be carried out using intelligence and on a risk based approach.

Where a premises is considered to pose a high risk inspections will be carried out no less than annually with appropriate revisits to ensure compliance.

Where complaints or other intelligence are received in relation to a premises these will be assessed and an appropriate response which may include inspection will be made. Should it be considered necessary to undertake test purchases or age verification exercises Walsall Council will follow the guidance set out in the Gambling Commission Test Purchasing and Age Verification toolkit or any guidance which supersedes it.

Walsall Council will always be prepared to work in partnership with the Gambling Commission on local test purchasing and age verification or other enforcement exercises and use any evidence gathered in decisions relating to review of a licence and implementation of its Enforcement Policy.

Where consultations are required as part of an application an inspection will normally be carried out.

This regime does not include issues relating to operating and personal licences and concerns about manufacture, supply or repair of gaming machines which are the responsibility of the Gambling Commission.

This authority supports the principals of better regulation to promote efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens on business.

Bearing in mind the principle of transparency, this licensing authority's enforcement policy and any protocols which may be in place are available upon request to the Licensing Service.

8. Licensing authority functions

Walsall Council is required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register small society lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Setting and collecting fees

- 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.

9. Local risk assessments

The Gambling Commission’s Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks. The Social responsibility (SR) code requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take into account relevant matters identified in the licensing authority’s policy statement.

Licensees are required to undertake a local risk assessment when applying for a new premises licence. This risk assessment must also be updated:

- when applying for a variation of a premises licence
- to take account of significant changes in local circumstances, including those identified in a licensing authority’s policy statement
- when there are significant changes at a licensee’s premises that may affect their mitigation of local risks.

Walsall Council will expect licence holders and applicants to share their risk assessment when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise upon request.

Walsall Council will wherever possible facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. Licensees will be given the opportunity to volunteer specific conditions that could be attached to the premises licence where appropriate.

Local Area Profile

Walsall Council is in the process of completing its own assessment of the local environment as a means of ‘mapping out’ local areas of concern. This will be updated and reviewed regularly and no later than each review of this Gambling Policy.

The local area profile takes account of a wide range of factors, data and information held by Walsall Council and its partners. This includes public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations.

It is envisaged that the profile will increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The local area profile will help to inform specific risks that operators will need to address in their risk assessment.

For example, if an area is identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school.

Walsall Council expect, that the licensee will take appropriate steps to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises. Walsall Council would also expect a licensee to have sufficient controls in place to mitigate associated risks in such areas and, if not, the council may itself consider other controls and impose them through conditions.

Walsall Council will produce its local area profile in a separate document to this general gambling policy statement and review the contents regularly.

As stated, there is no mandatory requirement to have a local area profile, but this authority considers that there are a number of benefits in doing so:

- it enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it.
- greater clarity for operators as to the relevant factors in licensing authority decision making, will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application.
- it enables licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge.
- it encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

10. Licensing Authority Delegations.

A summary of the licensing authority delegations is given as **Appendix 3**.

A licensing sub-committee of three councillors will sit to hear applications where relevant representations have been received from responsible authorities and/or interested parties.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

1. General Principles

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

(i) Decision-making

Walsall Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks the application is:

- in accordance with any relevant code of practice issued by the Gambling Commission;
- in accordance with any relevant guidance issued by the Gambling Commission;
- reasonably consistent with the licensing objectives; and
- in accordance with the authority's statement of licensing policy.

Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance that "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.

For the purposes of this Policy and its responsibilities as a licensing Authority Walsall Council will use the following definition of premises.

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

Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street.

But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.

Walsall Council does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.

Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be aware that 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 and that people do not 'drift' into a gambling area. The plan of the premises should clearly denote entrances and exits

Walsall Council will consider the following and other relevant factors in making its decision, depending on all the circumstances of each case.

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

Vehicles.

Vehicles (trains, road vehicles, aircraft, sea planes and amphibious vehicles, other than a hovercraft) may not be the subject of a premises licence and therefore all forms of commercial betting and gaming will be unlawful in a vehicle in Walsall. Certain allowances may be made for private and non-commercial gaming or betting to take place in a vehicle, but these are subject to a number of stringent requirements that ensure that, at no point, can the gambling become a commercial activity.

Vessels

Walsall Council will give due consideration in to applications made for premises licences relating to passenger vessels.

The definition of a vessel for these purposes is:

1. anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water
2. a hovercraft
3. anything, or part of any place, situated on or in water.

In terms of point 3 a normal and sensible interpretation will be made. Structures which are an extension of the land will not be considered vessels, even if they arch over water. This means that, neither a pier nor a bridge will be considered a vessel and they remain premises for the purposes of this Policy.

All other matters relating to the licensing of a vessel will be considered in line with the Gambling Commission's Guidance to Licensing Authorities.

Walsall Council will give due consideration in its decision making processes to the Gambling Commission's relevant access provisions for each premises type.

These are:

Casinos

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

Adult Gaming Centre

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

Betting Shops

- Access must be from a street or from another premises with a betting premises licence
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

Walsall Council will give due consideration to Part 7 of the Gambling Commission's Guidance to Licensing Authorities which contains further guidance on this issue.

(iii) Premises "ready for gambling"

For the purposes of this Policy and the operation of the Licensing Service Walsall Council consider that a licence to use premises for gambling should only be issued in relation to premises that it can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.

If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. However, there is nothing to prevent a premises licence application being made in these circumstances if there is a right to occupy the premises.

In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-

- First, whether the premises ought to be permitted to be used for gambling
- Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.

Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

(iv) Location

Walsall Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. The Gambling Commission's Guidance to Licensing Authorities will be followed by this authority and particular attention will be paid to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.

It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) Planning:

In determining applications and unless there are compelling legal or evidence based decisions to the contrary Walsall Council will generally not take into consideration matters that are unrelated to gambling and the licensing objectives. For example the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal or whether those buildings have to comply with the necessary planning or building consents. Walsall Council would however require confirmation that a premises will be ready to use for gambling in the reasonably near future. Walsall Council consider the placing of conditions on the licence to cater for situations where premises are not yet in a state to allow gambling to take place.

(vi) Duplication with other regulatory regimes

This licensing authority will seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

Licensing Objectives

Those Premises licences that are granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities relevant comments are made below.

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

The Gambling Commission takes a leading role in preventing gambling from being a source of crime. Walsall Council will endeavour to pay attention to the proposed location of gambling premises in terms of this licensing objective. Where it is believed or can be reasonably proven that an area has high levels of organised crime Walsall Council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. In order to make a distinction between disorder and nuisance consideration of factors such as whether police assistance has been required at a premises and how threatening and behaviour was to those who could see it.

Ensuring that gambling is conducted in a fair and open way

Walsall Council will expect gambling to be conducted in a fair and open way and that this will be addressed via operating and personal licences that are issued by the Gambling Commission.

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

For the purposes of this policy, consultations and operational procedures Walsall Council considers this to mean preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children. It is also considered essential that licence holders ensure that there are leaflets, signs or other similar measures in place to direct people to mental health services, debt counsellors or addiction services. Consideration will be given by the authority as to whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances and machines and possible segregation of areas etc. Each case brought before the authority will be considered separately in relation to compliance with this licensing objective.

Vulnerable Persons

As regards the term “vulnerable persons” Walsall Council defines this group as people who gamble more than they want to; people whose gambling is beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs.”

The authority consider that a range of people could fall into a category of vulnerability including

- People affected by substance misuse
- People with learning disabilities
- People with mental illness
- People on low income
- People who may be in debt

Vulnerability should not be defined by age and therefore any person of any age (children or adults) could be considered vulnerable if they meet some or all of the definitions above.

It is also possible that the parents, guardians, partners or those responsible for the health and wellbeing of others could be made vulnerable because of the behaviours or actions of the person who is having issues with their gambling habits.

Conditions

Any conditions attached to licences issued by Walsall Council will be proportionate and will be:

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

Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc.

There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to the way in which the licensing objectives can be met effectively.

In order to pursue the licensing objectives Walsall Council will consider specific measures which may be required for buildings which are subject to multiple premises licences these may include

- the supervision of entrances;
- segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises.
- Provision of information and assistance to vulnerable persons
- Any other such matters in accordance with the Gambling Commission's Guidance.

Category C Machines

This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:

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

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

In terms of the management of Tracks particularly where they are subject to more than one premises licence Walsall Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which cannot be attached to premises licences such as:

- any condition on the premises licence which makes it impossible to comply with an operating licence condition;
- conditions relating to gaming machine categories, numbers, or method of operation;
- conditions which provide that membership of a club or body be required;
- conditions in relation to stakes, fees, winning or prizes.

Door Supervisors

Where Walsall Council is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it is likely that a requirement shall be made that the entrances to the premises are controlled by a door supervisor. In these circumstances the applicant or licence holder will be notified by the authority as to whether these need to be SIA licensed. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary

2. Adult Gaming Centres

Walsall Council is committed to protecting children and vulnerable persons from harm or being exploited by gambling and will expect any 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.

The following measures are deemed suitable when applicants are considering how to meet the licensing objectives. The list is not mandatory, nor exhaustive, and is merely indicative of example measures. All potential risks and measures taken to mitigate such risks should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

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

3. (Licensed) Family Entertainment Centres:

Walsall Council is committed to protecting children and vulnerable persons from harm or being exploited by gambling and will expect any 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.

The following measures are deemed suitable when applicants are considering how to meet the licensing objectives. The list is not mandatory, nor exhaustive, and is merely indicative of example measures.

All potential risks and measures taken to mitigate such risks, should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage

- Specific opening hours
- Self-exclusion schemes
- Measures / training for staff on how to deal with vulnerable persons on the premises including 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

Walsall Councils Licensing Officers will refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. They will also review any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

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

Licence considerations / conditions – Walsall Council will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance, bearing in mind the mandatory conditions listed in the Guidance and the Licence Conditions and Codes of Practice published by the Gambling Commission.

Betting machines – Walsall 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 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 be expected that all potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

5. Bingo premises

Prior to a licence being issued an applicant will need to satisfy Walsall Council that bingo can be played in any bingo premises. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas. Before issuing additional bingo premises licences, this authority will consider whether bingo can be played at each of those new premises.

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

All potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

6. Betting premises

Betting machines - Walsall 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 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.

All potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

7. Tracks

Walsall 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.

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

This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes

- Measures / training for staff on how to deal with vulnerable persons on the premises including 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

This list is not mandatory, nor exhaustive, and is merely indicative of example measures. All potential risks and measures taken to mitigate such risks, should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

Gaming machines - Where the applicant holds a pool betting operating licence and is going to use the entitlement for up to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

Betting machines Walsall 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 proposes to offer.

Applications and plans

Applicants are required to submit plans of the premises with their application, in order to ensure that this authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

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

Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.

In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

It is appreciated that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

8. Travelling Fairs

This authority is responsible for deciding where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.

The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

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

9. Provisional Statements

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

S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:

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

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

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

The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired.

When determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties will be taken into account unless:

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

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

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

10. Reviews:

Requests for a review of a premises licence can be made by interested parties or responsible authorities; Walsall Council will then decide whether a review is to be carried-out. The matters listed below will be used to make a decision;

- the review is in accordance with any relevant Code of Practice issued by the Gambling Commission;
- the review is in accordance with any relevant guidance issued by the Gambling Commission;
- the review is reasonably consistent with the licensing objectives; and
- the review is in accordance with the authority's statement of principles.
- the Council has reason to suspect that premises licence conditions are not being observed
- the premises is operating outside of the principles set out in the licensing authority's statement of policy
- there is evidence to suggest that compliance with the licensing objectives is at risk
- for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party.

Walsall Council Licensing Officers will consider each application for a review in terms of whether it is frivolous, vexatious, or whether it will certainly not cause the authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.

In its role as a licensing authority Walsall Council will also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

Once a valid application for a review has been received by the authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.

Walsall Council will carry out the review as soon as possible after the 28 day period for making representations has passed.

The purpose of the review will be to determine whether any action in relation to the licence. If action is justified, the options that the authority may consider are:-

- (a) add, remove or amend a licence condition imposed by the licensing authority;
- (b) exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
- (c) suspend the premises licence for a period not exceeding three months;
- (d) revoke the premises licence.

In determining what action, if any, should be taken following a review Walsall Council will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

Walsall Council will in appropriate circumstances seek to initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

Once the review has been completed, notification of the decision and the reasons for the decision will be made to:

- the licence holder
- the applicant for review (if any)
- the Commission
- any person who made representations
- the chief officer of police or chief constable; and
- Her Majesty's Commissioners for Revenue and Customs

The authority will follow the Gambling Commission advice to Local Authorities guidance in terms of any appeal provisions.

PART C

Permits / Temporary & Occasional Use Notice

1. Permits

The Policy of Walsall Council in respect of permits for unlicensed family entertainment centres, club gaming, club machine and gaming machine on alcohol licensed premises is to:

- promote the licensing objectives;
- treat each application individually on its own merits;
- comply with the statutory requirements;
- ensure compliance with the guidance issued by the Gambling Commission;
- promote and ensure high standards at all venues.

Walsall Council will when considering an application for a permit consult closely with the Chief of Police and Safeguarding Board.

Details on the categorisation of gaming machine entitlements and the gaming entitlements for clubs and pubs can be found on the Gambling Commissions website through the following links

Gaming machine entitlements –

www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx

Gaming entitlements -

www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-C-Summary-of-gaming-entitlements-for-clubs-and-alcohol-licensed-premises.aspx

(Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

Automatic entitlement: 2 machines

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.

Walsall Council may remove this automatic authorisation in respect of any particular premises if:

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

Permit: 3 or more machines

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and Walsall Councils consideration of an application where a premises wishes to have more than 2 machines will be based upon the licensing objectives, any guidance issued by the Gambling Commission and any such matters as the authority think relevant.

Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures in terms of preventing access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants should provide information leaflets / helpline numbers for organisations such as GamCare.

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.

Walsall Council may grant an 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.

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

2. Unlicensed Family Entertainment Centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

Where a premises does not hold a premises licence but wishes to provide gaming machines, Walsall Council will expect the applicant to show that the premises will be wholly or mainly used for making gaming machines available for use.

An application for a permit will only be granted where Walsall Council is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.

Walsall Council will 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.

Statement of Principles

Walsall Council will expect an applicant for a Family Entertainment Centre Permit to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

Walsall Council will also expect that that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

3. Prize Gaming Permits

Walsall Councils Statement of Principles for Prize Gaming Permits is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant will demonstrate:

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

In making any decision on an application for this permit Walsall Council will generally have regard to the licensing objectives but will always have regard to any Gambling Commission guidance

It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

4. Club Gaming and Club Machines Permits

Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines 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 permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Walsall Council will take into account the statutory guidance when deciding whether it is a genuine members club.

Walsall Council may only refuse an application on the grounds that:

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

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

- (a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- (b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- (c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

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.

5. Temporary Use Notices (TUN)

Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice would include hotels, conference centres and sporting venues.

Walsall Council will only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence. Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.

There are restrictions on the type of gambling that can be offered under a TUN:

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

There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 14 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".

In considering whether a place falls within the definition of "a set of premises", Walsall Council will look at, amongst other things, the ownership/occupation and control of the premises.

It is likely Walsall Council will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

6. Occasional Use Notices

Walsall 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. Consideration will however be given to the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.

APPENDIX 1

List of Consultees

Consultee	Method of Contact
West Midlands Police Licensing Officers	Email
West Midlands Fire Service	Letter
Gambling Commission	Letter
HM Revenues & Customs	Letter
Environmental Health	Email
Trading Standards	Email
Community Protection	Email
Executive Director Childrens Services	Email
Executive Director Adult Services	Email
Executive Director Economy and Environment	Email
Director of Public Health	Email
Safeguarding Board	Email
Executive Director of Resources and Transformation	Email
Walsall Teaching Primary Care Trust	Letter
The Law Society	Letter
Staffordshire & West Midlands Probation Trust	Letter
Youth of Walsall	Letter
All members of the Licensing and Safety Committee	Letter
Councillor Perry, Chair of Safer Walsall Partnership Board and Portfolio Holder for Communities and Public Protection	Letter
All elected members of Walsall Council	Letter
163 Licence Holders, Trade representatives and Permit Holders	Letter
Pub Watch	Letter
CAMRA	Letter
British Beer & Pub Association (BBPA)	Letter
British Amusement Catering Trade Organisation	Letter
One Walsall	Letter
Walsall Tenants and Residents Federation	Letter
WATMOS	Letter
WHG & 11 other Registered Social Landlords	Letter
Citizens Advice Bureau	Email
GamCare	Letter
GamAnon	Letter
NSPCC	Letter
Health watch	Letter
Public	On line questionnaire

APPENDIX 2

Contact details of Responsible Authorities under the Gambling Act 2005

Police

The Licensing Officer
West Midlands Police
Walsall Council
Civic Centre
Darwall Street
Walsall
WS1 1TP

Tel: 0345 113 5000

Planning

Planning & Transportation
Licensed Premises Applications
Walsall MBC
2nd Floor Civic Centre
Darwall Street
Walsall
WS1 1DG

Tel: 01922 652425 or 652452

Fire

Protection (Fire Safety) Admin
West Midlands Fire Service Headquarters
99 Vauxhall Road
Birmingham
B7 4HW

Telephone 0121 380 6300

Social Services

Walsall Council House, Room 28
Lichfield Street
Walsall, WS1 1TW

Tel: 01922 658409

Website: www.wlscb.org.uk or
www.wsab.co.uk

Environmental Health

Environmental Health
Civic Centre
Darwall Street
Walsall
WS1 1TP

Tel: 01922 653024

Gambling Commission

Victoria Square House
Victoria Square
Birmingham
B2 4BP

Tel: 0121 230 6666

HM Revenues & Customs

HM Revenues & Customs
National Registration Unit
Portcullis House
21 India Street
Glasgow
G2 4PZ

Tel: 0141 555 3633

APPENDIX 3**Summary of Licensing Authority delegations permitted under the Gambling Act**

Matter to be Dealt with	Full Committee	Sub Committee	Officers
Final approval of three year licensing policy.	X		
Policy not to permit casinos.	X		
Fee setting (where appropriate)		X (if delegated by full council)	
Application for premises licences		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a variation to a licence		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for a transfer of a licence		Where representations have been received and not withdrawn	Where no representations received or representations have been withdrawn
Application for provisional statement		Where representations have been received and not withdrawn	Where no representations received or 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 or objections have been withdrawn
Cancellation of club gaming/club machine permits		X	
Application for other permits			X
Cancellation of licensing premises gaming machine permits			X
Consideration of temporary use notices			X
Decision to give a counter notice to a temporary use notice		X	

Guide to Changes to Draft Policy

Paragraph	Summary Of Changes
6.3 – 6.6	Introducing Safeguarding board under section 14(1) of the children Act 2004.
8.3 – 8.4	Approach to compliance and enforcement
10.6 – 10.9	Why risk based approach is better
14.03 – 14.5	Decisions making
18.5, 186	Location, ownership for applicants to consider the location of the premises and any potential to avoid exposing gambling young people and children.
22.2 – 22.4	Measures in place for specific training in identifying vulnerable people and children.
26.2, 26.3, 26.5	breakdown of the number/percentage of slots machines allowed at AGC.
27.2, 27.4	Family Entertainment Centres (FEC) and unlicensed Family Entertainment Centres (UFEC), risk assessments.
29.4, 29.5	Breakdown of the number/percentage of slots machines allowed at Bingo licensed premises.
30.3, 31.4, 31.5	Measures to take in to consideration to meet the licensing objectives.
35.4	Fair ground requirements
39	Safeguarding against Child Sexual Exploitation
40	Definitions



Gambling Act 2005

Statement of Principles.

Date policy adopted: **Date**
Date formally published: **Date**
Date implemented: **Date**
Next review due: **Date**



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IMPORTANT NOTE

Where this policy refers to information, legislation, policy or guidance produced by other governing bodies or regulatory agencies, please note that the requirement detailed within this this policy will be subject to any amendments thereof.

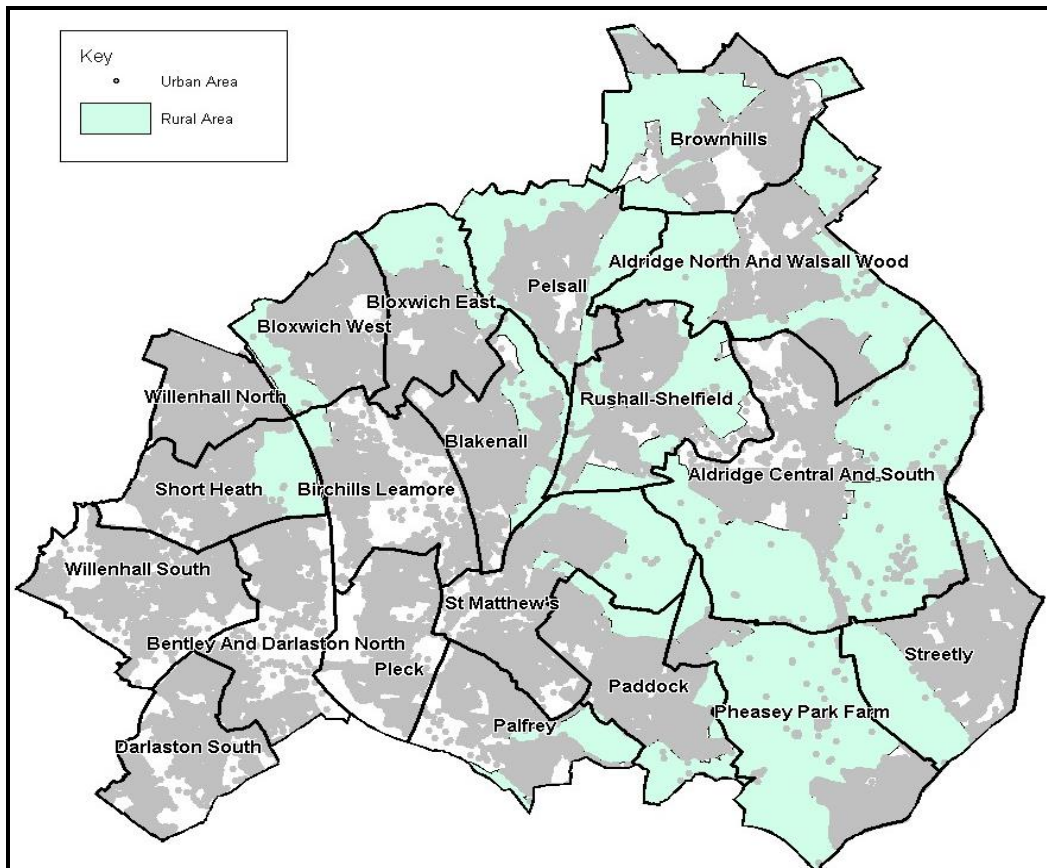
Walsall Metropolitan Borough Council

Statement of Licensing Policy

1 Introduction

- 1.1 Under Section 349 of the Gambling Act 2005 ('the Act'), licensing authorities are required to prepare a statement of principles that they propose to apply in relation to their regulatory responsibilities pertaining to gambling. Walsall Council ('the Council') is the Licensing Authority for the Walsall Metropolitan Borough licensing area and is fulfilling its legal duty to prepare a statement of principles through this Gambling Policy Statement ('the Policy').
- 1.2 The Council is required to publish the Policy at least every **three** years. It will also review the Policy from time to time and revise it when appropriate to do so. Any amendments to the Policy must be the subject of further consultation and the Policy, or relevant parts of the Policy, must then be re-published. In exercising its functions under the Gambling Act 2005 (the Act), Walsall Council in its role as licensing authority will regulate gambling in the public interest and by having regard to the licensing objectives
- 1.3 as set out in Section 1 of the Act.
- 1.4 Walsall MBC is located in the West Midlands; an area comprising seven Metropolitan Councils in total. Walsall Council covers 40.2 square miles of which 24.83 square miles are predominantly urban development. With an estimated population of **293,378 (2018)** it is the fourth largest area in the County, in terms of population.
- 1.5 The towns of Willenhall and Darlaston, to the west of the M6, contrast with the eastern parts of the borough, which are more residential and, in parts, agricultural in character. Traditional and growth industries are spread throughout the borough. Walsall benefits from its position at the cross-roads of the motorway network and communications have been improved further by the M6 Toll Road and **the new Junction 10 improvement plan.**
- 1.6 Birmingham airport and the Genting Arena Complex are within easy reach and frequent trains to Birmingham provide links to the national network. Regeneration projects focussing on Walsall town centre, local centres, the wider borough, and key transport corridors continue to transform the borough's new economic well-being.
- 1.7 Through its statement of licensing principles, Walsall Council strives to sustain core values of Honesty and Integrity, Fairness and Equality, Value for Money, Innovation and Collaboration and Listening and Responding.

The key provided identifies the urban / rural areas.



1.8 Gambling is a legitimate regulated activity that is enjoyed by a large number of the population. However, there are a number of people within our society who are at risk to gambling related harm. The council, as the Licensing Authority under the Act has a duty to consider applications relating to allowing gambling facilities within the town to ensure that they meet the fundamental principles of the Act. In doing so the authority must balance the needs of business to profit and grow with the potential impact on those who are vulnerable to being exploited or susceptible to gambling related harm.

2 Licensing Objectives

2.1 In exercising its functions under the Gambling Act 2005 (the Act), Walsall Council in its role as licensing authority will regulate gambling in the public interest and by having regard to the licensing objectives as set out in Section 1 of the Act. The licensing objectives are:

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

2.2 In making decisions about whether to issue premises licences and temporary use notices Walsall Council will have regard to s153 of the Act and aim to permit the use of premises for gambling in so far as it thinks fit:

- in accordance with any relevant code of practice issued by the Gambling Commission
- and in accordance with any relevant guidance issued by the Gambling Commission
- and where the decision is reasonably consistent with the licensing objectives
- and in accordance with the authority's statement of licensing policy.

2.3 The Gambling Act 2005 specifically references factors which Walsall Council as Licensing Authority must not consider in exercising its functions including:

- The expected demand for facilities (s.153(2))
- Whether the application is to be permitted in accordance with the law relating to planning or building (s.210(1)) 1.10.

2.4 The aim to permit principle provides wide scope for the authority to impose conditions on a premises licence, reject, review or revoke premises licences where there is a potential conflict with the relevant codes of practice, relevant Commissions Guidance and this Statement of Licensing Principles.

3 Consultation

2.5 Section In line with the requirements of the Act the following persons, groups or organisations will be consulted with before the Statement of Policy is finalised and published:

- The Chief Officer of Police;
- One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area;
- One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

3.0 The consultation period will take place between **DATE 2022** – **DATE 2022**. The list of persons consulted can be found at **APPENDIX 1**

3.1 The policy was approved at a meeting of the Council on **DATE 2022** and was published via our website on **DATE 2022**. This Policy is effective from **DATE 2022**.

3.2 **Comments on Statement of Principles**

The Statement of Principles will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Licensing Service
Walsall M.B.C
Civic Centre
Darwall Street
Walsall
WS1 1TP

Tel: 01922 653050
e-mail: licensing@walsall.gov.uk
website: www.walsall.gov.uk

3.3 It should be noted that this statement of licensing policy does not:

- override the right of any person to make an application and to have that application considered on its merits in accordance with the statutory requirements of the Act, or
- restrict the right of persons to make representations on an application or seek a review of a licence where provision has been made for them to do so.

4 Declaration

4.1 In producing the final statement, this licensing authority declares that it has had regard to the licensing objectives of the Gambling Act 2005, the Guidance to Licensing Authorities issued by the Gambling Commission, and any responses from those consulted on the statement.

5 Responsible Authorities and Interested Parties

Responsible Authorities

5.1 The Act allows for two different types of groups to make representations regarding applications and also to apply to have existing licences reviewed by the Authority. These groups are “Responsible Authorities” and “Interested Parties”

5.2 The Act defines Responsible Authorities as:

5.3 S.157 of the Act identifies the bodies that are to be treated as responsible authorities. They are:

- a. The council’s Licensing Department (as the licensing authority)
- b. the Gambling Commission
- c. the chief officer of police or chief constable for the area in which the premises is wholly or partially situated

- d. the fire and rescue authority for the same area
- e. the council's local planning authority
- f. **the relevant authority as defined in s.6 of the Fire (Scotland) Act 2005?**
- g. The council's Environmental Health department (an authority which has functions in relation to pollution to the environment or harm to human health)
- h. anybody, designated in writing by the licensing authority, as competent to advise about the protection of children from harm
- i. HM Revenue & Customs
- j. any other person prescribed in regulations by the Secretary of State.

5.4 In relation to a vessel:

- a. a navigation authority having functions in relation to the waters where the vessel is usually moored or berthed or any water where it is or is proposed to be navigated at a time when it is used for licensable activities;
- b. the Environment Agency;
- c. the Canal and River Trust;
- d. the Secretary of State; or
- e. any other person prescribed in regulations by the Secretary of State.

5.5 The contact details of Responsible Authorities under the Gambling Act 2005 are attached at Appendix 2 and are also available via the Council's website www.walsall.gov.uk.

Interested parties

5.6 Interested parties may submit representations about licence applications or apply for a review of an existing licence.

5.7 Walsall Council will consider a person an interested party in relation to an application for or in respect of a premises licence where the person:

- lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- has business interests that might be affected by the authorised activities or
- represents persons who satisfy paragraph (a) or (b)

5.8 Walsall Council will apply the following principles when determining whether a person lives sufficiently close to a premises to be considered an interested party:

- The size of the premises.

- The nature of the premises.
- The distance of the premises from the habitual residence or workplace of the person making the representation.
- The potential impact of the premises (numbers of customers, routes likely to be taken by those visiting the premises).
- The circumstances of the person and nature of their interests, which may be relevant to the distance from the premises.

5.9 A rigid rule will not be applied to decision making and each case will be decided upon its merits.

5.10 Where representations are made by a rival businesses where no specific or reasonable evidence base exists, rival businesses will not be considered interested parties

5.11 Democratically elected persons will generally be considered Interested Parties, providing the Councillor or MP represents the ward likely to be affected. Elected members who are also members of the Licensing and Safety Committee must seek advice prior to agreeing to represent any person(s).

5.12 In determining whether a person or organisation "has business interests" the authority will adopt the widest possible interpretation and include residents' and tenants' associations, trade associations, trades unions, partnerships, charities, faith groups and medical practices, as appropriate.

5.13 Representatives of Community Groups for example those supporting vulnerable persons living near the proposed premises, Residents and Tenants Associations, Governors of schools, partnerships, charities, faith groups and medical practices located near proposed premises will generally be considered Interested Parties.

5.14 Other than democratically elected persons each case will be decided upon its merits. Where necessary written evidence for example in the form of a letter from the Interested Person(s) will be requested to assist in making a decision. The letter or written evidence should show 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

6 Responsible authority for protection of children from harm

6.1 In accordance with the powers under s157(h) of the Act and having regard to the Gambling Commission's Guidance to Licensing Authorities, the Walsall Safeguarding Children Board is designated as the competent body to advise Walsall Council about the protection of children from harm.

- 6.2 In making this determination consideration has been given to the following principles:
- i. the need for the body to be responsible for covering the whole of the licensing authority's area; and
 - ii. the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

6.3 The Safeguarding Board has the overarching responsibility to meet the requirements of section 14(1) of the Children Act 2004, including:

6.4 the co-ordination of what is done by each person or body represented on the Board for the purpose of safeguarding and promoting the welfare of children in the area of authority

6.5 to ensure the effectiveness of what is done by each person or body for that purpose.

6.6 Should during the lifetime of this policy the Safeguarding Board change or be superseded in any way a new competent authority will be designated based upon the same principles described above.

7 Exchange of Information

7.0 The principles that Walsall Council will apply in exercising the functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act are as follows;.

7.1 Regard will always be given to the Guidance to licensing authorities document issued by the Gambling Commission as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005

7.2 Information will be provided to the Commission in a manner determined by it as long as it forms part of a register maintained under the Act and that the information is in the possession of the authority in connection with the provisions of the Act.

7.3 Information will be exchanged with some or all of the following:

- a. A constable or police force
- b. an enforcement officer
- c. a licensing authority
- d. HMRC
- e. the First Tier Tribunal

- f. the Secretary of State
- g. Scottish Ministers.

7.4 In the course of their duties, relating to Gambling or wider socio-economic impacts, information will be exchanged in compliance with the General Data Protection Regulation, the Data Protection Act 2018, the Freedom of Information Act 2000 and any other act or Regulation that forms a relevant part of the UK data protection regime.

7.5 In respect of the processing, storage and use of information, Walsall Council is committed to complying with the General Data Protection Regulations (GDPR), underpinned by the council's Information Governance Policy Framework consists of an overarching strategy supported by three separate Policies. These are:

- The Information Rights Policy
- The Records Management Policy
- The Information Risk and Security Policy
- For further information in relation to these matters contact can be made with informationmanagement@walsall.gov.uk

7.6 All Information received or retained by the Licensing Team is held within a secure access-controlled building. The electronic databases exist within a password protected server and any paper records are kept in locked cabinets.

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

8 Inspection and criminal proceedings

8.0 Walsall Council will adopt the principles of good regulation and will have regard to its Enforcement Policy, current Gambling Commission Statement of Principles for Licensing and the Gambling Commission Licensing, Compliance and Enforcement Policy Statement where appropriate.

8.1 Walsall Council will exercise its regulatory activities in a way which is:

Proportionate

The Regulators' Code promotes proportionate regulatory activity, which includes taking appropriate action where non-compliance is identified. The Public Interest Stage contained in the Code for Crown Prosecutors and can be accessed at www.cps.gov.uk/publication/code-crown-prosecutors will always be considered when determining whether it is right to prosecute. Our activities will reflect the impact of the offending on those living in, working in

and visiting the area and enforcement action taken will relate to the seriousness of the offence.

Accountable

Council activities will be conducted and recorded in a way that ensures they are open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures,

Consistent

Our advice to those we regulate will be robust and reliable and we will respect advice provided by others. Where circumstances are similar, we will endeavour to act in a consistent manner.

Transparent

We will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and

Targeted

We will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities and intelligence.

8.2 Walsall Council will endeavour to avoid duplication with other regulatory regimes so far as possible, and ensure its primary focus is directed toward promoting and achieving compliance with the premises licences and other permissions it authorises.

8.3 Inspections of licensed premises will be carried out using intelligence and a risk-based approach.

8.4 Where a premises is considered to pose a high risk inspections will be carried out no less than annually with appropriate revisits to ensure compliance.

8.5 Where complaints or other intelligence are received in relation to a premises these will be assessed and an appropriate response which may include inspection will be made. Should it be considered necessary to undertake test purchases or age verification exercises Walsall Council will follow the guidance set out in the Gambling Commission Test Purchasing and Age Verification toolkit or any guidance which supersedes it.

8.6 Walsall council will always be prepared to work in partnerships with the Gambling Commission on local test purchasing and age verification or other enforcement exercises and use any evidence gathered in decisions relating to review of a licence and implementation of its Enforcement Policy.

- 8.7 Where consultations are required as part of an application an inspection will normally be carried out.
- 8.8 This regime does not include issues relating to operating and personal licences and concerns about manufacture, supply or repair of gaming machines which are the responsibility of the Gambling Commission.
- 8.9 This authority supports the principals of better regulation to promote efficient and effective approaches to regulatory inspection and enforcement that improve regulatory outcomes without imposing unnecessary burdens on business.
- 8.10 Bearing in mind the principle of transparency, this licensing authority's enforcement policy and any protocols which may be in place are available upon request to the Licensing service.

9 Licensing authority functions

- 9.1 Walsall Council is required under the Act to:
- a. Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
 - b. Issue Provisional Statements
 - c. Regulate members' clubs and miners' welfare institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
 - d. Issue Club Machine Permits to Commercial Clubs
 - e. Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres
 - f. Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
 - g. Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
 - h. Register small society lotteries below prescribed thresholds
 - i. Issue Prize Gaming Permits
 - j. Receive and Endorse Temporary Use Notices
 - k. Receive Occasional Use Notices
 - l. Set and collecting fees
- 9.2 Provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- 9.3 Maintain registers of the permits and licences that are issued.

10 Local risk assessments

- 10.1 The Gambling Commission's Licence Conditions and Codes of Practice (LCCP) formalise the need for operators to consider local risks. The risk assessment requirement is intended to provide a well evidenced and transparent approach to considering and implementing measures to address the risks associated with gambling.
- 10.2 The Social responsibility (SR) code requires licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must consider relevant matters identified in the licensing authority's policy statement.
- 10.3 Licensees are required to undertake a local risk assessment when applying for a new premises licence. This risk assessment must also be updated:
- i. when applying for a variation of a premises licence
 - ii. to take account of significant changes in local circumstances, including those identified in a licensing authority's policy statement
 - iii. when there are significant changes at a licensee's premises that may affect their mitigation of local risks.
- 10.4 Walsall Council expects licence holders and applicants to share their risk assessment when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise upon request.
- 10.5 Walsall Council will wherever possible facilitate operators being able to better understand the local environment and therefore proactively mitigate risks to the licensing objectives. Licensees will be given the opportunity to volunteer specific conditions that could be attached to the premises licence where appropriate.
- 10.6 The risk-based approach provides a better understanding of, and enables a proportionate response, to risk. This approach includes looking at future risks and thinking about risks in a probabilistic way. Risk is not necessarily related to an event that has happened. Risk is related to the probability of an event happening and the likely impact of that event. In this case it is the risk of the impact on the licensing objectives.
- 10.7 Walsall will work with responsible authorities and in collaboration with the industry at putting together a premises-based gambling risk assessment for new and existing businesses to conduct, assess and complete when looking at applying for a new licence, or to vary an existing one.
- 10.8 Gambling operators are required to undertake a risk assessment for all of their licensed premises. Operators must also undertake a review of those

assessments when concerns are raised by the council or responsible authorities.

- 10.9 This local risk assessment process is not the same as other forms of risk assessment undertaken by gambling operators, such as Health and Safety at Work, Fire Safety and Food Hygiene, etc. These local risk assessments are specific to the potential harm that gambling premises can have on one or more of the licensing objectives under the Act. They are specific to the premises, the local area and the local community.

11 Local Area Profile

- 11.1 Walsall Council has completed its own assessment of the local environment as a means of 'mapping out' local areas of concern. This will be updated and reviewed regularly and no later than each review of this Gambling Policy.
- 11.2 The local area profile takes account of a wide range of factors, data and information held by Walsall Council and its partners. This includes public health, mental health, housing, education, community welfare groups and safety partnerships, and organisations such as Gamcare or equivalent local organisations.
- 11.3 It is envisaged that the profile will increase awareness of local risks and improved information sharing, to facilitate constructive engagement with licensees and a more coordinated response to local risks. The local area profile will help to inform specific risks that operators will need to address in their risk assessment.
- 11.4 For example, if an area is identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school, Walsall Council could reasonably expect, the licensee to ensure that advertising relating to their premises, or relating to events at their premises, is not displayed at a time when children are likely to be near the premises.
- 11.5 Walsall Council would also expect a licensee to have sufficient controls in place to mitigate associated risks in such areas and, if not, the council may itself consider other controls and impose them through conditions.
- 11.6 Walsall council will produce its local area profile in a separate document to this general gambling policy statement and review the contents regularly.
- 11.7 As stated, there is no mandatory requirement to have a local area profile, but Walsall Council considers that there are a number of benefits in doing so:

- it enables licensing authorities to better serve their local community, by better reflecting the community and the risks within it.
- greater clarity for operators as to the relevant factors in licensing authority decision making, will lead to improved premises licence applications, with the operator already incorporating controls and measures to mitigate risk in their application.
- it enables licensing authorities to make robust but fair decisions, based on a clear, published set of factors and risks, which are therefore less susceptible to challenge.
- it encourages a proactive approach to risk that is likely to result in reduced compliance and enforcement action.

12 Licensing Authority Delegations.

12.1 A summary of the licensing authority delegations is given as Appendix 3.

12.2 A licensing sub-committee of three councillors will sit to hear applications where relevant representations have been received from responsible authorities and/or interested parties.

PART B

PREMISES LICENCES: CONSIDERATION OF APPLICATIONS

13 General Principles

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

14 Decision-making

14.1 Walsall Council is aware that in making decisions about premises licences it should aim to permit the use of premises for gambling in so far as it thinks the application 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 licensing objectives; and
- d. in accordance with the authority's statement of licensing policy.

14.2 In its decision making, Walsall Council will comply with the Gambling Commission's Guidance that "moral objections to gambling are not a valid reason to reject applications for premises licences" and also that unmet demand is not a criterion for a licensing authority.

14.3 Applicants for premises licences will have to hold an operator's licence from the Commission (except occupiers of tracks who do not propose to offer gambling themselves). Generally, the licensing authority will not (unless evidence to the contrary comes to light) have to ascertain if the applicant is suitable to hold a premises licence. The licensing authority will have to be satisfied that the premises will not adversely affect the licensing objectives and is compliant with the Commission's Guidance, codes or practice and this statement of principles.

14.4 Walsall Council will expect the applicants to provide details as to their crime prevention measures and any risk assessments that they have carried out. The operator must meet the Commission's requirements to obtain and hold an operator's licence, whilst the Licensing Authority's concerns are focused on

the premises and how the operation of the premises will affect the licensing objectives.

- 14.5 Walsall Council, when considering any applications in such a location that has been identified by the police as having a problem with anti-social behaviour, particularly involving groups who loiter will expect applicants or licensees to demonstrate that they have sufficient measures in place to prevent or deter people involved in unlawful activities from using their premises to support crime or to avoid apprehension.
- 14.6 For the purposes of this Policy and its responsibilities as a licensing Authority Walsall Council will use the following definition of premises.
- 14.7 "Premises" is defined as including "any place". Section 152 of the Act therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. Walsall Council will expect that mandatory conditions relating to access between premises are observed.
- 14.8 Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance to Licensing Authorities that: "In most cases the expectation is that a single building / plot will be the subject of an application for a licence, for example, 32 High Street.
- 14.9 But, that does not mean 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely to be a matter for discussion between the operator and the licensing authority.
- 14.10 Walsall Council does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit.
- 14.11 Walsall Council will give due consideration in its decision making to the Gambling Commission's Guidance to Licensing Authorities which states that: licensing authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular, they should be

aware that 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 and that people do not 'drift' into a gambling area. The plan of the premises should clearly denote entrances and exits

14.12 Walsall Council will consider the following and other relevant factors in making its decision, depending on all the circumstances of each case, including:

- a. Does the premises have a separate registration for business rates?
- b. Are neighbouring premises owned by the same person or someone else?
- c. Can each of the premises be accessed from the street or a public passageway?
- d. Can the premises only be accessed from any other gambling premises?

15 Vehicles

15.1 Vehicles (trains, road vehicles, aircraft, sea planes and amphibious vehicles, other than a hovercraft) may not be the subject of a premises licence and therefore all forms of commercial betting and gaming will be unlawful in a vehicle in Walsall. Certain allowances may be made for private and non-commercial gaming or betting to take place in a vehicle, but these are subject to a number of stringent requirements that ensure that, at no point, can the gambling become a commercial activity.

16 Vessels

16.1 Walsall Council will give due consideration in to applications made for premises licences relating to passenger vessels.

16.2 The definition of a vessel for these purposes is:

- a. anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water
- b. a hovercraft
- c. anything, or part of any place, situated on or in water.
- d. In terms of point 3 a normal and sensible interpretation will be made. Structures which are an extension of the land will not be considered vessels, even if they arch over water. This means that, neither a pier nor a bridge will be considered a vessel and they remain premises for the purposes of this Policy.

16.3 All other matters relating to the licensing of a vessel will be considered in line with the Gambling Commission's Guidance to Licensing Authorities.

17 Types of Premises Licence.

- 17.1 Walsall Council will give due consideration in its decision-making processes to the Gambling Commission's relevant access provisions for each premises type, outlined below:

Casinos

- 17.2 The principal access entrance to the premises must be from a street.
No entrance to a casino must be from premises that are used wholly or mainly by children and/or young persons
No customer must be able to enter a casino directly from any other premises which holds a gambling premises licence

Adult Gaming Centre

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

Betting Shops

- 17.4 Access must be from a street or from another premises with a betting premises licence
No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind unless that shop is itself a licensed betting premises.

Tracks

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

Bingo Premises

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

Family Entertainment Centre

- 17.7 No customer must be able to access the premises directly from a casino, an adult gaming centre or a betting premises, other than a track.
Walsall Council will give due consideration to Part 7 of the Gambling Commission's Guidance to Licensing Authorities which contains further guidance on this issue.

Premises "ready for gambling"

- 17.8 For the purposes of this Policy and the operation of the Licensing Service Walsall Council consider that a licence to use premises for gambling should only be issued in relation to premises that it can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with

the scale of building or alterations required before the premises are brought into use.

- 17.9 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead. However, there is nothing to prevent a premises licence application being made in these circumstances if there is a right to occupy the premises.
- 17.10 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two stage consideration process:-
- a. First, whether the premises ought to be permitted to be used for gambling;
 - b. Second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be before gambling takes place.
- 17.11 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.

18 Location

- 18.1 Walsall Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. The Gambling Commission's Guidance to Licensing Authorities will be followed by this authority and particular attention will be paid to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.
- 18.2 Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated.
- 18.3 The Licensing Authority will expect applicants to consider the measures necessary to be reasonably consistent with the licensing objective of protecting children and other vulnerable persons from being harmed or exploited by gambling. The location of the premises may be a significant factor if for example the premises are located near a school, hostel or other sensitive premises. Other policies specifically deal with location although the applicant will have to demonstrate that there are suitable control measures to be reasonably consistent with this objective.

18.4 It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

18.5 Persons under 18 cannot be admitted to many types of gambling premises. New gambling premises or variations to existing premises that are in close proximity to schools or main routes to schools will expect the applicant to have carefully considered their operation and any potential for exposing children and young people to gambling. Operators should demonstrate policies and procedures that will prevent children and young people from entering premises or partaking in gambling activities.

19 Planning

19.1 In determining applications and unless there are compelling legal or evidence based decisions to the contrary Walsall Council will generally not take into consideration matters that are unrelated to gambling and the licensing objectives. For example the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal or whether those buildings have to comply with the necessary planning or building consents. Walsall Council would however require confirmation that a premises will be ready to use for gambling in the reasonably near future. Walsall Council consider the placing of conditions on the licence to cater for situations where premises are not yet in a state to allow gambling to take place.

20 Duplication with other regulatory regimes

- 20.1 This licensing authority will seek to avoid any duplication with other statutory or regulatory systems where possible, including planning. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.
- 20.2 Fire or health and safety risks will not be taken into account, as these matters are dealt with under relevant planning control, buildings and other regulations and must not form part of the consideration for the premises licence.

21 Licensing Objectives

- 21.1 Those Premises licences that are granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities relevant comments are made below.
- 21.2 Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime
- 21.3 The Gambling Commission takes a leading role in preventing gambling from being a source of crime. Walsall Council will endeavour to pay attention to the

proposed location of gambling premises in terms of this licensing objective. Where it is believed or can be reasonably proven that an area has high levels of organised crime Walsall Council will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. In order to make a distinction between disorder and nuisance consideration of factors such as whether police assistance has been required at a premises and how threatening and behaviour was to those who could see it.

- 21.4 Whether there is a history of crime or disorder associated with the premises or its use by those involved in crime to associate or dispose of the proceeds of crime.
- 21.5 Whilst issues of nuisance are not included specifically in the gambling objectives, the council may consider, when making decisions on the applications for premises licenses, that extreme instances of public nuisance and persistent public nuisance may constitute disorder and criminal offences.
- 21.6 Walsall Council will expect gambling to be conducted in a fair and open way and that this will be addressed via operating and personal licences that are issued by the Gambling Commission.
- 21.7 Protecting children and other vulnerable persons from being harmed or exploited by gambling
- 21.8 For the purposes of this policy, consultations and operational procedures Walsall Council considers this to mean preventing children from taking part in gambling as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children. Consideration will be given by the authority as to whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances and machines and possible segregation of areas etc. Each case brought before the authority will be considered separately in relation to compliance with this licensing objective.
- 21.9 The Licensing Authority will consider each application on its own merits and will look closely at applications for types of premises that can be run by an operator where there is no requirement to hold an operator's licence.

22 Vulnerable Persons

- 22.1 As regards the term "vulnerable persons" Walsall Council defines this group as people who gamble more than they want to; people whose gambling is beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs."

22.2 Has the operator a specific training programme for staff to ensure that they are able to identify children and vulnerable people and take appropriate action to be reasonably consistent with this objective to exclude them from the premises or parts of the premises.

22.3 If the premises is an adult only environment has the operator taken effective measures to implement an appropriate proof of age scheme to ensure that no one under the age of 18 is admitted to the premises or restricted areas.

22.4 Applicants will be required to demonstrate whether sufficient management measures are proposed or are in place to protect children and other vulnerable persons from being harmed or exploited by gambling.

23 Conditions

23.1 Any conditions attached to licences issued by Walsall Council will be proportionate and will be:

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

23.2 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc.

23.3 There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer their own suggestions as to the way in which the licensing objectives can be met effectively.

23.4 In order to pursue the licensing objectives Walsall Council will consider specific measures which may be required for buildings which are subject to multiple premises licences these may include:

- a. the supervision of entrances;
- b. segregation of gambling from non-gambling areas frequented by children;
- c. and the supervision of gaming machines in non-adult gambling specific premises.
- d. Any other such matters in accordance with the Gambling Commission's Guidance.

24 Category C Machines

- 24.1 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- a. all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;
 - b. only adults are admitted to the area where these machines are located;
 - c. access to the area where the machines are located is supervised;
 - d. the area where these machines are located is arranged so that it can be observed by the staff or the licence holder; and
 - e. 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.
 - f. These considerations will apply to premises including buildings where multiple premises licences are applicable.
- 24.2 In terms of the management of Tracks particularly where they are subject to more than one premises licence Walsall Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 24.3 It is noted that there are conditions which cannot be attached to premises licences such as:
- a. any condition on the premises licence which makes it impossible to comply with an operating licence condition;
 - b. conditions relating to gaming machine categories, numbers, or method of operation;
 - c. conditions which provide that membership of a club or body be required;
 - d. conditions in relation to stakes, fees, winning or prizes.

25 Door Supervisors

- 25.1 Where Walsall Council is concerned that a premises may attract disorder or be subject to attempts at unauthorised access (for example by children and young persons) then it is likely that a requirement shall be made that the entrances to the premises are controlled by a door supervisor. In these circumstances the applicant or licence holder will be notified by the authority as to whether these need to be SIA licensed. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary

26 Adult Gaming Centres (AGC)

26.1 Walsall Council is committed to protecting children and vulnerable persons from harm or being exploited by gambling and will expect any 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.

26.2 Adult gaming centres (AGCs) premises licences allow the holder of the licence to make gaming machines available for use on the premises. Persons operating an AGC must hold a gaming machines general operating licence from the Commission and must seek a premises licence from the licensing authority. The holder of an adult gaming centre premises licence that was issued prior to the 13th July 2011 is entitled to make available four category B3/B4 gaming machines, or 20% of the total number of gaming machines, whichever, is the greater. An AGC premises licence granted after the 13th July 2011 may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines which are available for use on the premises and any number of category C or D machines.

26.3 Gaming machines are a form of gambling which is attractive to children and AGC's will contain machines of a similar format to the Category D machines on which children are allowed to play. However, no-one under the age of 18 is permitted to enter an AGC and applicants must be aware of the location of and entry to AGC's to minimise the opportunities for children to gain access.

26.4 The following measures are deemed suitable for applicants to consider in relation to the promotion of the licensing objectives. The list is not mandatory, nor exhaustive, and is merely indicative of example measures.

26.5 All potential risks and measures taken to mitigate such risks should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated, including:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

- Measures / training for staff on how to deal with suspected truant school children on the premises

27 (Licensed) Family Entertainment Centres (FEC):

27.1 Walsall Council is committed to protecting children and vulnerable persons from harm or being exploited by gambling and will expect any 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.

27.2 Generally, FECs must be operated by a person or body having an operating licence from the Gambling Commission (the Act also provides that there is a class of unlicensed Family Entertainment Centres that may be run by individuals or bodies not holding an operator's licence). Unlicensed Family Entertainment Centres do not require the operator to have a Gambling Commission operator's licence or Policy: AGC1 Applications and reviews will be determined, subject to the relevant criteria in policies OBJ1, OBJ2, OBJ3 and other policies within this statement. 33 premises licence from the local licensing authority but do need to have a gaming machine permit as set out below. Gaming machines are a form of gambling which is attractive to children and FECs will contain both Category D machines on which they are allowed to play, and category C machines on which they are not.

27.3 The following measures are deemed suitable when applicants are considering how to meet the licensing objectives. The list is not mandatory, nor exhaustive, and is merely indicative of example measures.

27.4 All potential risks and measures taken to mitigate such risks, should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage
- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.

- Measures / training for staff on how to deal with suspected truant school children on the premises

27.5 Walsall Councils Licensing Officers will refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines should be delineated. They will also review any mandatory or default conditions on these premises licences, when they have been published.

28 Casinos

28.1 No Casinos resolution - Walsall Council has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should it be decided in the future to pass such a resolution, this policy statement will be updated with details of that resolution. Any such decision will be made by the Full Council.

28.2 Licence considerations / conditions – Walsall Council will attach conditions to casino premises licences according to the principles set out in the Gambling Commission's Guidance, bearing in mind the mandatory conditions listed in the Guidance and the Licence Conditions and Codes of Practice published by the Gambling Commission.

28.3 Betting machines – Walsall 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 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.

28.4 It will be expected that all potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

29 Bingo premises

29.1 Prior to a licence being issued an applicant will need to satisfy Walsall Council that bingo can be played in any bingo premises. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas. Before issuing additional bingo premises licences, this authority will consider whether bingo can be played at each of those new premises.

29.2 Children and young people are allowed into bingo premises; however they are not permitted to participate in the bingo and if category B or C machines are

made available for use these must be separated from areas where children and young people are allowed.

29.3 All potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

29.4 A Bingo premises licence granted before the 13th July 2011 are entitled to make eight category B gaming machines, or 20% of the total number of gaming machines, whichever is greater. For Bingo premises licences granted after the 13th July 2011 are entitled to make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. There are no restrictions on category C or D machines that can be made available in any Bingo licence no matter when it was granted.

29.5 To avoid a situation where a premises holds a bingo premises licence primarily to benefit from the gaming machine allowance, the licensing authority will need to be satisfied that bingo can be played in any premises for which a premises licence is issued. Particular consideration will be given when the operator of an existing bingo premises applies to vary the premises licence to exclude an area of the existing premises and then applies for a new licence for the excluded area.

30 **Betting premises**

30.1 Betting machines - Walsall 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 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.

30.2 All potential risk measures should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

30.3 This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas

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

31 Tracks

- 31.1 Walsall 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.
- 31.2 As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.
- 31.3 This authority will therefore expect the premises licence applicant to demonstrate suitable measures to ensure that children do not have access to adult only gaming facilities. It is noted that children and young persons will be permitted to enter track areas where facilities for betting are provided on days when dog-racing and/or horse racing takes place, but that they are still prevented from entering areas where gaming machines (other than category D machines) are provided.

31.4 This licensing authority may consider measures to meet the licensing objectives such as:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Physical separation of areas
- Location of entry
- Notices / signage

- Specific opening hours
- Self-exclusion schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Measures / training for staff on how to deal with suspected truant school children on the premises

31.5 This list is not mandatory, nor exhaustive, and is merely indicative of example measures. All potential risks and measures taken to mitigate such risks, should be considered by the operator when completing its own local risk assessment for the area where the premises are to be situated.

32 Gaming machines

Where the applicant holds a pool betting operating licence and is going to use the entitlement for up to four gaming machines, machines (other than category D machines) should be located in areas from which children are excluded.

33 Betting machines

Walsall 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 proposes to offer.

34 Applications and plans

- 34.1 Applicants are required to submit plans of the premises with their application, in order to ensure that this authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.
- 34.2 Plans for tracks do not need to be in a particular scale, but should be drawn to scale and should be sufficiently detailed to include the information required by regulations.
- 34.3 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.
- 34.4 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of

sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.

- 34.5 It is appreciated that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place.

35 Travelling Fairs

- 35.1 This authority is responsible for deciding where category D machines and / or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 35.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 35.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.
- 35.4 Low-stake gaming machines can be made available at fairgrounds along with coin-pushers, cranes and grabbers. Higher stake machines, like those typically played in arcades and pubs, are not permitted. Fairground operators must source their machines from a Gambling Commission licensed supplier and employees working with gaming machines must be at least 18 years old.

36 Provisional Statements

- 36.1 Developers are able to apply to this authority for provisional statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a premises licence. There is no need for the applicant to hold an operating licence in order to apply for a provisional statement.
- 36.2 S.204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- a. expects to be constructed;

- b. expects to be altered; or
 - c. expects to acquire a right to occupy.
- 36.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 36.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 36.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired.
- 36.6 When determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties will be taken into account unless:
- a. they concern matters which could not have been addressed at the provisional statement stage, or
 - b. they reflect a change in the applicant's circumstances.
- 36.7 In addition, Walsall 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 statement stage;
 - b. which in the authority's opinion reflect a change in the operator's circumstances; or
 - c. where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

37 Reviews

- 37.1 Requests for a review of a premises licence can be made by interested parties or responsible authorities. Walsall Council will then decide whether a review is to be carried-out. The matters listed below will be used to make a decision:
- a. the review is in accordance with any relevant Code of Practice issued by the Gambling Commission;

- b. the review is in accordance with any relevant guidance issued by the Gambling Commission;
 - c. the review is reasonably consistent with the licensing objectives; and
 - d. the review is in accordance with the authority's statement of principles.
 - e. the Council has reason to suspect that premises licence conditions are not being observed
 - f. the premises is operating outside of the principles set out in the licensing authority's statement of policy
 - g. there is evidence to suggest that compliance with the licensing objectives is at risk
 - h. for any other reason which gives them cause to believe that a review may be appropriate, such as a complaint from a third party.
- 37.2 Walsall Council Licensing Officers will consider each application for a review in terms of whether it is frivolous, vexatious, or whether it will certainly not cause the authority to wish to alter/revoke/suspend the licence, or whether it is substantially the same as previous representations or requests for review.
- 37.3 In its role as a licensing authority Walsall Council will also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.
- 37.4 Once a valid application for a review has been received by the authority, representations can be made by responsible authorities and interested parties during a 28 day period. This period begins 7 days after the application was received by the licensing authority, who will publish notice of the application within 7 days of receipt.
- 37.5 Walsall Council will carry out the review as soon as possible after the 28 day period for making representations has passed.
- 37.6 The purpose of the review will be to determine whether any action in relation to the licence. If action is justified, the options that the authority may consider are:-
- a. add, remove or amend a licence condition imposed by the licensing authority;
 - b. exclude a default condition imposed by the Secretary of State or Scottish Ministers (e.g. opening hours) or remove or amend such an exclusion;
 - c. suspend the premises licence for a period not exceeding three months;
 - d. revoke the premises licence.
- 37.7 In determining what action, if any, should be taken following a review Walsall Council will have regard to the principles set out in section 153 of the Act, as well as any relevant representations.

- 37.8 Walsall Council will in appropriate circumstances seek to initiate a review of a premises licence on the grounds that a premises licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 37.9 Once the review has been completed, notification of the decision and the reasons for the decision will be made to:
- a. the licence holder
 - b. the applicant for review (if any)
 - c. the Commission
 - d. any person who made representations
 - e. the chief officer of police or chief constable; and
 - f. Her Majesty's Commissioners for Revenue and Customs
- 37.10 The authority will follow the Gambling Commission advice to Local Authorities guidance in terms of any appeal provisions.

38 PART C - Permits / Temporary & Occasional Use Notice

Permits

- 38.1 The Policy of Walsall Council in respect of permits for unlicensed family entertainment centres, club gaming, club machine and gaming machine on alcohol licensed premises is to:
- a. promote the licensing objectives;
 - b. treat each application individually on its own merits;
 - c. comply with the statutory requirements;
 - d. ensure compliance with the guidance issued by the Gambling Commission;
 - e. promote and ensure high standards at all venues.
- 38.2 Walsall Council will when considering an application for a permit consult closely with the Chief of Police and Safeguarding Board.
- 38.3 Details on the categorisation of gaming machine entitlements and the gaming entitlements for clubs and pubs can be found on the Gambling Commissions website through the following links

Gaming machine entitlements

- 38.4 www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-B-Summary-of-gaming-machine-categories-and-entitlements.aspx

Gaming entitlements

- 38.5 www.gamblingcommission.gov.uk/for-licensing-authorities/GLA/Appendix-C-Summary-of-gaming-entitlements-for-clubs-and-alcohol-licensed-premises.aspx

(Alcohol) Licensed premises gaming machine permits - (Schedule 13 paragraph 4(1))

Automatic entitlement: 2 machines

- 38.6 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority.
- 38.7 Walsall Council may remove this automatic authorisation in respect of any particular premises if:
- 38.8 provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);
the premises are mainly used for gaming; or
an offence under the Gambling Act has been committed on the premises.

Permit: 3 or more machines

- 38.9 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and Walsall Councils consideration of an application where a premises wishes to have more than 2 machines will be based upon the licensing objectives, any guidance issued by the Gambling Commission and any such matters as the authority think relevant.
- 38.10 Such matters will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures in terms of preventing access may include the adult machines being in sight of the bar, or in the sight of staff that will monitor that the machines are not being used by those under 18. Notices and signage may also be helpful. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

38.11 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.

38.12 Walsall Council may grant an 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.

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

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

38.14 Where a premises does not hold a premises licence but wishes to provide gaming machines, Walsall Council will expect the applicant to show that the premises will be wholly or mainly used for making gaming machines available for use.

38.15 An application for a permit will only be granted where Walsall Council is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application.

38.16 Walsall Council will 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.

Statement of Principles

38.17 Walsall Council will expect an applicant for a Family Entertainment Centre Permit to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations. The efficiency of such policies and procedures will each be considered on their merits, however, they may include appropriate measures / training for staff as regards suspected truant school children on the premises, measures / training covering how staff would deal with unsupervised very young children being on the premises, or children causing perceived problems on / around the premises.

38.18 Walsall Council will also expect that that applicants demonstrate a full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs; that the applicant has no relevant convictions (those that are set out in Schedule 7 of the Act); and that staff are trained to have a full understanding of the maximum stakes and prizes.

Prize Gaming Permits

38.19 Walsall Councils Statement of Principles for Prize Gaming Permits is that the applicant should set out the types of gaming that he or she is intending to offer and that the applicant will demonstrate:

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

38.20 In making any decision on an application for this permit Walsall Council will generally have regard to the licensing objectives but will always have regard to any Gambling Commission guidance.

38.21 It should be noted that there are conditions in the Gambling Act 2005 with which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:

- the limits on participation fees, as set out in regulations, must be complied with;
- all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
- the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
- participation in the gaming must not entitle the player to take part in any other gambling.

Club Gaming and Club Machines Permits

38.22 Members Clubs and Miners' welfare institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Clubs Gaming machines 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 permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

38.23 Walsall Council will take into account the statutory guidance when deciding whether it is a genuine members club.

38.24 Walsall Council may only refuse an application on the grounds that:

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

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

- a) that the club is established primarily for gaming, other than gaming prescribed under schedule 12;
- b) that in addition to the prescribed gaming, the applicant provides facilities for other gaming; or
- c) that a club gaming permit or club machine permit issued to the applicant in the last ten years has been cancelled.

38.26 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.

Temporary Use Notices (TUN)

- 38.27 Temporary Use Notices allow the use of premises for gambling where there is no premises licence but where a gambling operator wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for a Temporary Use Notice would include hotels, conference centres and sporting venues.
- 38.28 Walsall Council will only grant a Temporary Use Notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence. Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single overall winner.
- 38.29 There are restrictions on the type of gambling that can be offered under a TUN:
- 38.30 it can only be used to offer gambling of a form authorised by the operator's operating licence, and consideration should therefore be given as to whether the form of gambling being offered on the premises will be remote, non-remote, or both
- 38.31 gambling under a TUN may only be made available on a maximum of 21 days in any 12 month period for any or all of a named set of premises
- 38.32 it can only be used to permit the provision of facilities for equal chance gaming, and where the gaming in each tournament is intended to produce a single overall winner
- 38.33 gaming machines may not be made available under a TUN.
- 38.34 There are a number of statutory limits as regards Temporary Use Notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 14 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place".
- 38.35 In considering whether a place falls within the definition of "a set of premises", Walsall Council will look at, amongst other things, the ownership/occupation and control of the premises.
- 38.36 It is likely Walsall Council will object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises.

Occasional Use Notices

- 38.37 Walsall 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.

Consideration will however be given to the definition of a 'track' and whether the applicant is permitted to avail themselves of the notice.

39 Safeguarding against Child Sexual exploitation (CSE)

- 39.1 Walsall Council acknowledges that CSE awareness doesn't just apply to children on licensed premises, particularly as children are not permitted access to most gambling premises. Applicants should be equally aware of children in the proximity of the premises that may be waiting for, or seeking, older persons.
- 39.2 Applicants are encouraged to ensure that suitable management controls are in place to safeguard children against the risk of CSE as part of their policy. Measures may include, but are not limited to:
- awareness training for staff;
 - regular patrols of the premises, including external areas and the immediate proximity, to identify any vulnerable children;
 - close monitoring of patrons as they leave the premises;
 - recording and reporting concerns to the police.
- 39.3 The Council expects applicants to be aware of 'risk indicators' of CSE which include, but are not limited to:
- developing relationships between a child and an older person;
 - children in the company of a group of older person;
 - children regularly attending premises and meeting with a number of different older persons, particularly where older persons may be facilitating gambling for children;
 - children outside of licensed premises developing relationships with an older person, particularly an older person facilitating gambling for children;
 - children leaving the locality of the premises with older persons, particularly with a group of older persons;
 - children looking uncomfortable in the company of, or leaving with, older persons, particularly groups of older persons.
- 39.4 Whilst Walsall Council does not wish to create the impression that all contact between children and older persons is inappropriate, it is strongly of the view that licence holders should be aware of the risks of CSE and should proactively manage their premises to minimise the risks.

40 Appendix 1 – Definitions

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

"Operator Licence" is a licence which states that it authorises the licensee—

- to operate a casino (a "casino operating licence"),
- to provide facilities for playing bingo (a "bingo operating licence"),
- to provide facilities for betting other than pool betting (a "general betting operating licence"),
- to provide facilities for pool betting (a "pool betting operating licence"),
- to act as a betting intermediary (a "betting intermediary operating licence"),
- to make gaming machines available for use in an adult gaming centre (a "gaming machine general operating licence" for an adult gaming centre),
- to make gaming machines available for use in a family entertainment centre (a "gaming machine general operating licence" for a family entertainment centre),
- to manufacture, supply, install, adapt, maintain or repair a gaming machine, or a part of a gaming machine (a "gaming machine technical operating licence"),
- to manufacture, supply, install or adapt gambling software (a "gambling software operating licence"), or
- to promote a lottery (a "lottery operating licence").

"Gambling Commission" is the body primarily concerned with ensuring that each operator conducts gambling activities in a fair and open way

Appendix 2

<p><u>Licensing Authority</u> Walsall Council 2nd Floor Civic Centre Darwall Street Walsall WS1 1TP Email: Licensing@walsall.govuk</p>	<p><u>Police</u> The Licensing Officer West Midlands Police Walsall Council Civic Centre Darwall Street Walsall WS1 1TP Tel: 0345 113 5000</p>
<p><u>Planning</u> Planning & Transportation Licensed Premises Applications Walsall MBC 2nd Floor Civic Centre Darwall Street Walsall WS1 1DG Tel: 01922 652425 or 652452</p>	<p><u>Fire</u> Protection (Fire Safety) Admin West Midlands Fire Service Headquarters 99 Vauxhall Road Birmingham B7 4HW Telephone 0121 380 6300</p>
<p><u>Social Services</u> Walsall Council House, Room 28 Lichfield Street Walsall, WS1 1TW Tel: 01922 658409 Website: www.wlscb.org.uk or www.wsab.co.uk</p>	<p><u>Environmental Health</u> Civic Centre Darwall Street Walsall WS1 1TP Tel: 01922 653024</p>
<p><u>Gambling Commission</u> Victoria Square House Victoria Square Birmingham B2 4BP Tel: 0121 230 6666</p>	<p><u>HM Revenues & Customs</u> National Registration Unit Portcullis House 21 India Street Glasgow G2 4PZ Tel: 0141 555 3633</p>

Appendix 3 – Summary of Licensing Authority delegations permitted under the Gambling Act 2005

Matter to be Dealt with	Full Committee	Sub-Committee	Officers
Final approval of three year licensing policy.	X		
Policy not to permit casinos.	X	X (Where delegated by full council)	
Fee setting (where appropriate)			
Application for premises licences		Relevant representations received and not withdrawn	No representations received
Application for a variation to a licence		Relevant representations received and not withdrawn	No representations received
Application for a transfer of a licence		Relevant representations received and not withdrawn	No representations received
Application for a provisional statement		Relevant representations received and not withdrawn	No representations received
Review of premises licence		X	
Application for club gaming/club machine permits		Where objections have been made (and not withdrawn)	Where no objections made or objections have been withdrawn
Application for other permits			X
Cancellation of licensing premises gaming machine permits			X
Consideration of temporary use notices			X
Decision to give a counter notice to a temporary use notice		X	

Comments

1The Statement of Licensing Policy will be reviewed on a regular basis. Individuals and organisations that wish to comment on the policy are invited to send their comments in writing to:

Licensing Unit
Walsall M.B.C
Civic Centre
Darwall Street
Walsall
WS1 1TP

Telephone Number: 01922 653050

Fax Number: 01922 653070

e-mail: licensing@walsall.gov.uk

website : www.walsall.gov.uk

	2019 - 2020	2020 - 2021	2021 - 2023		Total
Casino	0	0	0		3
Bingo	0	0	2		5
AGC	0	0	2		8
FEC	0	0	0		0
Betting	0	0	1		28
2 or less	9	2	9		137
Gaming Machines Licensed Premises	3	1	3		39
Club Machine Permit	0	1	0		19
Club Permits	0	0	0		1
Licences Surrendered	5	2	1		1
Committees	0	1	1		1

**Report of the Director of Resilient Communities to the
Licensing and Safety Committee
12 October 2022**

Update on the Business and Planning Act 2020

1.0 Summary of Report

- 1.1 On the 22 July 2020 the Business & Planning Act 2020 received Royal Assent and its provisions came into immediate effect. The Act brought into force a licensing regime for permitting businesses 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.
- 1.2 Walsall Council's Licensing Service has introduced an application process, set out in detail within this report, to manage pavement café licences, in response to the Act.

2.0 Background

- 2.1 The Business & Planning Act 2020 received Royal Assent on the 22 July 2020 and establishes an expedient process for processing and determining applications for Pavement Café licences. Businesses such as pubs, bars and restaurants have been severely adversely affected by Covid-19 and many have been closed for an extended period.
- 2.2 The act was put in place as a temporary measure to help the economy during the pandemic. The temporary provisions were supposed to be made permanent in September 2022. However, the government has now decided to extend the provisions of the act to September 2023.
- 2.3 Once the act has been made permanent, the government will also set statutory fees nationally for applications under the act. The current fee is set at £100 under the temporary provisions. Once the government has made this legislation permanent, a report with an update will be provided to the Licensing & Safety committee mid-2023.
- 2.4 Currently under the new Business & Planning Act 2020 we have two licences in place for tables and chairs. Under the Highways Act 1980, we currently have three licences in place.

3.0 Resource Considerations

3.1 **Financial:** The fee set by the government (£100) falls significantly short of covering the administrative and enforcement cost of licensing the function introduced. The Act makes clear that Licensing authorities are expected to rely on existing budgets in order to meet the requirements of the new legislation. As there is no appeal to the Magistrates Court for a refusal or revocation of this application, this increases the risk of the Licensing Authority's policy and procedures being judicially reviewed.

3.2 **Legal:** The Council can exercise its functions by way of committees or officers. When exercising delegated authority, in addition to any policies the Council may have, both committees and officers are bound by natural justice, human rights, the legal framework, and relevant and statutory guidance.

3.3 The Business & Planning Act 2020 does not provide a right of appeal to a public court in the event of a refusal or revocation of a licence. However the Guidance states:

'There is no statutory appeal process for these decisions, however, councils may wish to consider the scope for an internal review process, for example permitting appeals to their Licensing committee.'

4.0 Staffing issues:

None

5.0 Citizen Impact

None

6.0 Community Safety

6.1 The Conditions adopted as part of this licensing regime will assist in the protection of public safety.

6.2 Where conditions are not adhered to and public safety is compromised there will be a reasonable expectation of enforcement including the possibility of the revocation of the licence.

7.0 Environmental Impact

7.1 None

8.0 Performance and Risk Management Issues

- 8.1 Decisions by the committee must be compliant with all relevant legislation.
- 8.2 One of the overwhelming priorities of the Licensing Authority is to ensure public safety. It is important that the scheme of delegations enable appropriate decisions to be made by the right person or body at the right time.

9.0 Equality Implications

Nothing arising from this report.

10.0 Consultation

None required.

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