



Licensing Act Committee

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|---------------|--|
| Date: | Thursday, 25 July 2024 |
| Time: | 6.00 p.m. |
| Venue: | Committee Room 1 - Wallasey Town Hall |

Contact Officer: Michael Jones, Principal Democratic Services Officer
Tel: 0151 691 8363
e-mail: michaeljones1@wirral.gov.uk
Website: www.wirral.gov.uk

Please note that public seating is limited therefore members of the public are encouraged to arrive in good time.

Wirral Council is fully committed to equalities and our obligations under The Equality Act 2010 and Public Sector Equality Duty. If you have any adjustments that would help you attend or participate at this meeting, please let us know as soon as possible and we would be happy to facilitate where possible. Please contact committeeservices@wirral.gov.uk

This meeting will be webcast at <https://wirral.public-i.tv/core/portal/home>

AGENDA

- 1. WELCOME AND INTRODUCTION**
- 2. APOLOGIES**
- 3. MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Committee are asked to declare any disclosable pecuniary and non-pecuniary interests, in connection with any application on the agenda and state the nature of the interest.

4. MINUTES (Pages 1 - 4)

To approve the accuracy of the minutes of the meeting of the Licensing Act Committee held on 7 June 2023.

5. PUBLIC AND MEMBER QUESTIONS

5.1 Public Questions

Notice of question to be given in writing or by email by 12 noon, Monday 22 July 2024 to the Council's Monitoring Officer via this link: [Public Question Form](#) and to be dealt with in accordance with Standing Order 10.

For more information on how your personal information will be used, please see this link:

[Document Data Protection Protocol for Public Speakers at Committees | Wirral Council](#)

Please telephone the Committee Services Officer if you have not received an acknowledgement of your question by the deadline for submission.

5.2 Statements and Petitions

Notice of representations to be given in writing or by email by 12 noon, Monday 22 July 2024 to the Council's Monitoring Officer (committeeservices@wirral.gov.uk) and to be dealt with in accordance with Standing Order 11.1.

Petitions may be presented to the Committee if provided to Democratic and Member Services no later than 10 working days before the meeting, at the discretion of the Chair. The person presenting the petition will be allowed to address the meeting briefly (not exceeding three minute) to outline the aims of the petition. The Chair will refer the matter to another appropriate body of the Council within whose terms of reference it falls without discussion, unless a relevant item appears elsewhere on the Agenda. If a petition contains more than 5,000 signatures, it will be debated at a subsequent meeting of Council for up to 15 minutes, at the discretion of the Mayor.

Please telephone the Committee Services Officer if you have not received an acknowledgement of your statement/petition by the deadline for submission.

5.3 Questions by Members

Questions by Members to dealt with in accordance with Standing Orders 12.3 to 12.8.

6. DRAFT REVISED STATEMENT OF GAMBLING POLICY UNDER THE GAMBLING ACT 2005 (Pages 5 - 60)

The appendix to this report may not be suitable to view for people with disabilities, users of assistive technology or mobile phone devices. Please contact richardleyland@wirral.gov.uk if you would like this document in an accessible format.

7. DRAFT REVISED STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003 (Pages 61 - 100)

The appendix to this report may not be suitable to view for people with disabilities, users of assistive technology or mobile phone devices. Please contact richardleyland@wirral.gov.uk if you would like this document in an accessible format.

Terms of Reference

The terms of reference for this committee can be found at the end of this agenda.

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LICENSING ACT COMMITTEE

Wednesday, 7 June 2023

Present:

| | | |
|-------------|------------------------|-----------------|
| Councillors | S Bennett (Vice-Chair) | K Murphy |
| | C Cooke | M Redfern |
| | G Davies | J Stewart Laing |
| | B Hall | K Stuart |
| | L Luxon-Kewley | M Sullivan |
| | C McDonald | E Tomeny |

Apologies

| | | |
|-------------|------------------|--------|
| Councillors | A Hodson (Chair) | R Pitt |
| | M Jordan | |

Vice-Chair in the Chair

1 **WELCOME AND INTRODUCTION**

The Vice-Chair welcomed everyone to the meeting and those watching the webcast.

2 **APOLOGIES**

The Vice-Chair confirmed apologies had been received from Councillors A Hodson (Chair), M Jordan and R Pitt.

3 **MEMBERS' CODE OF CONDUCT - DECLARATIONS OF INTEREST**

Members of the Committee were asked to declare any disclosable pecuniary and non pecuniary interests, in connection with any application on the agenda and state the nature of the interest.

No such declarations were made.

4 **MINUTES**

Resolved – That the accuracy of the minutes of the meeting held on 16 November 2022 be approved.

5 **MINUTES OF THE LICENSING PANEL**

Resolved – That the accuracy of the minutes of the meetings of the Licensing Panel (now re-named as the Licensing Act Sub Committee) held on 19 December, 20 December 2022, 6 January and 18 January 2023 be approved.

6 **PUBLIC QUESTIONS**

The Vice-Chair indicated that one question had been received from John Brace relating to a refund in respect of an application he had made for a Temporary Event Notice.

In response, the Legal Advisor to the Committee explained that the payment would be refunded as of 9 June 2023 and should be received a few working days after this date.

7 **STATEMENTS AND PETITIONS**

The Vice-Chair reported that there had been no statements or petitions submitted.

8 **QUESTIONS BY MEMBERS**

The Vice-Chair reported that there had been no questions submitted from Members.

9 **APPOINTMENT OF MEMBERS TO THE LICENSING ACT SUB-COMMITTEE**

The Director of Law and Governance submitted a report in respect of the appointment of Members to the Licensing Act Sub-Committee.

It was reported that the Terms of Reference of the Licensing Act Committee as contained in the Council's Constitution (approved by Council on 24 May 2023), required this Committee to act as the administrative committee, acting under statutory delegation pursuant to the Licensing Act 2003, and to be responsible for making decisions as a Licensing Authority under the Licensing Act 2003 and Gambling Act 2005.

It was further reported that the Terms of Reference also allowed for the convening of Licensing Act Sub-Committees of three members of the Licensing Act Committee, with responsibility for the Council's functions to deal with applications, determinations and reviews of licences, permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005 within statutory timescales.

On a motion by Councillor Mike Sullivan and seconded by Councillor Chris Cooke it was –

Resolved –

- (1) That the Terms of Reference of the Licensing Act Sub-Committee as referred to in paragraphs 1.1 and 1.2 of the report be noted and that each Licensing Act Sub-Committee be comprised of three Members drawn from the fifteen Members of the Licensing Act Committee with the Chair appointed on the day of each meeting.**
- (2) That the Director of Law and Governance (Monitoring Officer) be given delegated authority, in consultation with the Chair and Spokespersons to convene Licensing Act Sub-Committees as and when required for the purposes of carrying out the Council's functions to deal with applications, determinations and reviews of licences permissions and any related matter in respect of the Licensing Act 2003 or the Gambling Act 2005. Up to two further Members of the Licensing Act Committee may attend as observers.**
- (3) That the term of membership of the Licensing Act Committee be continued until such time as a new Licensing Act Committee is appointed.**

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LICENSING ACT COMMITTEE

25 JULY 2024

| | |
|---------------------|---|
| REPORT TITLE | DRAFT REVISED STATEMENT OF GAMBLING POLICY UNDER THE GAMBLING ACT 2005 |
| REPORT OF | DIRECTOR OF LAW AND CORPORATE SERVICES |

REPORT SUMMARY

The purpose of this report is to seek Committee's approval of the draft revised Statement of Gambling Policy under the Gambling Act 2005 attached at Appendix 1 to this report in order that it may be circulated for public consultation.

RECOMMENDATION

The Licensing Act Committee is recommended to approve the draft revised Statement of Gambling Policy to be applied under the Gambling Act 2005 attached at Appendix 1 to this report in order that it may be circulated for public consultation.

SUPPORTING INFORMATION

1.0 REASON FOR RECOMMENDATION/S

- 1.1 It is a statutory requirement under the Gambling Act 2005 for the Council to review and consult upon its Statement of Gambling Policy at least every three years prior to it being published.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 That the draft revised Statement of Gambling Policy be circulated for public consultation without approval from this Committee. It was considered, however, that this would deny the Committee an opportunity to input into the revision process and the draft document to be circulated.

3.0 BACKGROUND INFORMATION

- 3.1 The Gambling Act 2005 requires the Council to prepare and publish a statement of the principles to be applied when exercising its functions under this Act. The Statement of Principles is referred to in this report as the Council's Statement of Gambling Policy. It is a requirement that this policy document be reviewed every three years.
- 3.2 The Council's Statement of Gambling Policy was first published in December 2006 and has been reviewed every three years in accordance with the statutory requirement. The revised draft Statement of Gambling Policy is attached at Appendix 1 to this report. The proposed revisions to the Statement of Gambling Policy are highlighted in bold.
- 3.3 In preparing its Statement of Gambling Policy or a revision of the Policy the Licensing Authority must consult with the following:
- the Chief Officer of Police for the Authority's area
 - one or more persons who appear to the Authority to represent the interests of persons carrying on gambling businesses in the Authority's area, and
 - 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
- 3.4 Notification of the consultation will be published on the Council's website.
- 3.5 It is proposed that the period of consultation be between 29 July 2024 and 27 September 2024 and that the outcome of the consultation be reported to a meeting of this Committee on 23 October 2024 in order that recommendations of this Committee may be presented to full Council at its meeting on 2 December 2024 for the Statement of Gambling Policy to be approved.

4.0 FINANCIAL IMPLICATIONS

- 4.1 There are staffing cost implications to undertaking a consultation exercise which will be funded from within the Licensing budget.

5.0 LEGAL IMPLICATIONS

5.1 Section 349 of the Gambling Act 2005 places a duty on the Licensing Authority to undertake a review of its Statement of Gambling Policy every three years.

5.2 The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006 sets out the form and content that shall be included in the Statement of Gambling Policy and any revised version of the Policy.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

6.1 The review of the Statement of Gambling Policy will be undertaken within current resources.

7.0 RELEVANT RISKS

7.1 The Statement of Gambling Policy must be published before 31 December 2024 in accordance with statutory timescales. Should the Council fail to approve a revised Statement of Gambling Policy within this timescale there is a risk that the Council could be open to challenge with regard to future decisions under the Gambling Act 2005.

8.0 ENGAGEMENT/CONSULTATION

8.1 Should Committee approve the draft Statement of Gambling Policy, public consultation will take place between 29 July and 27 September 2024. Notification of the consultation will be published on the Council's website.

9.0 EQUALITY IMPLICATIONS

9.1 Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity. The Equality Impact Assessment relevant to the proposed amendments to the Statement of Gambling Policy is available via the link below.

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

10.1 There are no direct Environment and Climate Implications arising as a result of this report.

11.0 COMMUNITY WEALTH IMPLICATIONS

11.1 There are no direct Environment and Climate Implications arising as a result of this report.

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APPENDICES

Appendix 1 Draft Revised Statement of Gambling Policy

BACKGROUND PAPERS

The Gambling Act 2005

The Gambling Act 2005 (Licensing Authority Policy Statement) (England and Wales) Regulations 2006

The Gambling Commission's Guidance to Licensing Authorities April 2023

TERMS OF REFERENCE

This report is being considered by the Licensing Act Committee in accordance with paragraph 9.2 of its Terms of Reference, which states that the principal role of the Licensing Act Committee is to act as the administrative committee, acting under statutory delegation pursuant to the Gambling Act 2005, and responsible for making decisions as Licensing Authority under the Gambling Act 2005.

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|-------------------------|------------------|
| Licensing Act Committee | 24 November 2021 |
| Council | 6 December 2021 |



DRAFT

**Statement of Gambling Policy
2024 to 2027**

**Wirral Licensing Authority
Town Hall
PO Box 290
Brighton Street
Wallasey
CH27 9FQ**

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Appendix D – Summary of gaming machine categories and entitlements

Appendix E – Summary of machine provisions by premises

Executive Summary

The purpose of the policy is to clearly set out the principles that Wirral Borough Council, as the Licensing Authority, propose to apply when determining licence applications, permits and registrations under the Gambling Act 2005 including:

**Gaming Machine Permits
Adult Gaming Centres
Licensed Family Entertainment Centres
Casinos
Bingo premises
Betting premises
Travelling Fairs
Unlicensed Family Entertainment Centres
Prize Gaming Permits
Club Gaming Permit
Club Machine Permit**

This Policy also sets out the principles to be applied by the Licensing Authority in exercising its functions under Part 15 of the Gambling Act 2005 with respect to the inspection of premises and the powers to institute criminal proceedings in respect of offences under the Gambling Act 2005.

The Licensing Objectives

In exercising its functions under the Gambling Act 2005, (The Act) Wirral Borough Council as the Licensing Authority will have regard to the following Licensing Objectives:

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

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

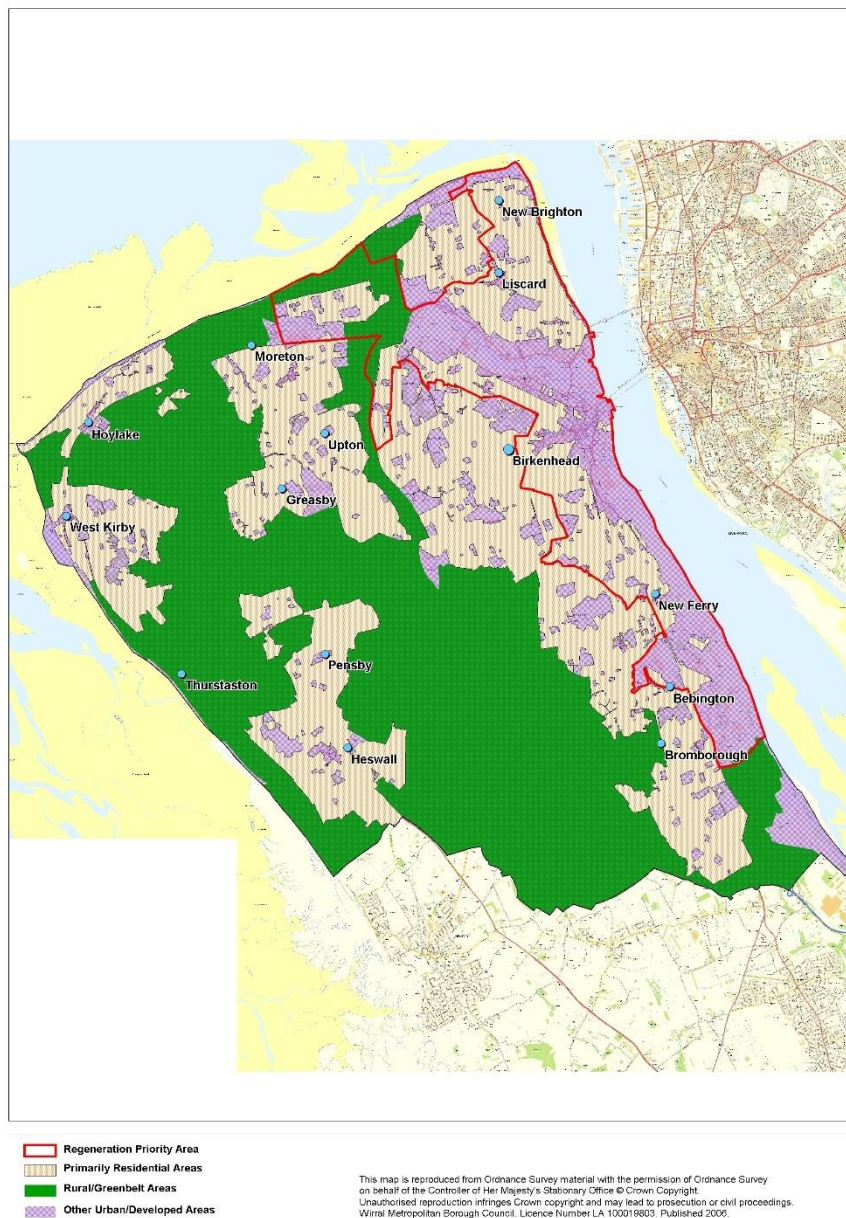
This Licensing Authority is aware that in accordance with Section 153 of the Gambling Act 2005, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises so far as it thinks it is:

- In accordance with any relevant Code of Practice issued by the Gambling Commission
- In accordance with any relevant Guidance issued by the Gambling Commission

- Reasonably consistent with the Licensing Objectives in accordance with the Licensing Authority's Statement of Licensing Policy.

1.0 Wirral

1.1 Wirral Borough Council is situated in the County of Merseyside, which contains no district Councils, but 5 metropolitan councils: Knowsley, Liverpool, Sefton, St Helens and Wirral. The Council area has a population of 320,200 (ONS 2021 population estimates) making it the second largest after Liverpool in the County in terms of population. In terms of area it is the largest in Merseyside, covering 60.1 square miles. The Borough is mainly urban in outlook, with 32.85 square miles (54.66% of the borough) covered in Residential, Industrial or Commercial buildings.



The key provided identifies the urban / rural areas as well as regeneration priority areas.

2.0 Introduction

2.1 Licensing Authorities are required by the Gambling Act 2005 to publish a statement of the principles which they propose to apply when exercising their functions. This statement must be published at least every three years. The statement must also be reviewed from “time to time” and any amended parts re-consulted upon. The statement must then be re-published.

2.2 The Gambling Act 2005 requires that the following parties are consulted by Licensing Authorities:

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

2.3 A list of the persons that the Council is consulting with is attached at Appendix B. This draft will be circulated to consultees and published on our website between 29 July 2024 and 27 September 2024.

2.4 Consultees were advised to email their comments to licensing@wirral.gov.uk or send comments by post to:

Wirral Licensing Authority
Town Hall
PO Box 290
Brighton Street
Wallasey
CH27 9FQ

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

2.6 In drafting this revised policy, the Licensing Authority has had regard to the ‘Guidance issued to Licensing Authorities’ issued by the Gambling Commission. In determining what weight to give to particular representations, the factors taken into account will include:

- who made the representations (what is their interest or expertise)
- relevance of the factors to the Licensing Objectives
- how many other people expressed the same or similar views

- how far the representations will relate to matters that the Licensing Authority should be including in its policy statement.

3.0 Declaration

3.1 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 issued by the Gambling Commission, the Licensing Conditions and Codes of Practice and any responses from those consulted on the statement.

4.0 Responsible Authorities

4.1 The Gambling Act empowers certain agencies to act as Responsible Authorities so that they can employ their particular area of expertise to help promote the licensing objectives. Responsible Authorities are able to make representations about licence applications, or apply for a review of an existing licence. Responsible authorities will also offer advice and guidance to applicants.

4.2 The Responsible Authorities under the Gambling Act 2005 are:

- Licensing, Wirral Borough Council
- The Gambling Commission
- The Chief Constable, Merseyside Police
- Merseyside Fire and Rescue Authority
- Planning, Wirral Borough Council
- Environmental Health, Wirral Borough Council
- Wirral Safeguarding Children Partnership
- H.M. Revenue & Customs (HMRC)

Subject to any other person being prescribed in Regulations by the Secretary of State. The contact details for these Authorities are illustrated at Appendix C.

4.3 The Licensing Authority is required by regulations to state the principles it will apply in exercising its powers under Section 157(h) of the Act to designate, in writing, a body which is competent to advise the Authority about the protection of children from harm. The principles are:

- the need for the body to be responsible for an area covering the whole of the Licensing Authority's area
- the need for the body to be answerable to democratically elected persons, rather than any particular vested interest group

- 4.4 In accordance with the Gambling Commission's Guidance for Local Authorities, this Authority designates the Wirral Safeguarding Children Partnership for this purpose as a Responsible Authority.
- 4.5 Safeguarding children is a key priority for Wirral Council, and the Licensing Authority expects all licensees to have strict control measures in place to mitigate any risks to underage gambling.

5.0 Interested Parties

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

“For the purposes of this Part a person is an Interested Party in relation to an application for or in respect of a premises licence if, in the opinion of the Licensing Authority which issues the licence or to which the application is made, the person-

- a) lives sufficiently close to the premises to be likely to be affected by the authorised activities
 - b) has business interests that might be affected by the authorised activities
 - c) represents persons who satisfy paragraph (a) or (b)
- 5.2 The Licensing Authority is required by regulations to state the principles we will apply in exercising our powers under the Gambling Act 2005 to determine whether a person is an Interested Party.
- 5.3 When determining what 'significantly close to the premises' means the Licensing Authority will take into account:
- the size of the premises
 - the nature of the premises
 - the distance of the premises from the location of the person making the representation
 - the potential impact of the premises such as the number of customers, routes likely to be taken by those visiting the establishment
 - the circumstances of the person who lives close to the premises. This is not the personal characteristics of the complainant, but their interests which may be relevant to the distance from the premises
- 5.4 The Licensing Authority may determine that 'sufficiently close to be likely to be affected' could have a different meaning for (a) a private resident, (b) a residential school for children with truanting problems, and (c) a residential hostel for vulnerable adults.
- 5.5 In determining whether there is a business interest the Licensing Authority will take into consideration the size of the premises, the catchment area of the premises and whether the person making the representation has a business

interest in that catchment area that could be affected. The nature and scope of business interest that could be affected will also be taken into consideration.

- 5.6 In considering whether there is a business interest the Licensing Authority will consider business interests in its widest possible interpretation, to include partnerships, charities, faith groups and medical practices.
- 5.7 Interested parties can be persons who are democratically elected such as Councillors, M.P.'s etc. No specific evidence of being asked to represent an interested party will be required as long as the Councillor / M.P. etc. represents the Ward likely to be affected. Save for democratically elected persons, other representations may include bodies such as trade associations and trade unions, and residents' and tenants' associations. A School Head or Governor might act in representing the interests of pupils or parents and a community group might represent vulnerable people living near to the premises. This Authority will generally require written evidence that a person/body (e.g. an advocate / relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.
- 5.7 If individuals wish to approach Councillors to ask them to represent their views then care should be taken that the Councillors are not part of the Licensing Committee dealing with the licence application. If there are any doubts then please contact the Licensing Authority by emailing licensing@wirral.gov.uk.

6.0 Exchange of Information

- 6.1 The Licensing Authority recognises that shared regulation depends on effective partnership and collaborations. The exchange of information between the Commission and Licensing Authorities is an important aspect of that and to the benefit of both. Licensing Authorities play a particular role in sharing information about gambling activity at a local level, which is important for the Commission's overarching view of gambling activity, not least because that enables the Commission to identify risks and feed information and intelligence back to licensing authorities. It also enables the Commission to fulfil its duty to advise the Secretary of State about the incidence of gambling and the manner in which it is conducted.
- 6.2 Section 29 of The Gambling Act 2005 enables the Commission to require information from Licensing Authorities, including the manner in which the information is compiled, collated and the form in which it is provided, providing that it:
- forms part of a register maintained under the Act
 - is in the possession of the Licensing Authority in connection with a provision of the Act
- 6.3 This Licensing Authority will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes compliance with the General Data Protection Regulations. We will also have regard to any

Guidance issued by the Gambling Commission to Local Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.

6.4 Section 350 of The Gambling Act 2005 allows Licensing Authorities to exchange information with other persons or bodies for use in the exercise of functions under the Act. Those persons or bodies are listed in Schedule 6(1) as:

- a Constable or Police Force
- an Enforcement Officer
- a Licensing Authority
- HMRC
- the First Tier Tribunal
- the Secretary of State

6.5 As a Licensing Authority we will maintain data on Premises Licences. As part of the application process for a premises licence, applicants will forward notice of the application to the Commission, and we will subsequently notify the Commission of the outcome of each application, whether it is granted or refused. The Act also requires Licensing Authorities to notify the Commission of other matters such as when a licence has lapsed or been surrendered, and the cancellation of certain permits and registrations. Under s.29 of the Act, the Commission has identified further information requirements that it is necessary for Licensing Authorities to provide, which form part of the Licensing Authority Return in the Single Data List.

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

6.7 The details of individuals or interested parties making representations in respect of applications for or a review of a licence will be shared with applicants and licence holders respectively as well as the **Licensing Act Sub-Committee** considering such applications. In exceptional circumstances, persons making representations to the Licensing Authority may be reluctant to do so because of fears of intimidation if their personal details such as name and address are divulged to the applicant or licence holder. Should the Licensing Authority receive notification from such persons making representations that this is the case the Licensing Authority may withhold some or all of the person's personal details, giving minimal details such as street name or general location.

7.0 Compliance Role

7.1 Licensing Authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the Authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under Section 346 of the Act to institute criminal proceedings in respect of the offences specified.

7.2 This Licensing Authority's principles are that it will be guided by the Gambling Commission's Guidance for Local Authorities and will apply the principles of

good regulation in accordance with the principles of better regulation and the Regulators' Code. In accordance with the Regulators' Code, this Authority aims to support businesses and individuals to comply with the law and grow within the Borough. The Licensing Authority understands that regulatory activity can have cost implications on businesses. We will undertake such activity to minimise the negative economic impact of this work where possible, choosing proportionate and effective approaches to regulation. This means that inspections and enforcement activities will be undertaken in accordance with the following principles:

- Proportionate: We will only intervene when necessary: remedies will be appropriate to the risk posed, and costs identified and minimised
- Accountable: We will justify our decisions and be subject to public scrutiny
- Consistent: Rules and standards will be joined up and implemented fairly
- Transparent: We will be open and transparent and keep regulations simple and user friendly
- Targeted: Regulation will be focused on the problem, and minimise side effects

7.3 In accordance with the Gambling Commission's Guidance for Local Authorities this Licensing Authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

7.4 This Licensing Authority will target high risk premises which require greater attention and will operate a lighter touch in respect of low risk premises. The criteria the Licensing Authority will use to determine the level of risk will include;

- The Licensing Objectives
- Relevant Codes of Practice
- Guidance issued by the Gambling Commission, in particular at Part 36
- The principles set out in this statement of Licensing Policy
- **The Local Area Profile**

7.5 The main enforcement and compliance role for this Licensing Authority in terms of the Gambling Act 2005 will be to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission will be the Enforcement Body for Operating and Personal Licences. Concerns about manufacture, supply or repair of gaming machines will not be dealt with by the Licensing Authority but will be notified to the Gambling Commission.

8.0 Test purchasing and age verification

8.1 Test purchasing is one method by which either the Gambling Commission or Licensing Authorities may measure the compliance of licensed operators or groups of licensed operators, with aspects of the Gambling Act 2005 subject to Primary Authority (PA) arrangements.

- 8.2 The Licensing Authority will consult with operators in the first instance where we have concerns about the underage access and or age verification policies of a particular business. This will enable the Licensing Authority to identify what programmes are in place to manage the business risk and take these into account in planning any test purchase exercise.
- 8.3 The Licensing Authority will consult with the Gambling Commission before planning a test purchase exercise in order to ensure that there is no conflict between any ongoing investigation or enforcement activity related to either the premises or the operator. However, irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.
- 8.4 The Licensing Authority will follow current guidance in relation to the sale of age restricted products in order to ensure that tests are carried out in a manner that is risk-based and fair, with due regard to the welfare of young people involved in the test purchasing.
- 8.5 The Licensing Authority will share any test purchasing results with the Gambling Commission.

9.0 Local Authority Compliance Events (LACE)

- 9.1 In order to make the system of shared regulation as effective and efficient as possible, the Commission notifies Licensing Authorities of complaints and intelligence received regarding non-compliance and illegality in their geographical area which is primarily of a localised nature. These are referred to as Local Authority Compliance Events (LACE). The responsibility for the LACE referral is then discharged from the Commission to the Licensing Authority. Licensing Authorities are requested to advise the Commission of what, if any, action is taken.
- 9.2 The complaints that instigate the LACE referrals come from a variety of sources including licensed operators and members of the public. A number of them are received anonymously via the Commission's intelligence line.
- 9.3 In accordance with the Regulators Code this Licensing Authority has produced an Enforcement Policy which is available on the Council Website – <https://www.wirral.gov.uk/licences-and-permits/licensing-enforcement>.

10.0 Local Risk Assessment

- 10.1 The social responsibility 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, it is expected that premises located in Wirral will have regard to [Wirral Intelligence Service](#) which is an online tool providing [detailed area profiles of Wirral](#).
- 10.2 Applicants are required to undertake a local risk assessment when applying for a new premises licence. Risk assessment must also be updated:

- when applying for a variation of a premises licence
- **to take account of significant changes in local circumstances, which may be highlighted in the Wirral Intelligence Service tool.**
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.

10.3 The social responsibility provision is supplemented by an ordinary code provision that requires Licence Holders to share their risk assessment with Licensing Authorities when applying for a premises licence or applying for a variation to existing licensed premises, or otherwise at the request of the Licensing Authority.

11.0 Local Area Profile

11.1 Wirral Council has developed its own assessment of the local environment and has mapped out the key characteristics of the local areas. This assessment which applicants can use to have a better understanding of a particular area can be found online within this link:
<https://www.wirralintelligenceservice.org/wirral-data/local-insight/>.

11.2 For example, an area might be identified as high risk on the basis that it is located within close proximity to a youth centre, rehabilitation centre, or school. In these circumstances, the Licensing Authority would expect licence holders to take appropriate steps to ensure that they have sufficient controls in place to mitigate associated risks in such areas and, if not, the Licensing Authority would consider other controls themselves.

11.3 The Licensing Authority will expect operators and new applicants to use the local area profiles to inform of specific risks that operators will need to address in the risk assessments which will form part of any new licence application, or an application to vary a licence.

12.0 Licensing Authority Functions

12.1 Licensing Authorities are required under the Act to:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing Premises Licences
- Issue Provisional Statements
- Regulate Members' Clubs and Miners' Welfare Institutes who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- Issue Club Machine Permits to Commercial Clubs
- Grant permits for the use of certain lower stake gaming machines at unlicensed Family Entertainment Centres

- Receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- Issue Licensed Premises Gaming Machine Permits for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines
- Register Small Society Lotteries below prescribed thresholds
- Issue Prize Gaming Permits
- Receive and Endorse Temporary Use Notices
- Receive Occasional Use Notices
- Provide information to the Gambling Commission regarding details of licences issued
- Maintain registers of the permits and licences that are issued under these functions

12.2 It should be noted that the Licensing Authority is not involved in licensing remote gambling. This will fall to the Gambling Commission via operating licences. We will engage with the Gambling Commission where necessary on this issue and refer any intelligence or concerns raised in respect of such activity, in particular harm being caused to children or vulnerable persons within the Borough.

13.0 Allocation of Decision Making Responsibilities

13.1 The Licensing Authority is involved in a wide range of licensing decisions and functions which will be administered by the Licensing Act Committee and **Licensing Act Sub-Committees** thereof.

13.2 Many of the decisions and functions will be purely administrative in nature and the grant of non-contentious applications, including for example, those licences and permits where no representations have been made, is delegated to Council Officers.

13.3 The table shown at Appendix A sets out the agreed delegation of decisions and functions to the Licensing Act Committee, **Licensing Act Sub-Committees** and Officers. This form of delegation is without prejudice to an Officer referring an application to a **Sub-Committee**, a full Committee, or to full Council, if considered appropriate in the circumstances of any particular case.

13.4 The Licensing Authority's decision making process will be informed by the local area profile and will have particular regard to the proximity of gambling premises to schools, vulnerable adult centres, residential areas where there is a high concentration of families with children and areas of the Borough that are particularly attractive to children such as New Brighton.

13.5 Each application will be decided on its merits taking into consideration how the applicant can demonstrate that they can overcome concerns that the Licensing Objectives may not be met.

14.0 Licensing Objectives

14.1 Premises Licences granted must be reasonably consistent with the Licensing Objectives. With regard to these Objectives, this Licensing Authority has considered the Gambling Commission's Guidance to Local Authorities and some comments are made below.

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

14.2 This Licensing Authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that the Licensing Authority should pay attention to the proposed location of gambling premises in terms of this Licensing Objective. Therefore, where an area has known high levels of organised crime, we 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. Responsible Authorities would however have the right to make representation with regard to such premises.

14.3 The Licensing Authority is aware of the distinction between disorder and nuisance and will consider factors such as whether Police assistance was required and how threatening the behaviour was to those who could see it, so as to make that distinction. It should be noted that prevention of nuisance is not a Gambling Act Licensing Objective.

14.4 In considering licence applications, the Licensing Authority will particularly take into account the following:

- The design and layout of the premises
- The training given to staff in crime prevention measures appropriate to those premises
- Physical security features installed in the premises. This may include matters such as the position of cash registers or the standard of CCTV that is installed
- Where premises are subject to age-restrictions, the procedures in place to conduct age verification checks
- The likelihood of any violence, public order or policing problem if the licence is granted

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

14.5 This Licensing Authority is aware that the Gambling Commission has stated that it would generally not expect Licensing Authorities to become concerned with ensuring that gambling is conducted in a fair and open way as this will be

addressed by the Operator and Personal licensing system in its risk assessment

- 14.6 Should this Licensing Authority suspect that gambling is not being conducted in a fair and open way this will be brought to the attention of the Gambling Commission.

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

- 14.7 Section 45 of The Gambling Act 2005 (the Act) provides the following definition for child and young adult:

Meaning of “child” and “young person”

- (a) In this Act “child” means an individual who is less than 16 years old.
(b) In this Act “young person” means an individual who is not a child but who is less than 18 years old.

For the purpose of this section protection of children will encompass both child and young person as defined by the Act.

- 14.8 The Licensing Authority expects premises to be vigilant in preventing access to gambling by children where it is prohibited for them to take part in any form of gambling. The Licensing Authority will therefore have particular regard to whether staff are able to adequately supervise premises to prevent underage gambling.
- 14.9 Appropriate measures may include supervision of access points, segregation of areas, the provision of CCTV, the use of floor walkers, the position of counters etc. The Licensing Authority will consider the proportionality of changes to the physical layout in relation to other measure that can be put in place.

If the operator fails to satisfy this Licensing Authority that the risks to underage gambling are sufficiently mitigated in premises that are operating, it may be appropriate to conduct a review of the Premises Licence.

- 14.10 In reference to the term “vulnerable persons” we note that the Gambling Commission or statute law does not seek to offer a definition but the Commission states that “it will for regulatory purposes assume that this group includes:

- People who gamble more than they want to
- People who gamble beyond their means
- People who may not be able to make informed or balanced decisions about gambling due to a mental impairment, or substance misuse relating to alcohol or drugs.

14.11 This Licensing Authority will consider the promotion of this Licensing Objective on a common sense, case by case basis. This Licensing Authority will interpret vulnerable persons in its widest possible concept and does not limit the definition to individuals who participate in gambling but recognises that it may include individuals who are affected by those who gamble, for example, children of adults who gamble beyond their means. This will be reflected in the local area profile and will be balanced with the legal requirement to aim to permit the use of premises for gambling. Whilst there is a presumption in favour of permitting the relevant premises to be used for gambling, this Licensing Authority may not do so unless satisfied that such use would be in accordance with the Guidance to Licensing Authorities, any relevant Commission Code of Practice, its own statement of Licensing Policy, and the Licensing Objectives. Should a practical definition prove possible in future then this policy statement will be updated with it, by way of a revision.

14.12 Applicants should familiarise themselves with their Operator Licence conditions and codes of practice relating to this objective and determine if their policies and procedures are appropriate and robust to protect children and vulnerable adults being harmed from gambling. The Licensing Authority will communicate any concerns about any absence of this required information to the Gambling Commission

14.13 Applicants should consider the following measures for protecting and supporting vulnerable persons, some of which form part of the mandatory conditions placed on premises licences.

- The provision of leaflets offering assistance to problem gamblers should be available on gambling premises in a location that is both prominent and discreet, such as toilets
- Training for staff members which focuses on building an employee's ability to maintain a sense of awareness of how much (e.g. how long) customers are gambling, as part of measures to detect persons who may be vulnerable.
- Trained personnel for the purpose of identifying and providing support to vulnerable persons
- Self-exclusion schemes - Social Responsibility Code Provision 3.5.6 requires that all non-remote casino and bingo and betting licences (except those at a track) and holders of gaming machine general operating licences for adult gaming centres must offer self-exclusion schemes to customers requesting such a facility.-
- **Licensees must offer customers with whom they enter into a self-exclusion agreement in respect of facilities for any kind of gambling offered by them at licensed gambling premises the ability to self-exclude from the facilities for the same kind of gambling offered in their locality by any other holder of an Operating Licence to whom this provision applies.**
- Operators should demonstrate their understanding of best practice issued by organisations that represent the interests of vulnerable people
- Posters with GamCare helpline and website in prominent locations
- Windows, entrances and advertisements to be positioned or designed not to entice under 18's to enter the premises
- Ensure the separation of premises is not compromised

14.14 The Licensing Authority may consider any of the above or similar measures as licence conditions should these not be adequately addressed by any mandatory conditions, default conditions or proposed by the applicant in their risk assessment.

15.0 Premises Licences

15.1 An application for a premises licence may only be made by persons (which includes companies or partnerships):

- who are aged 18 or over **and**
- who have the right to occupy the premises **and**
- who have an operating licence which allows them to carry out the proposed activity. Details of operators that hold an operating licence are available on the Commission's website **or**
- who have applied for an operating licence to allow them to carry out the proposed activity. The premises licence cannot be determined until an operating licence has been issued.

15.2 The exception to this is an applicant for a premises licence to allow a track to be used for betting, as these applicants are not required to hold an operating licence if they are merely providing space for other people to provide betting (and those other people hold valid betting operating licences). However, if a track owner is also acting as a betting operator, for example, running pool betting, they will have to have the relevant type of operating licence.

15.3 An application must be made to the relevant licensing authority in the form prescribed in regulations laid down by the Secretary of State and must be accompanied by:

- the prescribed fee
- the prescribed documents namely a plan of the premises – the plan needs to be to scale, however, a specific scale has not been prescribed.

15.4 The Gambling Act 2005 (Premises Licences and Provisional Statements) Regulation 2007(as amended) states that a **plan** must show:

- the extent of the boundary or perimeter of the premises
- where the premises include, or consist of, one or more buildings, the location of any external or internal walls of each such building
- where the premises form part of a building, the location of any external or internal walls of the building which are included in the premises
- where the premises are a vessel or a part of a vessel, the location of any part of the sides of the vessel, and of any internal walls of the vessel, which are included in the premises
- the location of each point of entry to and exit from the premises, including in each case a description of the place from which entry is made or to which the exit leads.

15.5 The Regulation states (other than in respect of a track) '...the plan must show

the location and extent of any part of the premises which will be used to provide facilities for gambling in reliance on the licence'. This Licensing Authority expects plans to show the location of any gaming machines and indicate the line of sight to supervising staff or CCTV. Should the Licensing Authority consider that there is insufficient detail provided on the plan we may ask for further information.

- 15.6 The premises plan itself is only one means by which the Licensing Authority may seek reassurance that the requirements will be met. It may be that conditions attached to the premises licence regarding lines of sight between the counter and the gaming machines, staffing arrangements or security devices are a more effective method of doing so. Local circumstances and concerns, and the layout of a particular premises, will determine what is most appropriate for an individual application.
- 15.7 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.
- 15.8 The Licensing Authority is able to exclude default conditions and also attach other conditions, where we believe it to be appropriate.
- 15.9 This Licensing Authority is aware that in making decisions about premises licences we should aim to permit the use of premises for gambling in so far as we think it is:
- In accordance with any relevant code of practice issued by the Gambling Commission
 - In accordance with any relevant Guidance issued by the Gambling Commission
 - Reasonably consistent with the Licensing Objectives
 - In accordance with this Statement of Licensing Policy
- The Licensing Authority will not take into consideration whether there is demand for a particular gambling premises when making it's decision.
- 15.10 It is appreciated that gambling can be an emotive subject but acknowledge that in accordance with Gambling Commission Guidance for Local Authorities, "moral objections to gambling are not a valid reason to reject applications for premises licences".
- 15.11 Representations made in respect of applications should be based on the Licensing Objectives as set out at Page 1 of this Policy. It is important to note that the Licensing Objectives are different to those set out in The Licensing Act 2003 and do not include the prevention of public nuisance or public safety.
- 15.12 Premises is defined in the Act as "any place". Different premises licences cannot apply in respect of a single premises at different times. It is however possible for a single building to be subject to more than one premises licence,

providing that each licence is for a different part of the building and such different parts can be properly regarded as different premises.

15.13 The Licensing Authority will judge each case on its individual merits to decide as a matter of fact, whether different parts of a building can be properly regarded as being separate premises.

15.14 The Gambling Commission, in their guidance, do not consider that areas of a building that are artificially or temporarily separate for examples by ropes or movable partitions, can be properly regarded as different premises. This Licensing Authority supports this view.

15.15 The location of the premises will clearly be an important consideration and a significant factor that the Licensing Authority will consider is whether the premises are genuinely separate premises that merit their own licence and are not artificially created part of what is readily identifiable as a single premises. The suitability of the division is likely to be a matter for discussion between the operator and the Licensing Officer. As stated above areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, will not properly be regarded as different premises.

15.16 The Licensing Authority make particular note of the Gambling Commission's "Guidance to Licensing Authorities" which states that: Licensing Authorities should take particular care in considering applications for multiple licences for a building and those relating to a discrete part of a building used for other (non-gambling) purposes. In particular they should be aware of the following:

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

15.17 In determining whether premises are truly separate the Licensing Authority will consider the following factors:

- 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?

15.18 An issue that may arise when division of a premises is being considered is the nature of the unlicensed area from which a customer may access a licensed gambling premises. The precise nature of this public area will depend on the location and nature of the premises. As a Licensing Authority we will need to consider whether the effect of any division is to create a machine shed-type environment with very large banks of machines, which is not the intention of the access conditions, or whether it creates a public environment with gambling facilities being made available.

15.19 The Gambling Act 2005 (Mandatory and Default Conditions) Regulations 9 sets out the access provisions for each type of premises. The broad principle is that there can be no access from one licensed gambling premises to another, except between premises which allow access to those under the age of 18 years and with the further exception that licensed betting premises may be accessed from other licensed betting premises. Under-18s can go into Family Entertainment Centres (FEC), tracks, pubs and some bingo clubs, so access is allowed between these types of premises.

15.20 The relevant access provisions for each premises type is as follows:

| Type of Premises | Access Provisions |
|-------------------------------------|--|
| Casinos | <ul style="list-style-type: none"> • the principal 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 Centres (AGC) | <ul style="list-style-type: none"> • no customer must be able to access the premises directly from any other licensed gambling premises |
| Betting Shops | <ul style="list-style-type: none"> • access must be from a ‘street’ or from other 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 | <ul style="list-style-type: none"> • no customer must be able to access the premises directly from a casino or AGC |
| Bingo Premises | <ul style="list-style-type: none"> • no customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track |
| Family Entertainment Centres | <ul style="list-style-type: none"> • no customer must be able to access the premises directly from a casino, an AGC or a betting premises, other than a track. |

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

16.0 Premises “ready for gambling”

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

16.2 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. It is recognised however, by this Authority that Operators can apply for a Premises Licence in respect of premises which have still to be constructed or altered.

In these circumstances where there are outstanding construction or alteration works in respect of 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

16.3 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.

17.0 Location

17.1 This Licensing Authority is aware that demand issues cannot be considered in relation to the location of premises but that considerations made in terms of the Licensing Objectives can be considered.

17.2 The Licensing Authority, in accordance with the Gambling Commission’s “Guidance for Local Authorities”, will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

18.0 Planning and Building Control

18.1 In determining applications the Licensing Authority will undertake its duty to take into consideration all relevant matters and not to take into consideration any irrelevant matters, in effect those not related to gambling and the Licensing Objectives. One example of an irrelevant matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for their proposal.

18.2 When dealing with a Premises Licence application for finished buildings, the Licensing Authority will not take into account whether those buildings have or comply with the necessary planning or building consents. Nor will fire or health

and safety risks be taken into account. Those matters should be dealt with under relevant Planning and Building Control and other regulations, and will not form part of the consideration for the Premises Licence. Section 210 of the 2005 Act prevents Licensing Authorities taking into account the likelihood of the proposal by the applicant obtaining planning or building consent when considering a premises licence application. Equally the grant of a gambling premises licence does not prejudice or prevent any action that may be appropriate under the law relating to Planning or Building Control.

19.0 Duplication with other Regulatory Regimes

19.1 This Licensing Authority will seek to avoid any duplication with other statutory / regulatory systems where possible, including Planning. This Authority will not consider whether a licence application is likely to be awarded planning permission or building regulations approval, in its consideration of it. It will though, listen to, and consider carefully, any concerns about conditions which are not able to be met by licensees due to planning restrictions, should such a situation arise.

20.0 Conditions

20.1 All Gambling Act 2005 Premises Licences are subject to mandatory and default conditions which are designed to be sufficient to ensure that the premises operate in a manner that is reasonably consistent with the Licensing Objectives. Additional conditions will only be imposed where there is clear evidence of a risk to the Licensing Objectives which is not adequately addressed by the policies, procedures and mitigation measures described in an applicant's risk assessment.

20.2 Any conditions attached to licences will be proportionate and will be:

- Relevant to the need to make the proposed building suitable as a gambling facility
- Directly related to the premises and the type of licence applied for
- Fairly and reasonably related to the scale and type of premises
- Reasonable in all other respects

20.3 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this Licensing Authority will consider utilising, should there be a perceived need, 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 his/her own suggestions as to ways in which the Licensing Objectives can be met effectively.

20.4 This Licensing Authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of

gaming machines in non-adult gambling specific premises in order to pursue the Licensing Objectives. These matters are in accordance with the Gambling Commission's Guidance.

20.5 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
- 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 years

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

20.7 It is noted that there are conditions which the Licensing Authority cannot attach to Premises Licences, they are

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

21.0 Door Supervisors

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

21.2 Section 178 of the Gambling Act 2005 sets out a definition of "Door Supervisor" and provides that where a person employed in such a role is

required to hold a licence issued by the Security Industry Authority (SIA) that requirement will have force as though it were a condition on the Premises Licence. **It is acknowledged, however that there is an exemption from the requirement to be licensed under the Private Security Industry 2001 for in hours employees working as door supervisors at casino and bingo premises. This exemption does not apply to contract staff employed as door supervisors.**

22.0 Gaming Machines

22.1 Section 235(1) of the Gambling Act 2005 sets out the definition of a gaming machine. The definition is wider than those included in previous gambling legislation and covers all types of gambling activity that can take place on a machine, including betting on virtual events. However, the following should be noted:

- there remains a distinction between skill machines and gaming machines, in that skill machines are unregulated
- Section 235(2) of the Gambling Act 2005 contains important exemptions for equipment that is not to be considered a gaming machine, even when gambling can be performed on it – for example, a home PC is not classed as a gaming machine, even though someone could access remote gambling facilities on a home PC.

22.2 The Gambling Commission is responsible for licensing manufacturers and suppliers of gaming machines and advises operators to obtain machines from Commission-licensed suppliers. Similarly, permit holders and those applying for permits for clubs, alcohol-licensed premises or family entertainment centres will also be advised through Commission guidance to obtain gaming machines from Commission-licensed suppliers.

22.3 In order for a premises to site gaming machines some form of authorisation is normally required. Typically this is:

- An operating licence from the Commission and a gambling premises licence from the Licensing Authority
- An alcohol Premises Licence from the Licensing Authority
- A gaming machine permit from the Licensing Authority.

22.4 Depending on the authorisation, there are limits placed on the category of machines that can be sited and, in some cases, on the number of machines that can be made available for use.

22.5 Section 172 of the Gambling Act 2005 prescribes the number and category of gaming machines that are permitted in each type of gambling premises licensed by authorities. Neither the Commission nor Licensing Authorities have the power to set different limits or further expand or restrict the categories of machine that are permitted. The exception to this is alcohol-licensed premises that hold gaming machine permits, where licensing authorities have discretion to specify the number of permitted gaming machines. In addition, limits are set separately in the Act for certain types of permit issued by Licensing

Authorities. The summary of gaming machine categories and entitlements are at Appendix D.

- 22.6 Regulations define four categories of gaming machines, A, B, C and D, with category B divided into a further five sub-categories. The categories and sub-categories have been defined according to the maximum amount that can be paid for playing the machine and the maximum prize it can deliver. Gaming machines which are capable of being used as a gaming machine, whether or not they are currently operating as a gaming machine, are classified as a gaming machine. For example, a machine fitted with a compensator, which allows it to be converted from a skill machine is classified as a gaming machine.
- 22.7 There is a minimum age of 18 for all players for all category A, B and C machines, including category B3A gaming machines offering lottery style games. However there is no minimum age for players of category D machines. The holder of any permit or Premises Licence has to comply with the codes of practice issued by the Commission on the location of and access to gaming machines by children and young persons, and the separation from category C and B machines where those are also located on the same premises.
- 22.8 The maximum number of machines permitted to be available for use is set out by premises type in Appendix E.

The meaning of 'available for use'

- 22.9 Section 242 of the Gambling Act 2005 makes it an offence for a person to make a gaming machine available for use, where they do not hold an operating licence or other permission covering gaming machines and where no other exemption applies.
- 22.10 The Gambling Act 2005 does not define what 'available for use' means, but the Gambling Commission considers that a gaming machine is 'available for use' if a person can take steps to play it without the assistance of the operator.
- 22.11 There may be more than the permitted number of machines physically located on a premises but the onus is on licensees to demonstrate that no more than the permitted number are 'available for use' at any one time.
- 22.12 A machine that can operate at more than one category, which is operating at a lower category, does not contribute to the number of machines 'available for use' at a higher category until it switches to that category. Licensees must ensure no more than the permitted number are 'available for use' at any one time.
- 22.13 Systems in which a number of machines are networked so that the player can select which game and category they play are permitted but licensees must still adhere to any restrictions on the number of machines at a certain category.

- 22.14 The Gambling Commission updated their available for use guidance in 2019 to make it clear that for the purpose of calculating the category B machine entitlement in gambling premises, gaming machines should only be counted if they can be played simultaneously by different players without physical hindrance. For example, the Gambling Commission would consider that a multi-position machine that technically allows two or more players to play simultaneously but in reality requires those players to stand very closely together or adopt unnatural participation positions, to the effect that a second player would be discouraged from attempting to use the machine, could not be classed as two or more machines.
- 22.15 In relation to tablets, licensees should ensure that there is sufficient floorspace in the premises to permit counted tablets to be used simultaneously.
- 22.16 Electronic Bingo Terminals (EBTs) that offer gaming machine content in addition to bingo content are gaming machines and subject to adherence with the above principles. Licensees are reminded however that an EBT must only allow participation in one gambling activity at a time and should not therefore contain functionality which allows participation in bingo and gaming machine activity simultaneously.

23.0 Adult Gaming Centres

- 23.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect an applicant to satisfy the Authority that there will be sufficient measures to ensure that persons under the age of 18 years do not have access to the premises.
- 23.2 This Licensing Authority will expect applicants to undertake a risk assessment and offer their own measures to meet the Licensing Objectives in their policies and procedures. Appropriate measures may cover issues such as:
- Proof of age schemes
 - CCTV
 - Supervision of entrances / machine areas
 - Physical separation of areas
 - Location of entry
 - Notices/signage
 - Specific opening hours
 - Self-exclusion schemes
 - Provision of information leaflets / helpline numbers for organisations such as GamCare

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

24.0 Licensed Family Entertainment Centres

- 24.1 This Licensing Authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the Authority, for example, that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machine areas.
- 24.2 This Licensing Authority will expect applicants to undertake a risk assessment and offer their own measures to meet the Licensing Objectives in their policies and procedures. Appropriate measures may cover issues such as:
- CCTV
 - Supervision of entrances / machine areas
 - Physical separation of areas
 - Location of entry
 - Notices / signage
 - Specific opening hours
 - Self-exclusion 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

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

- 24.3 This Licensing Authority will, in accordance with the Gambling Commission's guidance, refer to the Commission to see any conditions that apply to Operating Licences covering the way in which the area containing the category C machines should be delineated. This Licensing Authority will also make itself aware of any mandatory or default conditions on these premises licences as well as the requirements under the Social Responsibility Code.

25.0 Casinos

- 25.1 **No Casinos resolution** - This Licensing Authority has not passed a 'no casino' resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should this Licensing Authority decide in the

future to pass such a resolution, it will update this policy statement with details of that resolution. Any such decision will be made by the Full Council.

26.0 Bingo Premises

26.1 This Licensing Authority notes that the Gambling Commission's Guidance states that "Licensing Authorities will need to satisfy themselves that Bingo can be played in any bingo premises for which they issue a Premises Licence". This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.

26.2 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.

26.3 This Licensing Authority will expect applicants to undertake a risk assessment and offer their own measures to meet the Licensing Objectives in their policies and procedures. Appropriate measures may cover issues such as:

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

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

26.4 If the Licensing Authority receives an application to vary a Premises Licence for bingo or betting in order to extend the opening hours, the Authority will need to satisfy itself that the reason for the application is in line with the requirements on primary gambling activity (i.e. the need for operating licence holders to ensure that the gambling activity appropriate to the licence type ('the primary activity' or 'the principal activity') is actually offered at those premises and not replaced by the making available of gaming machines). Therefore, the applicant should be able to demonstrate that the extension of

the opening hours is not designed solely to benefit from the machine entitlement and activity which is ancillary to the primary activity of the premises, namely betting or bingo.

27.0 Bingo in Clubs and Alcohol Licensed Premises

- 27.1 Bingo is a class of equal chance gaming permitted on alcohol licensed premises, and in Clubs and Miners' Welfare Institutes, under the allowances for exempt gaming in Part 12 of the Act. Where the level of Bingo played in these premises, under the exempt gaming allowances, reaches a certain threshold, it will no longer be authorised by these allowances, and a Bingo Operating Licence will have to be obtained from the Commission for future Bingo games. The aim of these provisions is to prevent Bingo becoming a predominant commercial activity on such non-gambling premises.
- 27.2 The threshold is that if the bingo played during any seven-day period exceeds £2,000 (either in money taken or prizes awarded) once a year, referred to as "high turnover Bingo". There is a legal duty on the licensee or club to inform the Commission if at any point its bingo in any seven-day period exceeds this threshold. That allows the Commission to monitor the bingo activity on the premises, and discuss with the relevant licensee or club the point at which a Bingo Operating Licence may be needed. A 'high turnover period' begins with the first day of the seven day period in which the threshold was exceeded and lasts for a year. If a second period of high turnover Bingo occurs within that year, a Bingo Operating Licence will be required. Where bingo is played in a Members Club under a Bingo Operating Licence no premises licence will be required.
- 27.3 The Commission will be informed if it comes to the attention of this Licensing Authority that alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes, which makes it possible that the £2,000 in seven days is being exceeded.

28.0 Betting Premises

- 28.1 The Gambling Act 2005 contains a single class of licence for betting premises although within this there are different types of premises which require licensing.

Gaming machines

- 28.2 This Licensing Authority will, in accordance with the Gambling Commission's Guidance, take into account the size of the premises, the number of counter positions available for person-to-person transactions, and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 years to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator wants to offer.
- 28.3 This Licensing Authority will expect applicants to offer their own measures to meet the Licensing Objectives identified in their risk assessment in their policies and procedures. Appropriate measures cover issues such as:

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

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

- 28.4 It is not permissible for an operator to offer gaming machines on a premises which is licensed for non-remote betting but not to offer sufficient facilities for non-remote betting. A non-remote betting operating licence authorises its holder to 'provide facilities for betting' (s.65(2)(c) of the Act). Likewise, a betting premises licence authorises premises to be used for 'the provision of facilities for betting...' (s.150(1)(e) of the Act). The ability to make up to four gaming machines, within categories B2 – D, available is an additional authorisation conferred upon the holder of a betting premises licence (s.172(8) of the Act); it is not a free standing right to make gaming machines available for use. It follows that unless a betting premises operator offers sufficient facilities for betting it should not be making gaming machines available on the premises in question.
- 28.5 This Licensing Authority supports the Commission's view that it is also important, in relation to the licensing objective of protecting vulnerable persons from being harmed or exploited by gambling, that customers should be offered a balanced mix of betting and gaming machines in licensed betting premises.
- 28.6 Accordingly, an Operating Licence condition provides that gaming machines may be made available for use in Licensed Betting Premises only at times when there are also sufficient facilities for betting available. In this respect, such facilities must include information that enables customers to access details of events on which bets can be made, make such bets, learn of the outcome and collect any winnings.

Self Service Betting Terminals (SSBTs)

- 28.7 The Gambling Act 2005 provides that a SSBT is not a gaming machine if it is designated or adapted for use to bet on future real events. However, where a machine is made available to take bets on virtual races (that is, results and/or images generated by computer to resemble races or other events) that machine is a gaming machine and counts towards the maximum permitted

number of gaming machines, and must meet the relevant category limitations for the premises.

28.8 The legislation provides licensing authorities with the power to restrict the number of SSBTs, their nature and the circumstances in which they are made available by attaching a licence condition to a betting premises licence. When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the licensing authority, amongst other things, will take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people.

29.0 Travelling Fairs

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

29.2 This Licensing Authority will also consider whether the applicant falls within the statutory definition of a travelling fair.

29.3 It has been noted that the 27-day statutory maximum for the land being used as a fair, is per calendar year, 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.

30.0 Provisional Statements

30.1 Developers may wish to apply to this Authority for Provisional Statements before entering into a contract to buy or lease property or land to judge whether a development is worth taking forward in light of the need to obtain a Premises Licence. There is no need for the applicant to hold an Operating Licence in order to apply for a provisional statement.

30.2 Section 204 of the Gambling Act 2005 provides for a person to make an application to the Licensing Authority for a provisional statement in respect of premises that they:

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

30.3 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.

30.4 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.

30.5 The holder of a Provisional Statement may then apply for a Premises Licence once the premises are constructed, altered or acquired. The Licensing Authority will be constrained in the matters it can consider when determining the Premises Licence application, and in terms of representations about Premises Licence applications that follow the grant of a Provisional Statement, no further representations from relevant Authorities or interested parties can be taken into account unless:

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

30.6 In addition, the Authority may refuse the Premises Licence (or grant it on terms different to those attached to the Provisional Statement) only by reference to matters:

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

31.0 Reviews

31.1 Requests for a review of a Premises Licence can be made by interested parties or Responsible Authorities, or may be initiated by the Licensing Authority.

31.2 The 'aim to permit' framework provides wide scope for Licensing Authorities to review Premises Licences where there is an inherent conflict with the Commission's codes of practice and the Guidance issued by the Gambling Commission, the licensing objectives or the Licensing Authority's own policy statement.

31.3 In relation to a class of premises, we may review the use made of premises and, in particular, the arrangements that Premises Licence holders have made to comply with licence conditions. In relation to these general reviews, it is likely that we will be acting as a result of concerns or complaints about particular types of premises or following an inspection of a premises which may result in them looking at, for example, default conditions that apply to that category of licence.

31.4 In relation to particular premises, we may review any matter connected with the use made of the premises if:

- we have reason to suspect that premises licence conditions are not being observed
 - the premises is operating outside of the principles set out in this policy
 - there is evidence to suggest that compliance with the licensing objectives is at risk
 - for any other reason which gives us cause to believe that a Review may be appropriate, such as a complaint from a third party.
- 31.5 In particular, the Licensing Authority may also initiate a review of a Premises Licence on the grounds that a Premises Licence holder has not provided facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.
- 31.6 A formal review would normally be at the end of a process of ensuring compliance by the operator(s) which might include an initial investigation by a Licensing Authority Officer, informal mediation or dispute resolution. If the concerns are not resolved then, after a formal review, the Licensing Authority may impose additional conditions or revoke the licence.
- 31.7 The determination of whether a review should be carried out will give consideration to the following in respect of whether the way in which the premises is operating 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
 - In accordance with the Authority's Statement of Principles
- 31.8 The Licensing Authority will also take into consideration whether the request is either frivolous, vexatious or would certainly not cause this Authority to wish to alter/revoke/suspend the Licence. The Licensing Authority will also consider whether the representations made in the application for a Review are substantially the same as previous representations or requests for Review. In determining this matter, the Licensing Authority will take into account how much time has passed since any earlier application for a Review or since the Licence was granted.
- 31.9 The Licensing Authority can also initiate a Review of a Licence on the basis of any reason which it thinks is appropriate.
- 31.10 Once a valid application for a Review has been received by the Licensing Authority, representations can be made by Responsible Authorities and Interested Parties during a 28 day period. This period begins 7 days after the

application was received by the Licensing Authority, who will publish notice of the application within 7 days of receipt.

31.11 The Licensing Authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

31.12 The purpose of the review will be to determine whether the Licensing Authority should take any action in relation to the Licence. If action is justified, the options open to the Licensing Authority are to:-

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

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

Once the review has been completed, the Licensing Authority must, as soon as possible, notify its decision to:

- the Licence holder
- the applicant for review (if any)
- the Gambling Commission
- any person who made representations
- the Chief Officer of Police or Chief Constable; and
- His Majesty's Commissioners for Revenue and Customs

32.0 Unlicensed Family Entertainment Centre Gaming Machine Permits.

32.1 Unlicensed family entertainment centres (UFEC) are able to offer only category D machines in reliance on a Gaming Machine Permit. Any number of category D machines can be made available with such a permit, although there may be other considerations, such as Fire Regulations and health and safety, to take into account. Permits cannot be issued in respect of vessels or vehicles.

32.2 UFECs are premises which are 'wholly or mainly' used for making gaming machines available. The permit cannot therefore be granted for an entire shopping centre, airport or bowling alley, for example. **Typically, the machines would be in a designated enclosed area.**

32.3 A permit lapses if the Licensing Authority informs the permit holder that the premises are not being used as a Family Entertainment Centre (FEC).

32.4 If the operator wishes to make category C machines available in addition to category D machines, the Operator will need to apply for a 'Gaming Machine

General Operating Licence (Family Entertainment Centre)' from the Gambling Commission and a premises licence from the licensing authority.

32.5 The Gambling Commission's Guidance states: ".....An application for a permit may be granted only if the Licensing Authority is satisfied that the premises will be used as an unlicensed FEC, and if the Chief Officer of Police has been consulted on the application. In accordance with the Guidance issued by the Gambling Commission, this Licensing Authority will expect applicants to demonstrate:

- A full understanding of the maximum stakes and prizes of the gambling that is permissible in unlicensed FECs
- That an applicant has no relevant convictions, those that are set out in Schedule 7 of the Act
- That staff are trained to have a full understanding of the maximum stakes and prizes

32.6 We note that a Licensing Authority can grant or refuse a licence but cannot attach conditions to this type of permit.

32.7 This Licensing Authority will expect the applicant to submit a plan of the premises and 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.

32.8 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.

33.0 Premises Licensed to Sell Alcohol

33.1 There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. **The premises must give notice to the Licensing Authority of their intention to make gaming machines available and must pay the prescribed fee.** The Licensing Authority can remove the automatic authorisation in respect of any particular premises if:

- Provision of the machines is not reasonably consistent with the pursuit of the Licensing Objectives
- Gaming has taken place on the premises that breaches a condition of Section 282 for example the gaming machines have been made available that do not comply with requirements on the location and operation of gaming machines
- The premises are mainly used for gaming

- An offence under the Gambling Act has been committed on the premises

33.2 It is important to note that if the Premises Licence Holder ceases to be the Premises Licence Holder the automatic entitlement to the two machines also ceases.

Permit: 3 or more machines

33.3 Licensing Authorities may issue licensed premises gaming machine permits for any number of category C or D machines in licensed premises (alcohol licensed premises as described in s.277 of the Act). Where a permit authorises the making available of a specified number of gaming machines in particular premises, this will effectively replace, and not be in addition to, any automatic entitlement to two machines under s.282 of the Act.

33.4 If a Premises Licence Holder wishes to have more than 2 machines, then they need to apply for a permit and the Licensing Authority must consider that application based upon the Licensing Objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”

33.5 This Licensing Authority considers that “such matters” will be decided on a case by case basis, but generally there will be **particular** regard to the need to protect children and vulnerable persons from being harmed or being exploited by gambling and will expect the applicant to satisfy the Authority that there will be sufficient measures to ensure that persons under the age of 18 years do not have access to the adult only gaming machines.

33.6 Measures which will satisfy the Authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18 years. Notices and signage on the machines or in the premises may also help and are encouraged by this Authority. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets / helpline numbers for organisations such as GamCare.

33.7 It is recognised that some alcohol licensed premises may apply for a Premises Licence for their non-alcohol licensed areas. Any such application would normally need to be applied for, and dealt with as an Adult Gaming Centre Premises Licence.

33.8 It should be noted that we as the Licensing Authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions other than these cannot be attached to a permit.

33.9 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(s).

33.10 The Licensing Authority is able to cancel a permit. It may only do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels a permit the Licensing Authority must notify the holder, giving 21 days notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed. Where the Licensing Authority cancels the permit, the cancellation does not take effect until the period for appealing against that decision has elapsed or, where an appeal is made, until the appeal is determined.

34.0 Prize Gaming Permits

34.1 A Prize Gaming Permit is a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specified premises.

34.2 An applicant for a Prize Gaming Permit should set out the types of gaming that he or she is intending to offer, a plan of the premises and the applicant should be able to demonstrate:

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

34.3 In making its decision on an application for this type of permit the Licensing Authority does not need, but may, have regard to the Licensing Objectives but must have regard to any Gambling Commission Guidance. The Licensing Authority will consult the Wirral Safeguarding Children Partnership where it considers it appropriate to do so.

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

- The limits on participation fees, as set out in regulations, must be complied with
- **All chances to participate in the gaming must be acquired or allocated on the premises on one day and in the place where the game is played**
- The game must be played and completed on the day the chances are allocated
- 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)
- Participation in the gaming must not entitle the player to take part in any other gambling

35.0 Application for Club Gaming and Club Machines Permits

35.1 The Licensing Authority 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

35.2 If the Authority is satisfied that either or the first two points is the case, it must refuse the application. Licensing Authorities shall have regard to relevant guidance issued by the Gambling Commission and subject to that guidance, the Licensing Objectives.

35.3 In cases where an objection has been lodged by the Commission or Merseyside Police, the Licensing Authority is obliged to determine whether the objection is valid.

35.4 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).

35.5 As the Gambling Commission's Guidance for Local 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:

- That the Club is established primarily for gaming, other than gaming prescribed by Regulations under Section 266 of the Gambling Act 2005.
- That in addition to the prescribed gaming, the applicant provides facilities for other gaming.

- That a Club Gaming Permit or Club Machine Permit issued to the applicant in the last ten years has been cancelled."

Club Gaming Permit

35.6 The Licensing Authority will seek to satisfy itself that the Club meets the requirements of the Act to obtain a Club Gaming Permit. Therefore applicants will be asked to supply sufficient information and documents to enable the Licensing Authority to determine whether the Club is a genuine Members Club.

35.7 In determining whether a club is a genuine Members' Club, the Licensing Authority will take account of a number of matters, such as:

- Is the primary purpose of the club's activities something other than the provision of gaming to its members?
- Are the profits retained in the Club for the benefit of the members?
- Are there 25 or more members?
- Are there genuine domestic addresses on the register of members? Are domestic addresses listed for every member? Are members local to the club?
- Do members participate in the activities of the club via the internet?
- What information is provided on the Club's website?
- Do guest arrangements link a member to every guest? Is there evidence of a signing-in register for guests?
- Is the 48 hour rule between applying for membership and participating in any gaming properly applied?
- Are there annual accounts for more than one year?
- How is the Club advertised and listed in directories, including on the internet?
- Are children permitted into the Club?
- Does the Club have a Constitution and can it provide evidence that the Constitution was approved by the members of the Club?
- Is there a list of committee members and evidence of their election by the members of the Club? Can the Club provide minutes of committee and other meetings?

35.8 The Constitution of the Club could also indicate whether it is a legitimate Members' Club. Amongst the things the Authority will consider when examining the constitution are the following:

- Who makes commercial decisions on behalf of the Club and what are the governance arrangements? Clubs are normally run by a Committee made up of members of the Club, rather than individuals or managers, who make decisions on behalf of the members. There will normally be a system (consultation, voting, paper ballots, annual general meetings, special meetings, etc) which allows members to be involved in major decisions concerning the management and running of the Club. Such arrangements would normally be spelt out in the Constitution
- Are the aims of the Club set out in the Constitution? A lack of aims or aims which involve gaming could indicate that it is not a genuine Members' Club
- Are there shareholders or members? Shareholders would indicate a business enterprise linked to a Commercial Club
- Is the Members' Club permanently established? Clubs can't be temporary and must be permanent in nature
- Can people join with annual or quarterly membership? This would indicate that the Club is permanent in nature
- Are there long term membership benefits? This would also indicate that the Club is permanent in nature and that it is a genuine Members' Club. The benefits of membership would normally be set out in the rules of membership.

35.9 Other than Bridge and Whist Clubs, which are separately catered for in Regulations, a Club cannot be established wholly or mainly for purposes of gaming. In applying for a Club Gaming Permit, a Club must therefore provide substantial evidence of activities other than gaming. Questions that the Licensing Authority will consider include:

- How many nights is gaming made available?
- Is the gaming advertised?
- What are the stakes and prizes offered?
- Is there evidence of leagues with weekly/monthly/annual winners?
- Is there evidence of non-playing members?
- Are there teaching sessions to promote gaming, such as poker?
- Is there tie-in with other Clubs offering gaming, such as poker, through tournaments or leagues?

- Is there sponsorship by gaming organisations, for example on-line poker providers?
- Are participation fees within limits?

The Authority will undertake a visit to the premises before granting of the permit to assist the Licensing Officer to understand how the club will operate.

Club Machine Permit

35.10 The Licensing Authority will seek to satisfy itself that the gaming on offer meets the conditions set out in the Act and relevant regulations. To do this, the Licensing Authority will ask questions of the applicant or ensure that the exempt gaming complies with these conditions. The conditions are:

- There must be no rake from the pot (that is, the organiser cannot take any money from the prize fund, or deduct money from the stakes or winnings). Licensing Authorities should examine the records for gaming or, if possible, observe or get statements about the pot.
- There must be no side bets. This is probably only going to be possible to verify through observations.
- Participation fees must be within the limits prescribed in the Regulations. Is there evidence of excess participation fees in Club records, adverts for gaming in or outside of the club or from complaints?
- Prizes must be within the limits prescribed in the Regulations. Is there evidence that they are excessive from records at the Club, in adverts for gaming, etc?
- Where the games are poker tournaments or leagues, the Licensing Authority will consult part 29 of the Guidance which sets out how the law applies to Poker. This should help the Licensing Authority to determine whether the gaming is within the law from evidence such as records in the club and adverts for gaming.

36.0 Temporary Use Notices

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

36.2 The Licensing Authority can only grant a Temporary Use Notice to a person or company holding a relevant Operating Licence, i.e. a non-remote casino operating licence.

36.3 The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 sets out the restrictions on the type of gambling to be offered under a Temporary Use Notice. These restrictions are:

- 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
 - gambling under a Temporary Use Notice 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
 - 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
 - gaming machines may not be made available under a Temporary Use Notice
- 36.4 A Temporary Use Notice must be lodged with the Licensing Authority not less than three months and one day before the day on which the gambling event will begin. A fee is payable to the Licensing Authority to whom the notification is sent. The application must be copied to:
- the Gambling Commission
 - the Police
 - HM Commissioners for Revenue and Customs
 - if applicable, any other Licensing Authority in whose area the premises are also situated
- 36.5 The person who is giving the Temporary Use Notice must ensure that the notice and copies are with the recipients within seven days of the date of the notice.
- 36.6 The Licensing Authority and the other bodies to which the notice is copied should consider whether they wish to give a notice of objection. In considering whether to do so, they must have regard to the Licensing Objectives and if they consider that the gambling should not take place, or only with modifications, they must give a notice of objection to the person who gave the Temporary Use Notice. Such a notice must be copied to the Licensing Authority. The Notice of Objection and the copy to the Licensing Authority must be given within 14 days, beginning with the date on which the Temporary Use Notice is given. An objection may be withdrawn by giving written notice to those to whom the notice of objection was sent and copied.
- 36.7 If objections are received, the Licensing Authority must hold a hearing to listen to representations from the person who gave the Temporary Use Notice, all the objectors and any person who was entitled to receive a copy of the notice. If all the participants agree that a hearing is unnecessary, it may be dispensed with.
- 36.8 Those who raise objections may propose modifications to the notice that will alleviate their concerns. Remedies may include a reduction in the number of days when gambling occurs or a restriction on the type of**

gambling permitted. If the modifications are accepted by the applicant, a new TUN must be given, incorporating the modifications, and the original notice will be treated as withdrawn. This withdrawal will be without prejudice to the right of any other person other than the objector to give notice of objection in relation to the new notice. The three-month time limit and fee will not apply to the new notice. The person who made the original objection and proposed the modification may not object to the new notice, but others to whom it is copied may object. If there are no new objections, there will be no need for a hearing.

36.9 If the licensing authority considers that the TUN should not have effect – after a hearing has taken place or has been dispensed with – it must issue a counter-notice which may provide for the TUN:

- not to have effect
- to have effect only in respect of a specified activity
- to have effect only in respect of activity carried on during a specified period of time or at specified times of day
- to have effect subject to compliance with a specified condition.

36.10 If the licensing authority gives a counter-notice, it must give reasons for doing so and must copy the counter-notice to all those who received copies of the TUN.

If the licensing authority decides not to issue a counter-notice, the TUN will take effect. The licensing authority must give notice of its decision to the person who gave the TUN and to others to whom it was copied.

37.0 Occasional Use Notices

37.1 The Licensing Authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded.

Appendix A - Scheme of Delegation

| MATTER TO BE DEALT WITH | FULL COUNCIL | LICENSING ACT COMMITTEE | LICENSING ACT SUB-COMMITTEE | OFFICERS |
|---|--------------|-------------------------|--|---|
| Three year Licensing policy | X | | | |
| Policy not to permit casinos | X | | | |
| Fee Setting – when appropriate | | X | | |
| Application for premises licences | | | Where Representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Application for a Variation to a licence | | | Where Representations have been received and not withdrawn | Where no Representations received/representations have been withdrawn |
| Application for a transfer of a licence | | | Where representations have been received from the Commission | Where no representations received from the Commission |
| Application for a provisional statement | | | Where representations have been received and not withdrawn | Where no representations received/representations have been withdrawn |
| Review of a premises licence | | | X | |
| Application for club gaming/ club machine permits | | | Where representations have been received and not withdrawn | Where no objections received/ Representations have been withdrawn |
| Cancellation of club Gaming/ club machine Permits | | | X | |
| Applications for other permits | | | | X |
| Cancellation of licensed premises gaming Machine permits | | | | X |
| Consideration of temporary use notice | | | | X |
| Decision to give a counter notice to a temporary use notice | | | X | |
| Determination as to whether a person is an Interested Party | | | | X |
| Determination as to whether representations are relevant | | | | X |
| Determination as whether a Representation if frivolous, vexatious or repetitive | | | | X |

Appendix B – List of Consultees

The draft document was circulated to a number of consultees including those listed below.

- Elected Councillors, Wirral Council
- Environmental Health, Wirral Council
- Trading Standards Manager, Wirral Council
- Planning Authority, Wirral Council
- Wirral Safeguarding Children Partnership, Wirral Council
- The Gambling Commission
- Merseyside Police
- Merseyside Fire and Rescue Service
- H. M. Revenue & Customs
- Public Health
- Citizen's Advice Wirral
- The Bingo Association
- Association of British Bookmakers
- Casino Operators Association of the UK
- British Holiday & Home Parks Association
- British Beer & Pub Association
- British Amusement Catering Trade Association
- GamCare
- Gaming Machine Suppliers
- All persons who hold a Betting Office Premises Licence
- All persons who hold a Bingo Premises Licence
- Amusement Arcades that hold Adult Gaming Centre and Family Entertainment Centre Premises Licences
- Representative holders of various licences

Appendix C – Responsible Authorities

Environmental Health (Pollution Control)

Environmental Health
Town Hall
PO Box 290
Brighton Street
Wallasey
CH27 9FQ

environmentalhealth@wirral.gov.uk

Body Responsible for the Protection of Children from Harm

Wirral Safeguarding Children Partnership
Town Hall
PO Box 290
Brighton Street
Wallasey
CH27 9FQ

davidrobbins@wirral.gov.uk

Chief Officer of Merseyside Police

Merseyside Police HQ
Licensing Unit
Rose Hill
15 Cazneau Street
Liverpool
L3 3AN

licensing.unit@merseyside.police.uk

Licensing Authority

Wirral Borough Council
Town Hall
PO Box 290
Brighton Street
Wallasey
CH27 9FQ

licensing@wirral.gov.uk

Planning Authority

Development Control
Town Hall
PO Box 290
Brighton Street
Wallasey
CH27 9FQ

planningapplications@wirral.gov.uk

Fire and Rescue Authority

Merseyside Fire & Rescue Service
Wirral District Fire Safety
The Fire Station
Mill Lane
Wallasey
CH44 5UE

wirraladmin@merseyfire.gov.uk

The Gambling Commission

4th Floor
Victoria Square House
Birmingham
B2 4BP

info@gamblingcommission.gov.uk

H.M. Revenue & Customs

100 Parliament Street
London
SW1A 2BQ

nrubetting&gaming@hmrc.gov.uk

Appendix D – Summary of gaming machine categories and entitlements

| Category of machine | Maximum stake (from April 2019) | Maximum prize (from Jan 2014) |
|---|---|---|
| A | Unlimited – No category A gaming machines are currently permitted | Unlimited – No category A gaming machines are currently permitted |
| B1 | £5 | £10,000 [†] |
| B2 | £2 | £500 |
| B3A | £2 | £500 |
| B3 | £2 | £500 |
| B4 | £2 | £400 |
| C | £1 | £100 |
| D – non-money prize | 30p | £8 |
| D – non-money prize (crane grab machines only) | £1 | £50 |
| D – money prize | 10p | £5 |
| D – combined money and non-money prize | 10p | £8 (of which no more than £5 may be a money prize) |
| D – combined money and non-money prize (coin pusher or penny falls machines only) | 20p | £20 (of which no more than £10 may be a money prize) |

[†] With option of max £20,000 linked progressive jackpot on premises basis only

Appendix E – Summary of machine provisions by premises

| Premises type | Machine category | | | | | | |
|---|---|---|---|--|--|--|--|
| | A | B1 | B2 | B3 | B4 | C | D |
| Large casino (machine/table ratio of 5-1 up to maximum) | Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) | Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) | Maximum of 150 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) | Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) | Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) | Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) | Any combination of machines in categories B to D (except B3A machines), within the total limit of 150 (subject to machine/table ratio) |
| Small casino (machine/table ratio of 2-1 up to maximum) | Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio) | Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio) | Maximum of 80 machines Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio) | Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio) | Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio) | Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio) | Any combination of machines in categories B to D (except B3A machines), within the total limit of 80 (subject to machine/table ratio) |
| Pre-2005 Act casino (no machine/table ratio) | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead | Maximum of 20 machines categories B to D (except B3A machines), or any number of C or D machines instead |
| Betting premises and tracks occupied by pool betting | | Maximum of 4 machines categories B2 to D (except B3A machines) | Maximum of 4 machines categories B2 to D (except B3A machines) | Maximum of 4 machines categories B2 to D (except B3A machines) | Maximum of 4 machines categories B2 to D (except B3A machines) | Maximum of 4 machines categories B2 to D (except B3A machines) | Maximum of 4 machines categories B2 to D (except B3A machines) |
| Bingo premises ¹ | | | Maximum of 20 percent of the total number of gaming machines which are available for use on the premises categories B3 or B4 | Maximum of 20 percent of the total number of gaming machines which are available for use on the premises categories B3 or B4 | Maximum of 20 percent of the total number of gaming machines which are available for use on the premises categories B3 or B4 | | No limit on category C or D machines |

| Premises type | Machine category | | | | | | |
|---|------------------|----|----|--|--|--|--|
| | A | B1 | B2 | B3 | B4 | C | D |
| Adult gaming centre ² | | | | Maximum of 20 percent of the total number of gaming machines which are available for use on the premises categories B3 or B4 | Maximum of 20 percent of the total number of gaming machines which are available for use on the premises categories B3 or B4 | Maximum of 20 percent of the total number of gaming machines which are available for use on the premises categories B3 or B4 | No limit on category C or D machines |
| Licensed family entertainment centre ³ | | | | | | | No limit on category C or D machines |
| Family entertainment centre (with permit) ³ | | | | | | | No limit on category D machines |
| Clubs or miners' welfare institute (with permits) ⁴ | | | | Maximum of 3 machines in categories B3A or B4 to D | Maximum of 3 machines in categories B3A or B4 to D | Maximum of 3 machines in categories B3A or B4 to D | Maximum of 3 machines in categories B3A or B4 to D |
| Qualifying alcohol-licensed premises | | | | | | 1 or 2 machines of category C or D automatic upon notification | 1 or 2 machines of category C or D automatic upon notification |
| Qualifying alcohol-licensed premises (with licensed premises gaming machine permit) | | | | | | Number of category C-D machines as specified on permit | Number of category C-D machines as specified on permit |
| Travelling fair | | | | | | | No limit on category D machines |

¹ Bingo premises licence are entitled to make available for use a number of category B gaming machines not exceeding 20 percent of the total number of gaming machines on the premises. Where a premises licence was granted before 13 July 2011, they are entitled to make available eight category B gaming machines, or 20 percent of the total number of gaming machines, whichever is the greater. Category B machines at bingo premises are restricted to sub-category B3 and B4 machines, but not B3A machines.

² Adult gaming centres are entitled to make available for use a number of category B gaming machines not exceeding 20 percent of the total number of gaming machines which are available for use on the premises and any number of category C or D machines. Where a premises licence was granted before 13 July 2011, they are

entitled to make available four category B gaming machines, or 20 percent of the total number of gaming machines, whichever is the greater. Category B machines at adult gaming centres are restricted to sub-category B3 and B4 machines, but not B3A machines.

³ Only premises that are wholly or mainly used for making gaming machines available may hold an unlicensed FEC gaming machine permit or an FEC premises licence. Category C machines may only be sited within licensed FECs and where an FEC permit is in force. They must be in a separate area to ensure the segregation and supervision of machines that may only be played by adults. There is no power for the licensing authority to set a limit on the number of machines under the FEC permit.

⁴ Members' clubs and miners' welfare institutes with a club gaming permit or with a club machine permit, are entitled to site a total of three machines in categories B3A to D but only one B3A machine can be sited as part of this entitlement.

⁵ Commercial clubs with club machine or gaming permits are entitled to a total of three machines in categories B4 to D.



LICENSING ACT COMMITTEE

25 JULY 2024

| | |
|---------------------|---|
| REPORT TITLE | DRAFT REVISED STATEMENT OF LICENSING POLICY UNDER THE LICENSING ACT 2003 |
| REPORT OF | DIRECTOR OF LAW AND CORPORATE SERVICES |

REPORT SUMMARY

The purpose of this report is to seek Committee’s approval of the draft revised Statement of Licensing Policy under the Licensing Act 2003 attached at Appendix 1 to this report in order that it may be circulated for public consultation. The Committee is also asked to agree that the public consultation includes a review of the Cumulative Impact Assessment contained within the Statement of Licensing Policy.

RECOMMENDATION

The Licensing Act Committee is recommended to:

1. Approve the draft revised Statement of Licensing Policy under the Licensing Act 2003 attached at Appendix 1 to this report in order that it may be circulated for public consultation.
2. Agree that the public consultation includes a review of the Cumulative Impact Assessment contained within the Statement of Licensing Policy.

SUPPORTING INFORMATION

1.0 REASON FOR RECOMMENDATION/S

- 1.1 It is a statutory requirement under the Licensing Act 2003 for the Council to review and consult on its Statement of Licensing Policy at least every five years prior to it being published.

2.0 OTHER OPTIONS CONSIDERED

- 2.1 That the draft revised Statement of Licensing Policy be circulated for public consultation without approval from this Committee. It was considered, however, that this would deny the Committee an opportunity to input into the revision process and the draft document to be circulated. The Committee may determine not to review the Cumulative Impact Assessment until 2025., the Statutory Guidance issued under 182 of the Licensing Act 2003 advises that where a Licensing Policy Statement as a whole is due for review, under the five year review period and this occurs before the end of the three year Cumulative Impact Assessment review period, Licensing Authorities may wish to use this as an opportunity to carry out a review of the evidence in support of the Cumulative Impact Assessment.

3.0 BACKGROUND INFORMATION

- 3.1 The Council's Statement of Licensing Policy was first published in January 2005. The policy has since been subject to four reviews and the most recent policy was published in December 2019. The revised draft Statement of Licensing Policy is attached at Appendix 1 to this report. The proposed revisions to the Statement of Licensing Policy are highlighted in bold.
- 3.2 On 10 July 2017 the Council resolved to include a Special Cumulative Impact Policy within its Statement of Licensing Policy. The details of the Cumulative Impact Assessment are set out at paragraphs 14.1 to 14.16 in the draft revised Statement of Licensing Policy. A plan of the area subject to the Cumulative Impact Assessment is provided at Appendix C of the draft revised Statement of Licensing Policy.
- 3.3 In accordance with the requirements of the Licensing Act 2003 the Licensing Authority has since consulted upon the Cumulative Impact Assessment contained within the Statement of Licensing Policy on two occasions, namely 2019 and 2022, on both occasions having considered evidence from Merseyside Police the Licensing Authority determined that it was necessary and appropriate to continue to include the Cumulative Impact Assessment in its Statement of Licensing Policy.
- 3.4 It is a requirement of the Licensing Act 2003 that the Statement of Licensing Policy be reviewed at least every five years and that the Cumulative Impact Assessment be reviewed within three years of its adoption and at least every three years thereafter. It is proposed therefore that the current review of the Statement of Licensing Policy will also seek views on the Cumulative Impact Assessment included therein.

3.5 In undertaking a review of the Statement of Licensing Policy there is a statutory requirement to consult with the following persons / bodies:

- The Chief Officer of Police
- The Fire and Rescue Authority
- The Director of Public Health
- Persons/Bodies representative of local holders of premises licences
- Persons/Bodies representative of local holders of club certificates
- Persons/Bodies representative of local holders of personal licences
- Persons/Bodies representative of businesses and residents in its area

3.6 Notification of the consultation will be published on the Council's website.

3.7 It is proposed that the period of consultation be between 29 July 2024 and 27 September 2024 and that the outcome of the consultation be reported to a meeting of this Committee on 23 October 2024 in order that recommendations of this Committee may be presented to full Council at its meeting on 2 December 2024 for the Statement of Licensing Policy to be approved.

4.0 FINANCIAL IMPLICATIONS

4.1 There are staffing cost implications to undertaking a consultation exercise which will be funded from within the Licensing budget.

5.0 LEGAL IMPLICATIONS

5.1 Section 5 of the Licensing Act 2003 requires a Licensing Authority to prepare and publish a Statement of its Licensing Policy every 5 years.

5.2 Section 5 (A) of the Licensing Act 2003 provides that a Licensing Authority may publish a Cumulative Impact Assessment stating that the Licensing Authority considers that the number of relevant authorisations in respect of premises in one or more parts of its area described in the assessment is such that it is likely that it would be inconsistent with the authority's duty under section 4(1) to grant any further relevant authorisations in respect of premises in that part or those parts.

5.3 In accordance with Section 5A (7) and (12) the Licensing Authority must before the period of three years beginning with the publication of the Cumulative Impact Assessment or a revision of the Cumulative Impact Assessment consider whether it remains of the opinion that it should remain in place.

5.4 When determining its Statement of Licensing Policy / Cumulative Impact Assessment or undertaking a review of its Licensing Policy / Cumulative Impact Assessment the Licensing Authority must consult those persons listed in section 5(3) of the Licensing Act 2003.

6.0 RESOURCE IMPLICATIONS: ICT, STAFFING AND ASSETS

6.1 The review of the Statement of Licensing Policy and Cumulative Impact Assessment will be undertaken within current resources.

7.0 RELEVANT RISKS

- 7.1 The Statement of Licensing Policy must be published before 31 December 2024 in accordance with statutory timescales. Should the Council fail to approve a revised Statement of Licensing Policy within this timescale there is a risk that the Council could be open to challenge with regard to future decisions under the Licensing Act 2003.

8.0 ENGAGEMENT/CONSULTATION

- 8.1 Should Committee approve the draft revised Statement of Licensing Policy it is proposed that public consultation will take place between 29 July and 27 September 2024. Notification of the consultation will be published on the Council's website.

9.0 EQUALITY IMPLICATIONS

Wirral Council has a legal requirement to make sure its policies, and the way it carries out its work, do not discriminate against anyone. An Equality Impact Assessment is a tool to help council services identify steps they can take to ensure equality for anyone who might be affected by a particular policy, decision or activity. The Equality Impact Assessment relevant to the proposed amendments to the Statement of Licensing Policy is available via the link below.

<https://www.wirral.gov.uk/communities-and-neighbourhoods/equality-impact-assessments>

10.0 ENVIRONMENT AND CLIMATE IMPLICATIONS

- 10.1 There are no direct Environment and Climate Implications arising as a result of this report.

11.0 COMMUNITY WEALTH IMPLICATIONS

- 11.1 There are no direct Community Wealth Implications arising as a result of this report.

REPORT AUTHOR: **Margaret O'Donnell**
Licensing Manager
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email: margaretodonnell@wirral.gov.uk

APPENDICES

Appendix 1 - Draft Revised Statement of Licensing Policy

BACKGROUND PAPERS

Licensing Act 2003

Statutory Guidance issued under Section 182 of the Licensing Act 2003

TERMS OF REFERENCE

This report is being considered by the Licensing Act Committee in accordance with paragraph 9.2 of its Terms of Reference, which states that the principal role of the Licensing Act Committee is to act as the administrative committee, acting under statutory delegation pursuant to the Licensing Act 2003 and responsible for making decisions as the Licensing Authority under the Licensing Act 2003.

SUBJECT HISTORY (last 3 years)

| Council Meeting | Date |
|-------------------------|------------------|
| Licensing Act Committee | 16 November 2022 |
| Council | 5 December 2022 |

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DRAFT

**Statement of Licensing Policy
2024-2029**

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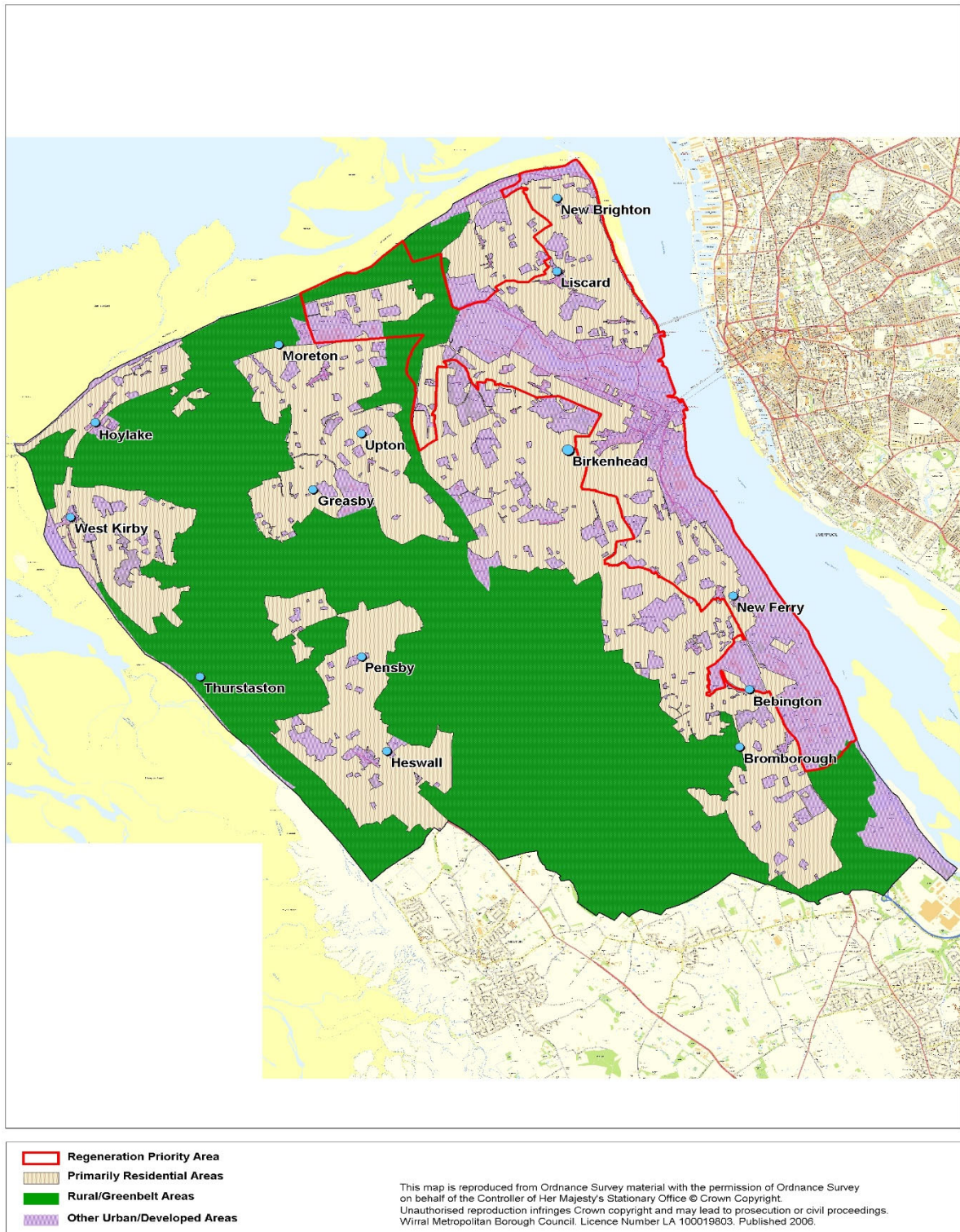
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1.0 BACKGROUND

1.1 Wirral Borough Council is situated in the County of Merseyside, which contains no district Councils, but 5 metropolitan councils: Knowsley, Liverpool, Sefton, St Helens and Wirral. The Council area has a population of 320, 200 (ONS 2021 population estimates) making it the second largest after Liverpool in the County in terms of population. In terms of area it is the largest in Merseyside, covering 60.1 square miles. The Borough is mainly urban in outlook, with 32.85 square miles (54.66% of the borough) covered in Residential, Industrial or Commercial buildings.



The key provided identifies the urban / rural areas as well as regeneration priority areas.

2.0 EXECUTIVE SUMMARY

- 2.1 This policy sets out how the Licensing Authority will carry out its function in respect of individual applications and **Notices** made under the terms of the Licensing Act 2003 (The Act) **to promote the four licensing objectives which are:**
- **The prevention of crime and disorder**
 - **Public safety**
 - **The prevention of public nuisance**
 - **The protection of children from harm**
- 2.2 The Licensing Authority aims to provide a transparent balanced, consistent, proportionate and fair licensing service for all service users including applicants, licence holders, Responsible Authorities and members of the public.
- 2.3 Holders of authorisations, be that a Premises Licence, Club Premises Certificate, Temporary Event Notice or Personal Licence will be expected to work proactively and positively with the Licensing Authority, Responsible Authorities and members of the public to promote the licensing objectives.
- 2.4 The policy aims to ensure a consistent approach to licensing within Wirral, promoting fairness and proportionality. The policy is to assist Officers and Members of the Licensing Act **2003** Committee in reaching decisions on particular applications, setting out those matters that will normally be taken into account.
- 2.5 The policy seeks to provide clarity for applicants and those who wish to make representations in respect of any applications to enable them to understand the objectives being promoted and matters that will be considered in determination of the applications made under the Act.
- 2.6 The policy will cover all applications for Premises Licences, Club Premises Certificates, notification of temporary events, together with applications for renewals, transfers and variations. The policy also provides details of the review process that provides a key protection for the community where problems associated with the licensing objectives are occurring after the grant or variation of a Premises Licence or Club Premises Certificate.
- 2.7 Wirral Borough Council is the Licensing Authority under the Act and works closely with the Responsible Authorities, the licensed trade, local residents, local businesses and Ward Councillors to deliver the licensing objectives.
- 2.8 The Licensing Authority takes its responsibility and the Act seriously and actively works with other bodies including Merseyside Police and Trading Standards to combat alcohol related crime and disorder, reduce alcohol related harm and tackle the sale of alcohol to underage persons.
- 2.9 The Licensing Authority works closely with residents to listen to their concerns and where appropriate act as a mediator between licence holders and residents to address issues, in particular relating to the prevention of public nuisance. The Licensing Authority also works with licence holders to seek compliance with licence conditions and encourage discussion between all relevant parties to promote the licensing objectives. This work is undertaken in recognition that enforcement action will be taken when necessary and appropriate in accordance with the Authority's Enforcement Policy.

- 2.10 Not only has this Statement of Licensing Policy been prepared to promote the four licensing objectives under the Act, the Licensing Authority has had regard to the revised Guidance issued under Section 182 of the Act, local strategies which have been developed for the borough, its residents, businesses, workers and visitors. The Licensing Authority intends to secure the proper integration with local crime prevention, planning, and other relevant strategies in its roles to promote the licensing objectives.
- 2.11 Wirral Council has declared an Environment and Climate Emergency. Whilst it is acknowledged that this does not directly relate to the licensing objectives we encourage all licensed premises to aim to become carbon neutral. We will support licensed premises in developing environmental impact assessments and improvement plans linked to a zero carbon outcome.
- 2.12 Applicants for Premises Licences should be aware of the expectations of the Licensing Authority and the Responsible Authorities as to the steps that are appropriate for the promotion of the licensing objectives, and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.
- 2.13 The Licensing Authority will monitor the effect of this Policy throughout the period it covers through licensing liaison meetings with representatives of licence holders and also by way of regular meetings with the Responsible Authorities.
- 2.14 The Authority is committed to ensuring the highest levels of customer service for applicants, Responsible Authorities and members of the public. Our officers will always seek to assist licence applicants in completing applications and considering relevant conditions – particularly with a view to addressing possible representations from residents and Responsible Authorities. This is an important part of building and enhancing the partnership between the Licensing Authority and the licensed trade and providing useful advice and assistance. Notwithstanding this advice, it will be a matter for the applicant to decide what conditions to volunteer and for Responsible Authorities and other persons to seek additional conditions where appropriate to promote the licensing objectives.

3.0 ALCOHOL RELATED HARM

- 3.1 The Council is aware that the hospitality and leisure industry in the Borough is a major contributor to the economy, attracts tourists and visitors, enlivens towns and communities, and is a major source of employment. Whilst alcohol plays a big part in the social and recreational activities of many people living within and visiting the Borough, alcohol misuse can sometimes cause problems within our towns and communities.
- 3.2 ~~The total annual cost to society of alcohol-related harm is estimated to be £21bn with the most recent estimate of the annual cost to Wirral standing at £127m (Wirral JSNA, Alcohol Chapter). Alcohol-specific and alcohol-related hospital admissions in Wirral are above national and regional rates and have been increasing over the past decade. These admission rates correlate with deprivation in the borough. Trauma and Injury (TIIG) data tells us half of all assault attendees at Arrowe Park are linked to alcohol. Peaks in domestic violence have been associated with periods of increased alcohol consumption in Wirral and overall, alcohol has been shown to have an all too common role in domestic violence other violence and crime in general in the borough.~~

3.3 ~~A key part of addressing alcohol harm has been through promotional campaigns such as ‘Drink Less, Enjoy More’ which have enabled Public Health and Licensing to work more closely together.~~

3.4 **The Licensing Authority recognises that** alcohol is everybody’s business. It is a crosscutting issue that concerns the health and wellbeing of our residents, the safety of our communities, and the future success of our town centres and their night-time economies.

4.0 CHILD EXPLOITATION

4.1 The Licensing Authority is committed to protecting children from harm. We are aware that alcohol misuse is one of the recurring key ‘parental factors’ in child protection and safeguarding, often contributing to parental neglect of children and domestic abuse and violence within families.

4.2 Alcohol is also often a factor in child exploitation (CE), where young people may be encouraged or coerced to drink. Alcohol may also be a factor in risk taking behaviour by young people who drink irresponsibly. Nationally, evidence has been found of the exploitation of children taking place on licensed premises, or licensed premises being used for the purposes of grooming and enticement.

4.3 The Licensing Authority encourages licence / certificate holders and operators of licensed premises:

- To ensure that they are fully aware of the signs of child exploitation and to understand that the exploitation of a child is abuse and a crime; and
- To raise the awareness of their staff about child exploitation and provide intelligence to the appropriate authorities about concerns and about perpetrators who may be operating in their areas.

4.4 The Wirral Safeguarding Children Partnership has a webpage dedicated to **“Safeguarding Children in Licensed Premises”** ~~providing local information about child exploitation policies and procedures including risk factors and signs and symptoms.~~

5.0 PURPOSE AND SCOPE OF THE LICENSING POLICY

5.1 The Act requires that the Licensing Authority publish a Statement of Licensing Policy that sets out the principles the Licensing Authority will generally apply to promote the licensing objectives when making decisions on applications made under the Act. In addition the Policy seeks to provide clarity for applicants and residents to enable them to understand the objectives being promoted and the matters that will be considered in the determination of licences. This Statement of Licensing Policy has been prepared in accordance with the provisions of the Act and having regard to the **Revised** Guidance issued under Section 182.

5.2 The Policy relates to all those activities identified as falling within the provisions of the Act, namely:

- Retail sale of alcohol
- Supply of alcohol to club members
- Provision of regulated entertainment

- The supply of hot food and/or drink from any premises between 11.00 pm and 5.00 am

5.3 In accordance with Section 5(3) of the **2003** Act, the policy has been prepared in consultation with:

- The Chief Officer of Police
- The Fire and Rescue Authority
- The Director of Public Health
- Persons/Bodies representative of local holders of premises licences
- Persons/Bodies representative of local holders of club certificates
- Persons/Bodies representative of local holders of personal licences
- Persons/Bodies representative of businesses and residents in its area

6.0 LICENSING OBJECTIVES

6.1 In carrying out its various licensing functions the Licensing Authority will promote the licensing objectives which are:

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

These objectives will be considered of equal importance and paramount at all times.

6.2 To achieve these objectives the Licensing Authority will use its full range of powers and engage all relevant Responsible Authorities and members of the public. Accordingly, the Licensing Authority will enter appropriate partnership arrangements, working closely with the **Responsible Authorities** ~~Police, the Fire and Rescue Authority,~~ local businesses, community representatives and **residents** ~~local people~~ in meeting these objectives.

6.3 Licensing is about **regulating licensable activities on licensed premises, qualifying clubs and at temporary events** ~~the control of licensed premises, qualifying clubs and temporary events~~ within the terms of the Act.

6.4 In determining a licence application the overriding principle adopted by the Licensing Authority will be to determine each application on its individual merits.

As a Licensing Authority we encourage high quality and well managed premises. Applications should therefore describe how these high management standards will be achieved, and in particular, applicants will be expected to demonstrate:

- Knowledge of best practice
- That they understand the legal requirements of operating a licensed business
- Knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Act

Prevention of Crime and Disorder

- 6.5 The Licensing Authority expects individual licence holders, new applicants and temporary event organisers to regularly review their arrangements in addressing crime and disorder issues pertinent to their particular licensable activities and/or premises. Information and advice can be obtained from regulatory agencies, business network groups and other sources. The Licensing Authority also encourages local residents and other businesses to discuss issues of concern directly with individual businesses or, to contact the Police and Licensing Service if they believe that a particular licensed premises is failing to achieve this objective.
- 6.6 The Licensing Authority will require the applicant to detail in their Operating Schedule the steps proposed to ensure the deterrence and prevention of crime and disorder, on and in the vicinity of the premises, having regard to their location, character, condition, the nature and extent of the proposed use and the persons likely to resort to the premises.
- 6.7 There are many steps an applicant may take to prevent crime and disorder. The Licensing Authority will look to the Police for the main source of advice on these matters.
- 6.8 The Authority will through its' Community Safety Partnership, devise and help deliver strategies to tackle the misuse of alcohol. The Licensing Authority expects existing licence holders, new applicants and the organisers of temporary events, to be able to demonstrate the measures they use, or propose to adopt, to prevent and actively discourage underage retail and hospitality sales/supply of alcohol. The Licensing Authority supports initiatives / good practice to prevent the sale of alcohol to those who attempt to buy alcohol on behalf of those who are underage as well as those who are drunk.
- 6.9 Where its discretion is engaged, the Licensing Authority will seek to promote the licensing objective of preventing crime and disorder in a manner which supports the Community Safety Partnership and any local crime reduction strategy.
- 6.10 The risk assessment approach remains fundamental. Licence holders and applicants are strongly recommended to work closely with the Police and Licensing Service in particular, in bringing into effect appropriate control measures to either overcome established or potential problems. A combination of short and longer-term strategies may need to be deployed by the licence holder to sustain and promote the prevention of crime and disorder.
- 6.11 The Licensing Authority will require the licence holder to indicate what steps will be put in place to control the excessive consumption of alcohol and drunkenness on relevant premises in order to reduce the risk of anti social behaviour occurring elsewhere after customers have left the premises.
- 6.12 The Licensing Authority is aware of the link between the supply of discounted alcohol and incidents of alcohol related disorder and will consider whether any measures or restrictions can be placed on alcohol sales to prevent binge drinking and promote 'sensible drinking'.
- 6.13 Off Licences, shops, supermarkets and stores selling alcohol for consumption off the premises potentially have a high risk of crime and disorder as they can be targeted as an easy premises from where to acquire alcohol. Such premises can contribute to anti social behaviour and disorder through the consumption of alcohol on the street and in

open spaces by groups of drinkers, through the sale of alcohol to children, and through the sale of alcohol to street drinkers and persons who are already drunk.

- 6.14 The Licensing Authority expects Off Licences to show particular due diligence in areas where these problems are prevalent, and to strictly monitor the way they sell alcohol where the premises are located close to schools and hostels and similar premises that provide shelter or services to alcohol dependent persons.
- 6.15 It is important that staff working at Off Licences are suitably trained in the Act and can discharge their duties in full compliance with the licence conditions and requirements of the Act. This includes the ability to competently check a customer's age with acceptable forms of identification where necessary.
- 6.16 The Licensing Authority will expect new applicants, existing licence holders and organisers of temporary events to adopt recognised good practices in whatever area of operation they are engaged.
- 6.17 The Licensing Authority will encourage small businesses to network locally with other businesses and to seek advice from regulatory agencies. **Communication links between groups of local licensed premises that will allow managers of licensed premises to communicate instantly with each other and the police and facilitate a rapid response to any disorder that may be endangering customers and staff on a premises will be encouraged. It is expected that staff working in licensed premises promptly report any disorder in their premises to Merseyside Police.**
- 6.18 The Council has specific duties under Section 17 of the Crime and Disorder Act 1998 that underpins any control strategy that is employed. The Council will continue to work in partnership with the Police in addressing the crime and disorder issue(s).
- 6.19 **The Licensing Authority will co-operate with the Security Industry Authority ("SIA") as far as possible and consider adding relevant conditions to licences where appropriate. The SIA also plays an important role in preventing crime and disorder by ensuring that door supervisors are properly licensed and, in partnership with police and other agencies, that security companies are not being used as fronts for serious and organised criminal activity. This may include making specific enquiries or visiting premises through intelligence led operations in conjunction with the police, local authorities and other partner agencies. Similarly, the provision of requirements for door supervision may be appropriate to ensure that people who are drunk, drug dealers or people carrying firearms do not enter the premises and ensuring that the police are kept informed.**
- 6.19 **The Licensing Authority will expect conditions to be targeted on the deterrence and prevention of crime and disorder including the prevention of illegal working in licensed premises. For example, where there is good reason to suppose that disorder may take place, the presence of closed-circuit television (CCTV) cameras both inside and immediately outside the premises can actively deter disorder, nuisance, anti-social behaviour and crime generally. Some licence holders may wish to have cameras on their premises for the prevention of crime directed against the business itself, its staff, or its customers. But any condition may require a broader approach, and it may be appropriate to ensure that the precise location of cameras is set out on plans to ensure that certain areas are properly covered and there is no subsequent dispute over the terms of the condition.**

6.20 The prevention of crime includes the prevention of immigration crime including the prevention of illegal working in licensed premises. Licensing Officers will work with Home Office Immigration Enforcement, as well as the police, in respect of these matters. Where necessary and appropriate the Licensing Authority will consider the application of conditions that are considered appropriate for the prevention of illegal working in licensed premises which might include requiring a premises licence holder to undertake right to work checks on all staff employed at the licensed premises or requiring that evidence of a right to work check, either physical or digital (e.g. a copy of any document checked as part of a right to work check or a clear copy of the online right to work check) are retained at the licensed premises.

Promotion of Public Safety

6.19 Licence holders have a responsibility to ensure the safety of those using their premises, as a part of their duties under the Act. This concerns the safety of people using the relevant premises rather than public health which is addressed in other legislation. Physical safety includes the prevention of accidents and injuries and other immediate harms that can result from alcohol consumption such as unconsciousness or alcohol poisoning. Conditions relating to public safety may also promote the crime and disorder objective as noted above. There will of course be occasions when a public safety condition could incidentally benefit a person's health more generally, but it should not be the purpose of the condition.

6.20 A number of matters should be considered in relation to public safety. These may include:

- Fire safety
- Ensuring appropriate access for emergency services such as ambulances
- Good communication with local authorities and emergency services, for example communications networks with the police and signing up for local incident alerts
- Ensuring the presence of trained first aiders on the premises and appropriate first aid kits
- Ensuring the safety of people when leaving the premises, for example, through the provision of information on late-night transportation or ensuring adequate lighting outside of the premises
- Ensuring appropriate and frequent waste disposal, particularly of glass bottles
- Ensuring appropriate limits on the maximum capacity of the premises
- Considering the use of CCTV in and around the premises

6.19 ~~Public safety is not defined within the Act, but is concerned with the physical safety of people, not specifically with public health matters, which are covered by other legislation such as the Health and Safety at Work etc, Act 1974 and the Regulatory Reform (Fire Safety) Order 2005.~~

- 6.21 **Applicants for a Premises Licence or organisers of events will be expected to have regard to appropriate counter terrorism measures where it is appropriate to do so. Measures may include ensuring appropriate access for emergency services and vehicles, good communications with local authorities and emergency services and ensuring the presence of sufficient trained first aiders on the premises.**
- 6.22 Applicants and event organisers will be expected to assess not only the physical environment of the premises (or site) but also operational practices, in order to protect the safety of members of the public visiting the site, those who are permanently employed in the business, those who are engaged in running an event or anyone else that could be affected by site activities.
- 6.23 Holders of Premises Licences, and Club Premises Certificates, or those organising temporary events, should interpret safety widely, the Licensing Authority will take a broad approach to its meaning.
- 6.24 For licensed or certificated premises and for temporary events, public safety must be kept under review and where changes to operational practices occur, a review of risk assessment must be undertaken.
- 6.25 **Fire safety and means of escape remain are an essential matter for applicants to the consider when making an application. Applicants are therefore encouraged and reminded to consult with all relevant parties in respect of these matters prior to the submission of an application or Notice.**
~~Licensing Authority when determining applications. The Licensing Service will work in partnership with the Fire and Rescue Authority and other Council departments (e.g. Building Control and Environmental Health) to ensure that appropriate standards are applied and maintained.~~
- 6.26 **In the context of providing safe access to licensed premises for disabled members of the community, the Licensing Authority urges expects all licensees to be aware of their responsibilities under the Equality Act 2010. familiarise themselves with The Equality Act 2010.**
- 6.27 ~~Special events in the open air or temporary structures raise particular issues. Applicants are referred to other sections of this document where guidance on holding these types of event is given.~~
- 6.28 **An applicant for a Premises Licence will be expected to conduct their own risk assessment as to the appropriate capacity of the premises. They should send their recommendation to the Merseyside Fire and Rescue Service which will consider it and decide what the “permitted capacity” of those premises should be.**
- 6.26 ~~Maximum occupancy limits in the premises licence will be specified only where appropriate for the promotion of public safety or the prevention of disorder.~~

Prevention of Public Nuisance

- 6.27 The Act enables Licensing Authorities and Responsible Authorities, through representations, to consider what constitutes public nuisance and what is appropriate to prevent it in terms of conditions attached to specific Premises Licences and Club Premises Certificates

- 6.28 In considering the promotion of this licensing objective, applicants and licence holders need to focus on the effect of licensable activities on persons living and working in the area around the premises which may be disproportionate and unreasonable. The issues will mainly concern noise nuisance, light pollution, noxious smells and litter.
- 6.29 Public nuisance is not narrowly defined within the context of the Act. The Licensing Authority will take a broad approach to its meaning. In effect, any nuisance arising from a licensable activity – ranging from major noise from an outdoor pop concert affecting a wide area, to a low-level nuisance affecting only a few people (e.g. vibrations from a poorly mounted extraction duct serving a night café), could be included.
- 6.30 The Licensing Authority remains sensitive to the expectations and needs of different parts of the community in respect of leisure and cultural pursuits and will view applications accordingly. The Licensing Authority will consider the impact of those activities on people who have to live, work and sleep within the local vicinity of a licensed premises.
- 6.31 The Licensing Authority will always consider whether other legislation already provides sufficient protection of the rights of local people. For example, the Environmental Protection Act 1990, the Noise Act 1996 and the Anti-Social Behaviour Crime and Policing Act 2014 can be utilised to address noise nuisance issues. The Licensing Authority considers that the potential for public nuisance can be prevented or much reduced by good design and planning during new or ancillary construction works, and by the provision of good facilities. This will require appropriate advice at the planning and development stages of new projects. The Licensing Authority's Licensing Service and the Environmental Health Department and other regulatory agencies such as the Police, should be viewed as being instrumental in this respect. Applicants should consider carefully the suitability of the premises for the type of activity to be undertaken, particularly in terms of ventilation, noise breakout and noise/vibration transmission to adjoining premises. Applicants should ensure they have measures in place to prevent public nuisance within the vicinity of the premises that might affect other businesses as well as residents.
- 3.32 The Licensing Authority expects licence holders to use their risk assessments and Operating Schedules to review and, if need be, to make necessary improvements to the premises, or to operational practices, in order to prevent public nuisance. The matter of persons congregating in outside areas including beer gardens can cause disturbance and be a public nuisance to residents living in close proximity to licensed premises. This congregation may be connected to the manner in which the smoke free legislation is managed at the premises. The Licensing Authority will expect such matters to have been demonstratively assessed and addressed in the Operating Schedule. In cases where there appears to be a likelihood of residents living around licensed premises or businesses within the vicinity being disturbed by customers leaving venues, or there being an impact on crime and disorder from customers leaving venues, applicants may consider putting in place a dispersal policy. Such a policy would set out the steps that would be put in place to minimise disorder or disturbance that may be caused as customers leave.
- 6.33 Applicants are recommended to consult Environmental Health Services for advice on measures that may need to be incorporated into an Operating Schedule **to prevent public nuisance.**
- 6.34 The Licensing Authority will particularly consider the following matters where they are material to the individual application:

- The proximity of residential accommodation
- The type of use proposed, including the likely numbers of customers, proposed hours of operation and the frequency of activity
- The steps taken or proposed to be taken by the applicant to prevent noise and vibration escaping from the premises, including music, noise from ventilation equipment, and human voices. Such measures may include the installation of soundproofing, air conditioning, acoustic lobbies and sound limitation devices
- The steps taken or proposed to be taken by the applicant to prevent disturbance by customers arriving at or leaving the premises
- The use of smoking areas and how these are controlled / managed
- The use of a garden / other open-air areas, and how these are controlled / managed
- The steps taken or proposed to be taken by the applicant to ensure staff leave the premises quietly
- The arrangements made or proposed for parking by patrons, and the effect of parking by patrons on local residents
- The provision for public transport in the locality (including taxis and private hire vehicles) for patrons
- Whether a dispersal policy has been prepared to minimise the potential for disturbance as customers leave the premises
- Any other relevant activity likely to give rise to nuisance

6.35 Following the implementation of the smoking ban, the Licensing Authority has become aware of nuisance issues relating to the use of external areas at licensed premises. If relevant representations are made, the Licensing Authority will consider whether it is necessary to impose conditions to regulate behaviour in external areas and access to them in order to promote the licensing objectives. In so doing the Licensing Authority considers that generally patrons who are using external smoking areas or shelters are there as a direct result of the licensed premises and are within the control of the licence holder. Applicants with external areas are recommended to seek the views of the Council's Environmental Health Department when preparing their Operating Schedule so as to include appropriate measures to prevent public nuisance.

6.36 The approach of the Licensing Authority will be one of the prevention of **public nuisance**. Where the provision of existing legislation proves inadequate or inappropriate for control purposes, if its discretion is engaged through the submission of representations the Licensing Authority will consider imposing licence conditions. Any condition deemed appropriate and imposed by the Licensing Authority to promote the prevention of public nuisance will focus on measures within the direct control of the licence holder, and designated premises supervisor. If conditions or other legislation cannot adequately address the issues of nuisance, an application may be refused.

Protection of Children from Harm

- 6.37 The Licensing Authority recognises the Wirral Safeguarding Children Partnership as being competent to advise on matters relating to the protection of children from harm.
- 6.38 Applicants will be expected to demonstrate in their Operating Schedule that suitable and sufficient measures have been identified and will be implemented and maintained to protect children from harm, relevant to the individual style and characteristics of their premises and events.
- 6.39 It is mandatory for premises which sell or supply alcohol to have an age verification policy in place. The Licensing Authority supports the Challenge 25 scheme, and such a scheme volunteered as part of an Operating Schedule will be given the appropriate weight when the Licensing Authority determines the licence application.
- 6.40 Licensing conditions will usually only restrict access to children in order to protect those children from harm. Applicants will be expected to pay particular attention to safety issues within their Operating Schedule where regulated entertainment is specially presented for children.
- 6.41 The Licensing Authority recognises the great variety of premises for which licences may be sought, including cinemas, public houses and 'night-clubs'. The Licensing Authority will consider the individual merits of each of these applications. Examples of premises where restrictions on access to children may be imposed include:
- Where there have been convictions of current staff for serving alcohol to minors
 - Where there is a known association with drug taking or dealing
 - Where there is a strong element of gambling on the premises
 - Where entertainment of an adult or sexual nature is commonly provided
 - Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises
- 6.42 The options available for limiting access to children can include:
- A limit on the hours when children may be present
 - Age limitations (below 18)
 - Limitation or exclusions when certain activities are taking place
 - The requirement to be accompanied by an adult
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 6.43 The Licensing Authority will not impose any condition which specifically requires access for children to be provided at any premises. Where no restriction or limitation is imposed the issues of access will remain a matter for the discretion of the individual licensee or club or event organiser.
- 6.44 Where children are expected to attend public entertainment, appropriate adult supervision will be required to control the access and egress of children and to protect them from harm.
- 6.45 The type of entertainment and the nature of the premises will determine the appropriate level of adult supervision. If considered appropriate, the Licensing Authority may require that adult supervisors be subject to a Disclosure and Barring check.

- 6.46 Where cinemas are concerned, the Licensing Authority would expect licensees to impose conditions that children will be restricted from viewing age-restricted films according to the recommendations of the British Board of Film Classification or the Licensing Authority. Licensees will be expected to include in their Operating Schedule arrangements for restricting children from viewing age restricted films.
- 6.47 The Licensing Authority has not adopted its own system of classification and therefore abides by the recommendations of the British Board of Film Classification. A mandatory condition attached to all Premises Licences and Club Premises Certificates authorising the exhibition of films requires that all films should have been classified by a body designated under Section 4 of the Video Recordings Act 1984 (the British Board of Film Classification is the only body designated as such) or by the Licensing Authority itself. Where the Licensing Authority itself is to classify a film, the Authority expects:
- A synopsis of the exhibition or young person's film programmes to be sent to the Licensing Service 21 days in advance, where possible, of any exhibition, giving sufficient information on any potentially controversial issues such as theme, swearing, violence, imitable techniques, horror, drugs, nudity, flashing lights etc, and in particular anything considered over 18 – R18 for example.
 - Information as to the steps that will be taken to display notices inside and outside the premises so that persons entering can readily read them and be aware of the category attached to the film.
 - Information on how staff are informed on policies and matters that may be significant at the time of the exhibition.
 - To ensure that whenever children are in the vicinity of a film or exhibition that is being shown in a multi purpose premises, sufficient ushers/stewards (minimum 18 years old) shall be in attendance at the entrance to the viewing room at all times to ensure children cannot enter or view the film or exhibition.
- 6.49 Following receipt of the above written information, elected Members will view the film to determine the appropriate recommendation. The film will therefore be referred to a Licensing Sub-committee for determination.

7.0 PREMISES LICENCES

- 7.1 Applicants for ~~new~~ Premises Licences (or club premises certificates) and variations to existing Premises Licences are ~~encouraged~~ **expected** where appropriate to conduct a thorough Risk Assessment to demonstrate compliance with the Licensing Objectives and produce an Operating Schedule to fully reflect how those objectives will be met. The Licensing Authority ~~encourages~~ **expects** applicants to obtain appropriate planning consents prior to submitting applications for ~~new~~ the grant of a Premises Licence or where variations are being sought.
- 7.2 An application for a Premises Licence must be made in the prescribed form and be copied to each of the Responsible Authorities and be accompanied by;
- the required fee
 - an Operating schedule
 - a plan of the premises in a prescribed form to which the application relates; and

- if the application involves the supply of alcohol, a form of consent from the individual who is to be specified in the licence as the Designated Premises Supervisor

7.3 Applications ~~may~~ will usually be submitted online. ~~rather than in writing~~. In this case, the applicant will not need to send copies of the application to all the Responsible Authorities as the Licensing Authority will attend to this. The online application must have attached a plan of the premises and consent of the proposed Designated Premises Supervisor if applicable. The relevant licence fee must be paid at the time of submitting the application electronically. The online application facility can be accessed on the relevant page of the Council's website at www.wirral.gov.uk/licensing

7.4 Where a Premises Licence or Club Premises Certificate holder wishes to amend the licence an application to vary will be required. This will either take the form of a standard variation application (requiring the display of a notice in a local newspaper and a similar notice on the premises for 28 days with any representations being considered by the Licensing Act ~~2003~~ Sub-Committee) **or** a "minor" variation application (requiring the display of a notice on the premises for 10 working days with any representations being considered by an officer of the authority within 15 working days of the application being made). This "minor" variation process is limited to:

- minor changes to the structure or layout of a premises
- small adjustments to licensing hours
- the removal of out of date, irrelevant or unenforceable conditions or addition of volunteered conditions and
- the addition of certain licensable activities

7.5 This "minor" variation process cannot be used to:

- extend licensing hours for the sale or supply of alcohol for consumption on or off the premises between the hours of 23.00 and 07.00; or
- to increase the amount of time on any day during which alcohol may be sold or supplied for consumption on or off the premises

7.6 Applications to reduce licensing hours for the sale or supply of alcohol or to move (without increasing) the licensed hours between 07.00 and 23.00 will normally be processed as minor variations.

7.7 Licence holders may wish to consider using the minor variations process for such things as the addition or extension of live music at their premises. In considering any such application licensing officers will need to decide whether the particular application could impact adversely on any of the licensing objectives.

7.8 The Licensing Authority does not consider that the "minor" variation process should be used to seek the removal or amendment of conditions / hours which have been determined by the Licensing Act 2003 Sub-Committee **unless there is good reason to do so.**

8.0 OPERATING SCHEDULE

8.1 Under the Act applicants are required to complete an 'Operating Schedule'. Applicants are expected to have regard to the Council's Statement of Licensing Policy. They must also be aware of the expectations of the Licensing Authority and the Responsible Authorities as to the steps that are appropriate for the promotion of the licensing

objectives and to demonstrate knowledge of their local area when describing the steps they propose to take to promote the licensing objectives.

- 8.2 Operating Schedules are the key to ensuring that the four licensing objectives are promoted. An Operating Schedule should include enough information to enable any Responsible Authority or other person to assess whether the steps to be taken to promote the licensing objectives are satisfactory.
- 8.3 Applicants should make their own enquiries and demonstrate how they have considered the following in their Operating Schedule:
- The layout of the local area and physical environment including crime and disorder hotspots, proximity to residential premises and proximity to areas where children and young persons may congregate
 - Any risk posed to the local area by the applicants' proposed licensable activities; and
 - Any local initiatives for example, local crime reduction initiatives or voluntary schemes which may help mitigate potential risks of undermining the licensing objectives.
- 8.4 The Licensing Authority expects individual applicants to complete the Operating Schedule in a manner that is specific to the application being made in respect of those premises and the licensable activity to be carried on rather than in general or standard terms. Information should be given to demonstrate how the applicant proposes to address and promote the licensing objectives.
- 8.5 Any application or Operating schedule not completed in accordance with the Act and the regulations may be returned to the applicant unprocessed with a request to complete the forms correctly before the application is accepted by the Licensing Authority.
- 8.6 ~~Operating schedules for Premises Licences are the key to ensuring compliance with the four licensing objectives.~~ The measures proposed in the Operating Schedule will normally be converted into conditions to be attached to the Premises Licence and/or Club Premises Certificate and should therefore fulfil the following criteria:
- i) Be precise and enforceable
 - ii) Be unambiguous
 - iii) Not duplicate other statutory provisions
 - iv) Be clear in what they intend to achieve, and
 - v) Be appropriate, proportionate and justifiable

The Licensing Authority will interpret the measures proposed in the Operating Schedule in accordance with the applicant's intention, to form an appropriate condition for the promotion of the licensing objectives.

- 8.7 Prospective holders of new Premises Licences, and those seeking variations to existing Premises Licences are advised to consult with the Licensing Authority and the various Responsible Authorities at the earliest possible stage.

9.0 OFF LICENCES

Premises licensed for the sale of alcohol for consumption “off” the premises

- 9.1 ~~Over recent years~~The Licensing Authority ~~has become increasingly~~ is aware of the problems experienced in some local communities arising from the availability of alcohol for sale at local shops for consumption off the premises. These problems typically manifest themselves when youths obtain alcohol and drink it in public spaces and cause noise, nuisance and anti-social behaviour often late at night. In addition, alcohol-dependent persons will obtain alcohol from such shops and congregate around them, or in nearby streets and public places, causing noise, nuisance and anti-social behaviour at any time of the morning, day or night.
- 9.2 The Licensing Authority recognises that it can be difficult for shop-keepers to prevent such activity particularly where alcohol is obtained from proxy sales. Nonetheless, the Licensing Authority has a statutory duty to promote the licensing objectives and thereby protect local communities from anti-social conduct due to the availability of alcohol from local shops. To this end, the Licensing Authority expects all applicants ~~shops~~ wishing to sell alcohol, or extend their hours of sale, to carefully assess their local environment and seek advice from local Councillors, the local Police and the Council’s Responsible Authority Officer and Weights and Measures Officer as to their views as to hours, conditions and product types which are appropriate to their local environment and customer profile. In the event that applications are submitted which have not demonstrated that such matters have been properly considered it is likely that representations will be made by the relevant Responsible Authorities and the public which will delay the determination of the application and result in it being referred to the Licensing Act 2003 Sub-Committee for determination.
- 9.3 Once an application is referred to the Sub-Committee it can be expected that the Sub-Committee will scrutinise the application or licence very carefully and arrive at a decision which it considers to be appropriate to promote the licensing objectives. This may well result in a reduction in hours for the sale of alcohol, additional conditions, for example, restricting the maximum alcohol strength of certain products or that no single cans may be sold or even the refusal of the application.
- 9.4 Applicants and licence holders should give particular care to their operating procedures where they are situated close to schools. For example, child focussed precautions should be considered regarding the placing of alcohol away from products attractive to children and in a location where it can be easily monitored as well as the placing and prominence of alcohol advertising.
- 9.5 The Licensing Authority considers that it is not generally appropriate for hot food / fast food takeaways to be licensed for the supply of alcohol because of the risk of crime and disorder and public nuisance arising from alcohol being consumed in the shop or by customers congregating in the vicinity of the shop. Whilst this is the Authority’s general position the Authority recognises the need to consider each case on its merits. In the event that such a premises is licensed to sell alcohol, strict conditions are likely to be imposed as to such things as the hours of such sale, the quantity of alcohol which may be sold and the related purchase of food.
- 9.6 For sales of alcohol for consumption off the premises – applicants in respect of off licences and other premises selling alcohol for consumption off the premises may need to consider whether:

- there are appropriate numbers of staff on duty to deal with possible ‘intimidation’ to sell alcohol.
- there are restrictions required on the sale of low price, high strength alcohol and drink promotions.
- an incident log book is available to record incidents.
- there are measures in place to prevent underage sales.
- there are measures in place to prevent alcohol from being sold outside permitted hours where the operating hours of the premises exceed those for the sale of alcohol.
- there are procedures in place to prevent sales of alcohol to intoxicated persons (with particular attention to street drinkers) or individuals leaving premises in the vicinity such as a late night bar; where there is evidence to suggest this is a problem the Licensing Authority may require a temporary cessation of alcohol sales during high risk times.

10.0 CONDITIONS

- 10.1 The Licensing Authority cannot impose conditions unless it has received a relevant representation from a Responsible Authority, such as the Police or an Environmental Health Officer or “other person”, such as a local resident, local business or a local Ward Councillor. The Licensing Authority will determine whether or not a representation qualifies as a “relevant representation” and therefore whether or not the representations may be taken into account by the Licensing Authority when it makes its decision. In determining whether or not a representation is a “relevant” representation, the Licensing Authority will have regard to the Revised Statutory Guidance issued under Section 182 of the Act. The Licensing Authority then needs to be satisfied that it is appropriate to impose conditions or refuse an application in order to promote one or more of the licensing objectives.
- 10.2 The Licensing Authority recognises that all applications should be considered on an individual basis and any condition attached to such a licence will be tailored to each individual premises. Standard conditions, other than mandatory conditions, will therefore be avoided and no condition will be imposed that is disproportionate or cannot be shown to be appropriate for the promotion of the licensing objectives.
- 10.3 Applicants for Premises Licences or Club Premises Certificates or for variations to such licences or certificates are expected to conduct a thorough risk assessment with regard to the licensing objectives when preparing their applications. The risk assessment should cover the premises, events, activities and the customers expected to attend and will inform any necessary steps to be set out in the Operating Schedule to promote the licensing objectives. As referred to earlier in this Policy it would be sensible for applicants to consult with Responsible Authorities when Operating Schedules are being prepared. This would allow for proper liaison before representations prove necessary. The level of detail to be provided should be proportional to the scale and nature of the application to allow Responsible Authorities and other persons to consider whether the licensing objectives are being/can be fully met.
- 10.4 If an applicant volunteers a prohibition or restriction in their Operating Schedule because their own risk assessment has determined it is appropriate, such prohibitions

or restrictions will become conditions attached to the licence, or certificate and will be enforceable.

- 10.5 Conditions deemed appropriate to achieve the licensing objectives will be applied following relevant representations. Conditions attached to licences will be proportionate and will focus on matters that are within the control of individual licensees and others granted relevant permissions. The focus of these conditions will be on the direct impact that activities taking place at the licensed premises could have on persons attending the venue as well as members of the public living, working or engaged in normal activity in the area concerned and will seek to ensure the protection of children from harm.
- 10.6 It is recognised by this policy that licensing law is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the individual or business holding the licence, certificate or permission concerned. This policy is able to address such behaviour “in the vicinity” of premises used for licensable activities. Whether or not incidents can be regarded as “in the vicinity” of licensed premises or places is ultimately a matter of fact to be determined by the courts in cases of dispute. The Licensing Authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned.
- 10.7 The Licensing Authority will work in partnership with the Police and other relevant agencies to promote the licensing objectives and will develop licensing conditions for individual premises in order to meet these objectives and conditions will be tailored to the specific premises concerned. Licensing Law is not the primary mechanism for the general control of nuisance and anti-social behaviour once they are beyond the direct control of the individual or business holding the licence, however the Licensing Authority recognises that it is a key aspect of such control and Licensing Law will always be part of a holistic approach to the management of the evening and night time economy in town and city centres.
- 10.8 Other mechanisms available for addressing issues when individuals behave badly away from licensed premises include:
- Planning control
 - Town centre initiatives
 - The provision of CCTV surveillance in town centres
 - Designation of defined areas within this Authority where alcohol may not be consumed publicly
 - Police enforcement of the normal law concerning disorder and anti-social behaviour including the issuing of fixed penalty notices
 - The prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk or who are underage
 - The confiscation of alcohol from adults and children in designated areas
 - Police powers to close down instantly for up to 24 hours any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises
 - The power of the Police, other Responsible Authority or a local resident or business to seek a review of the licence or certificate in question

11.0 STAFF TRAINING

- 11.1 The Licensing Authority recommends that all persons employed on licensed premises who are engaged in the sale and supply of alcohol be encouraged to attend training

programmes to raise awareness of their responsibility and particularly of the offences contained within the Act. Similarly persons employed at on-licensed premises should be encouraged to attend training programmes which will raise their awareness of the issues relating to drugs and violence in licensed premises, and that suitable training be extended to all staff involved in managing or supervising the premises.

- 11.2 It is also recommended that persons employed on premises providing entertainment for children and youths attend training programmes in basic child protection and safety, and if appropriate have the necessary Disclosure Barring Service checks.

~~Staff working in licensed premises are also encouraged to undertake training as Custodians, identifying problematic drinking and signposting individuals into services.~~

12.0 ENFORCEMENT

- 12.1 It is essential that Licensed Premises are maintained and operated to ensure the continued promotion of the licensing objectives and compliance with the specific requirements of the Act. The Licensing Authority will monitor premises and take appropriate enforcement action in line with the Licensing Authority's Enforcement Policy. A copy of the Enforcement Policy is available on request.
- 12.2 The Licensing Authority recognises the interests of both citizens and businesses and will work closely with partners to assist licence holders to comply with the law and the licensing objectives. However, proportionate but firm action will be taken against those who commit serious offences or consistently break the law.
- 12.3 The Licensing Authority will continue to work with Merseyside Police on joint inspections of premises to reduce the level of crime and disorder and ensure the safety of the public. Protocols will continue to be developed to avoid duplication and ensure the best use of resources to promote the licensing objectives.
- 12.4 Protocols continue to be developed in accordance with the Licensing Authority's Enforcement Policy and the principles of better regulation. The principles of risk assessment and targeting will prevail and inspections planned accordingly.
- 12.5 During the course of its inspections, the Licensing Authority may refer matters to any other agency where there appears to be a contravention of the legislation enforced by that agency. **The Licensing Authority will also undertake joint inspections with other relevant agencies.**

13.0 CUMULATIVE IMPACT

- 13.1 Cumulative impact means the potential impact on the promotion of the licensing objectives of a significant number of licensed premises concentrated in one area. Cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for a Licensing Authority to consider and the Licensing Authority may adopt a special policy.
- 13.2 The effect of adopting a special policy of this kind is to create a rebuttable presumption that applications for new Premises Licences or Club Premises Certificates or variations that are likely to add to the existing cumulative impact will normally be refused, following relevant representations, unless the applicant can demonstrate in their Operating Schedule that there will be no negative cumulative impact on one or more of the licensing objectives.

- 13.3 However, a special policy does not relieve Responsible Authorities or any other person of the need to make a relevant representation before a Licensing Authority may lawfully consider giving effect to its special policy. If there are no representations, the Licensing Authority must grant the application in terms that are consistent with the Operating Schedule submitted.
- 13.4 The absence of a special policy does not prevent any Responsible Authority or any other person making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.
- 13.5 It is for any person making such representations to provide evidence to the Licensing Act 2003 Sub-Committee that the addition of the premises concerned would cause the cumulative impact claimed. When considering such representations, the committee will:
- Identify any serious and chronic concern
 - Identify the area from which problems are arising and the boundaries of that area
 - Make an assessment of the causes
 - Consider adopting a policy about future licence applications from that area
- 13.6 The cumulative impact of licensed premises on the promotion of the licensing objectives is a matter the Licensing Authority can take into account. This should not, however, be confused with 'need' which relates more to the commercial demand for a particular type of premises e.g. a public house, restaurant or hotel. The issue of 'need' is therefore a matter for planning consideration or for the market to decide and does not form part of this licensing policy statement.
- 13.7 The Licensing Authority recognises that public houses, 'night clubs', restaurants, theatres, concert halls, community buildings and cinemas all provide their services of selling alcohol, serving food and providing entertainment with contrasting styles and characteristics. Proper regard will therefore be given to these differences and the differing impact they will have on the local community and each application will be considered on its individual merits.

14.0 CUMULATIVE IMPACT ASSESSMENT

- 14.1 On 5 January 2017 Merseyside Police requested the Licensing Authority consider adopting a Special Cumulative Impact Policy, for an area within Birkenhead. The request was made due to the level of crime and disorder, public nuisance, littering, street drinking, under-age drinking and anti-social behaviour believed to be resulting in part from the number of off-licence premises located in the area. The request was supported by Ward Councillors.
- 14.2 A comprehensive consultation process was therefore undertaken about the possibility of introducing a Special Cumulative Impact Policy for Charing Cross, Grange Road West, Grange Mount, Oxtan Road and the boundary of the Town Centre.
- 14.3 The consultation period ran from 13 January 2017 to 3 March 2017 and sought views on a Special Cumulative Impact Policy in relation to premises licensed for the sale by retail of alcohol for consumption off the premises only
- 14.4 The Authority was satisfied from the responses received that the number of premises in Charing Cross, Grange Road West, Grange Mount, Oxtan Road and the boundary of

the Town Centre licensed under the Act for the sale by retail of alcohol for consumption off the premises only were cumulatively giving rise to significant problems of public nuisance and crime and disorder.

- 14.5 As a result, the Authority resolved to introduce a Special Cumulative Impact Policy limited to Charing Cross, Grange Road West, Grange Mount, Oxton Road and the boundary of the Town Centre with effect from 10 July 2017.
- 14.6 The streets that are subject to the Cumulative Impact Policy are shown delineated on a plan attached to this Policy Statement at Appendix C.
- 14.7 In arriving at this decision the Licensing Authority decided that the Special Cumulative Impact Policy in this area should only apply to Premises licensed for the sale by retail of alcohol for consumption off the premises only.
- 14.8 The Licensing Authority has subsequently consulted upon whether the area should remain subject to a Cumulative Impact Policy. The consultation took place between 26 July 2019 and 13 September 2019. In response to the consultation a report was submitted by Merseyside Police providing evidence to support the retention of the Special Cumulative Impact Policy. Evidence was provided by Merseyside Police that street drinking continues to be prevalent in the area. It was the view of Merseyside Police that the availability of alcohol in the area is a contributing factor to the level of street drinking. Evidence was provided relating to the impact of street drinking on individuals and businesses as well as the level of alcohol related violence and alcohol related domestic violence in and directly around the Special Cumulative Impact Policy area.
- 14.9 Having considered the evidence provided by Merseyside Police the Licensing Authority remains of the opinion that the area identified in appendix C to this Policy should continue to be subject to a Cumulative Impact Policy.
- 14.10 All premises within the streets specified in Paragraph 14.2 of this Policy licensed for the sale by retail of alcohol for consumption off the premises only or wishing to apply to carry out licensable activities which, if granted, would place them in this category will be subject to a presumption against granting any application for a Premises Licence or a variation that is likely to add to the existing cumulative impact.
- 14.11 However, this presumption will only be triggered in the event of a relevant representation being received. If there are no such representations the Authority MUST grant the application in terms that are consistent with the Operating Schedule submitted.
- 14.12 If such representations are made, a Sub-committee of the Authority will hear those representations and conclude whether or not the presumption against granting should apply. This will normally be the case unless the applicant can demonstrate in their Operating Schedule that the application will not add to the cumulative impact on one or more of the licensing objectives and that the Authority would therefore be justified in departing from the Special Cumulative Impact Policy in the light of the individual circumstances of the case.
- 14.13 Other than this area, there are no other places within the Authority's area which are the subject of a special cumulative impact policy. In the event that the Licensing Authority becomes satisfied, after considering available evidence following consultation in accordance with Section 5(3) of the Act, that it is appropriate to include an approach to cumulative impact in respect of any other streets or areas in the licensing policy

statement, this will be referenced in the Policy Statement by way of amendment.

14.14 The absence of a special policy in a particular street or area does not prevent any responsible authority or person making representations on an application for the grant or variation of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives.

15.0 LICENSING HOURS

15.1 Guidance issued under Section 182 of the Act states that the Licensing Authority has powers to make decisions regarding licensed opening hours and that Licensing Authorities are best placed to make such decisions based on local knowledge. In determining licensing hours the Licensing Authority will have regard to the location of the premises in question and the surrounding area, considering each application on its individual merits.

15.2 Particular regard will be given to premises in close proximity to residential accommodation.

15.3 If relevant representations are made, the Licensing Authority will determine the hours of use proposed having regard to the Operating Schedule and any risk assessment that adequately demonstrates that:

- the applicant has properly considered what is appropriate for the local area when considering what hours and activities to apply for
- the potential effect on the licensing objectives is not significant
- the agreed Operating Schedule demonstrates that the applicant is taking appropriate steps to minimise any adverse impact on local residents and businesses

15.4 Restrictions may be made to the proposed hours of use where, after receiving relevant representations, the Licensing Authority considers it appropriate for the promotion of the licensing objectives to do so.

16.0 INTEGRATING STRATEGIES

16.1 The Licensing Authority will seek to ensure proper integration with the Community Safety Partnership, Planning, and other relevant strategies when dealing with licence applications and through partnership working. The Licensing Authority will work with other partners including the Police, Trading Standards and Public Health to develop initiatives that support the licensing objectives.

16.2 The Licensing Authority recognises that there are many stakeholders in the leisure industry covering a wide range of disciplines.

16.3 The Licensing Authority shall have regard to the local Policing Plan and local crime prevention strategies where appropriate.

16.4 The Licensing Authority shall have regard to the need to disperse people quickly and safely from the town centre to avoid concentrations that may produce disorder and disturbance. The policy shall reflect any protocols agreed between the local Police and other licensing enforcement officers and the need to report to other council committees.

17.0 PLANNING

- 17.1 It will be expected that applications for Premises Licences, Club Premises Certificates and Temporary Event Notices will normally relate to premises with an existing lawful use for the activity proposed and the times when such activities are permitted.
- 17.2 Applications for Premises Licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, **it is recognised that** applications for licences may be made before any relevant Planning Permission has been sought or granted by the Planning Authority **and that** Planning and Licensing regimes involve consideration of different (albeit related) matters, for example, Licensing considers public nuisance whereas Planning considers amenity.
- 17.3 The Licensing Authority recognises that licence applications should not be seen as a re-run of the Planning application process and that there should be a clear separation of the Planning and Licensing regimes to avoid duplication and inefficiency. Similarly, the granting by the Licensing Authority of any variation of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for Planning Permission or Building Consent.
- 17.4 There are also circumstances when as a condition of Planning Permission, a terminal hour has been set for the use of the premises for commercial purposes. Where these hours are different to the licensing hours, the applicant must observe the earlier closing time. Applicants are strongly recommended to consider whether their application conflicts with a relevant Planning Permission for a particular premises. If the applicant is unsure whether this is the case or where they are aware of such a conflict, they should contact the planning department. Contact details are provided in Appendix 2
- 17.5 ~~The Council's Planning Policies are currently set out in its Unitary Development Plan (UDP), supplemented by additional guidance on A3 use of restaurants and cafés, A4 use of public houses and A5 use for take-aways. The strength of these policies is that there is an obligation both on the Council, as the local Planning Authority, and the decision maker on any appeal, to give considerable weight to them. This helps to ensure consistency in the decision making process.~~
- 17.6 In general, Planning Permissions authorise the development or change of use of land and buildings in the public interest, whereas licences relate to the specific circumstances and proposed licensable activity within a particular premises and the suitability of the operator and may cover only a part of the premises.
- 17.7 In many cases where an application is made for ~~a new~~ the grant of a licence or variation, the town planning use will already be authorised by a previous Planning Permission or because the premises has a longstanding lawful use. Therefore, a new application for Planning Permission is often not required. However, the existing Planning Permission if recently granted is very likely to have conditions restricting the use of the premises in some way: e.g. the hours of operation. In that case, anybody seeking a licence to operate beyond those hours would need to seek and obtain the revised Planning Permission or a variation or removal of the relevant Planning condition.
- 17.8 In general, the Planning position should be resolved before a licence application is made. The Licensing Authority may refuse to grant a licence if the:
- Activity to be authorised would amount to an unlawful use of the premises

- Hours being sought exceed those authorised by any Planning permission.

17.9 The Licensing Authority may nonetheless determine a licence application without evidence of a lawful Planning use where the applicant satisfactorily demonstrates special reasons justifying such an approach.

18.0 TEMPORARY EVENT NOTICES

18.1 A permitted temporary activity is an event lasting for no more than 168 hours where the number of people attending the event is no more than 499.

18.2 Temporary events do not involve the Licensing Authority giving permission for the event to take place but the Police and Environmental Health must be served with the Temporary Event Notice (TEN). This is a notification procedure in which only the Police and Environmental Health may intervene to prevent such an event taking place or to modify the arrangements for such an event. The Police and Environmental Health may only do so where they believe it may undermine the promotion of the licensing objectives.

18.3 The event organiser must give the Licensing Authority, the Police and Environmental Health a minimum of 10 clear working days notice, or 5 clear working days notice in the case of a late TEN. This does not include the application date, the day of the event, weekends and bank holidays. The Licensing Authority recommends that TEN's are received by this Authority and Merseyside Police at least 28 days before the event, to allow any necessary discussions to take place with the Police or Environmental Health.

18.4 It is not a requirement for a TEN to be served on other Responsible Authorities, however the Licensing Authority will notify the Responsible Authorities of all TEN's received. In addition Ward Councillors will be made aware of the TEN'S received relating to the premises in their ward so they are up to date with activities taking place in their area and are therefore able to respond to enquiries from local residents.

18.5 As stated in paragraph 18.2 it is only the Police and Environmental Health who can object to a TEN and providing details to other Responsible Authorities and Ward Councillors is purely to assist them in undertaking their duties.

19.0 LICENCE REVIEWS

19.1 At any stage following the grant of a Premises Licence or Club Premises Certificate a Responsible Authority or any other person may ask the Licensing Authority to review the Licence or Club Premises Certificate because of a matter at a particular premises in connection with any of the four licensing objectives.

19.2 Where a person or body is considering making an application for a review they are advised to contact the Licensing Office, contact details are provided in Appendix 2. This is so that an officer may provide some initial feedback on the matter and then if appropriate attempt to facilitate a meeting or a series of meetings between relevant persons to discuss the review process and identify any possible solutions.

19.3 Applicants for a review should make all efforts to set out their concerns clearly and ensure that these concerns are relevant to a failure to promote one or more of the licensing objectives.

19.4 In considering an application from an 'other person' the Licensing Authority must first consider whether the applicant is relevant, vexatious, frivolous or repetitions.

- 19.5 The promotion of the licensing objectives relies heavily on a partnership between licence holders, residents, Responsible Authorities and other persons in pursuit of common aims. It is important therefore that Authorities, persons and Responsible Authorities give licence holders early warnings of their concerns and of the need for improvement.
- 19.6 The Licensing Authority in considering the review may take such of the following steps:
- modification of the conditions of the premises licence
 - the exclusion of the sale of alcohol by retail (or other licensable activities) from the scope of the licence
 - removal of the designated premises supervisor from the licence
 - suspension of the licence for a period not exceeding 3 months
 - revoke the licence
- 19.7 The Licensing Authority may decide that no action is necessary if it finds that the review does not require it to take any steps necessary to promote the licensing objectives.

20.0 ADMINISTRATION EXERCISE AND DELEGATION OF FUNCTIONS

- 20.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Act 2003 Committee, by a Sub-Committee or, instead, by one or more officers acting under delegated authority.
- ~~20.2 The Licensing Authority recognises its responsibilities under The Equality Act 2010.~~
- 20.3 It is considered that many of the functions will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness these will, for the most part, be carried out by officers.
- 20.4 Where there are relevant representations applications will be dealt with by a Sub-Committee of the Licensing Act 2003 Committee, as will any application for the Review of a licence.
- 20.5 The Licensing Authority will expect individual applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 20.6 When determining applications, the Licensing Authority will have regard to any guidance issued under Section 182 of the Act. If representations are made concerning the potential for limited disturbance in a particular neighbourhood, the Licensing Authority's consideration will be balanced against the wider benefits to the community.
- 20.7 In the interests of speed, efficiency and cost effectiveness, the Licensing Authority have determined which decisions and functions should be carried out by the full Licensing Act 2003 Committee or delegated to a Sub-Committee or Council officer. Appendix A to this Statement of Licensing Policy sets out how the Council will approach and carry out its different functions.

21.0 PROMOTION OF EQUALITY

- 21.1 The Licensing Authority will undertake its functions and responsibilities in accordance with the requirements of The Equality Act 2010. **The Licensing Authority also recognises that the Equality Act 2010 places a legal obligation on public authorities to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation; to advance equality of opportunity and to foster good relations between persons of different protected characteristics. In determining applications under the Act the Licensing Authority will have regard to this duty which will be highlighted in Officers' reports to the Members of the Licensing Act Sub-Committee.**

DELEGATION OF FUNCTIONS

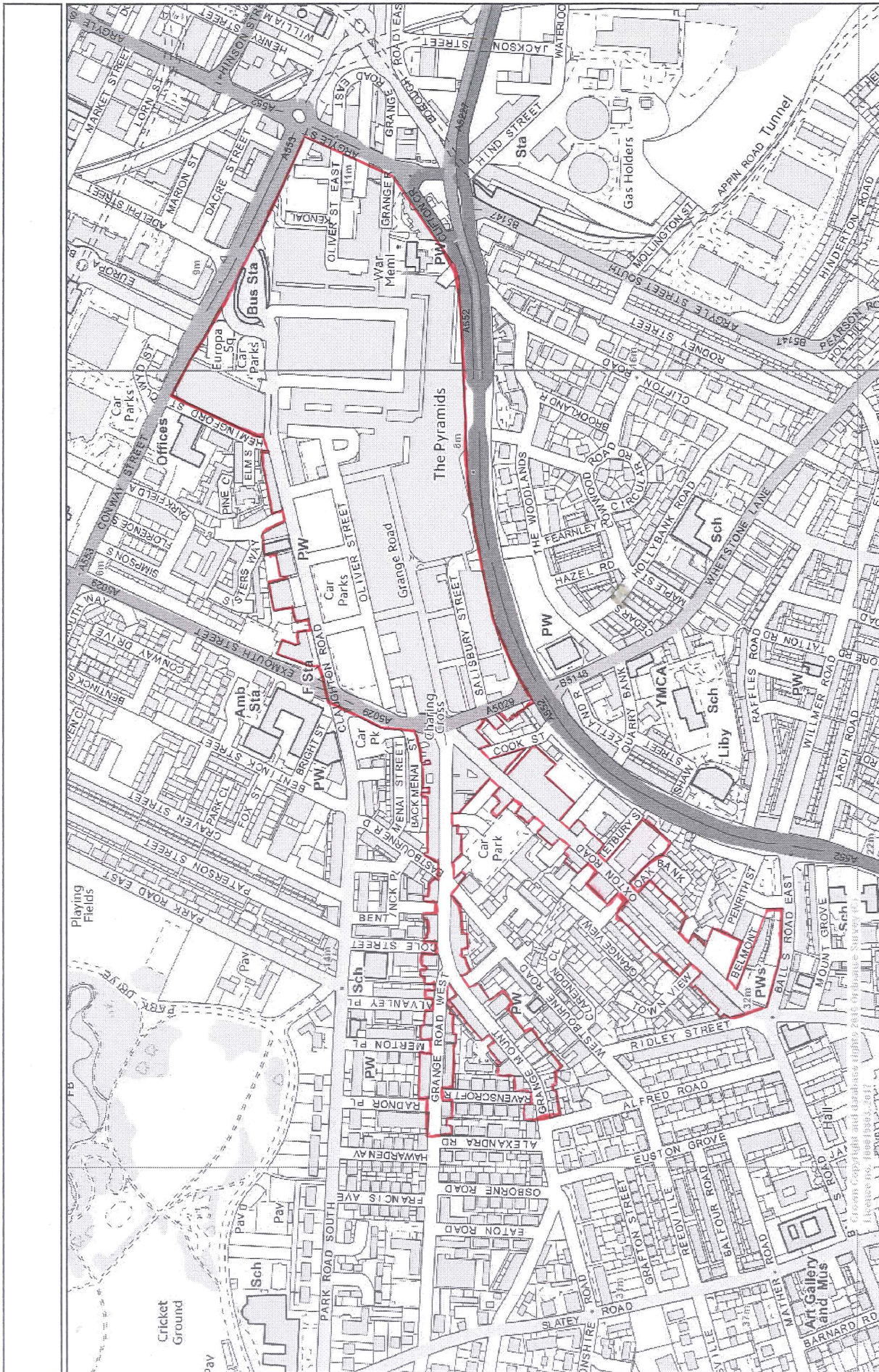
| Matters to be dealt with | Full Council | Licensing Act 2003 Sub-Committee | Officers |
|--|---------------------|---|------------------------------------|
| Application for personal licence | | If a police objection | If no objection made |
| Application for personal licence with unspent convictions | | All cases | |
| Application for premises licence/club premises certificate | | If a relevant representative made | If no relevant representation made |
| Application for provisional statement | | If a relevant representation made | If no relevant representation made |
| Application to vary premises licence/club premises certificate | | If a relevant representation made | If no relevant representation made |
| Application to vary designated premises supervisor | | If a police objection | All other cases |
| Request to be removed as designated premises supervisor | | | All cases |
| Application for transfer of premises licence | | If a police objection | All other cases |
| Application for interim authorities | | If a police objection | All other cases |
| Application to review premises licence/club premises certificate | | All cases | |

| Matters to be dealt with | Full Council | Licensing Act 2003 Sub-Committee | Officers |
|---|---------------------|---|-----------------|
| Decision on whether a complaint is irrelevant frivolous vexatious, etc. | | | All cases |
| Decision to object when local authority is a consultee and not the relevant authority considering the application | | All cases | |
| Determination of an Environmental Health / Police objection to a temporary event notice | | All cases | |
| Statement of Licensing Policy | All cases | | |
| Request for implementation of a Late Night Levy | All cases | | |
| Request for implementation of an Early Morning Restriction order | All cases | | |

LIST OF CONTACTS

| Name and Address | Email Address |
|---|--|
| Licensing Authority Town Hall PO Box 290 Brighton Street Wallasey CH27 9FQ | licensing@wirral.gov.uk |
| Merseyside Police HQ Licensing Unit Rose Hill 15 Cazneau Street Liverpool L3 3AN | licensing.unit@merseyside.police.uk |
| Environmental Health Town Hall PO Box 290 Brighton Street Wallasey CH27 9FQ | environmentalhealth@wirral.gov.uk |
| Planning Authority Development Control Town Hall PO Box 290 Brighton Street Wallasey CH27 9FQ | planningapplications@wirral.gov.uk |
| Wirral Safeguarding Children Partnership Town Hall PO Box 290 Brighton Street Wallasey CH27 9FQ | daverobbins@wirral.gov.uk |
| Trading Standards Town Hall PO Box 290 Brighton Street Wallasey CH27 9FQ | tradingstandards@wirral.gov.uk |

| | |
|--|---|
| <p>Merseyside Fire & Rescue Service Wirral District Fire Safety The Fire Station Mill Lane Wallasey CH44 5UE</p> | <p>WirralAdmin@merseyfire.gov.uk</p> |
| <p>Public Health Town Hall PO Box 290 Brighton Street Wallasey CH27 9FQ</p> | <p>garyrickwood@wirral.gov.uk</p> |
| <p>Home Office Alcohol Licensing Team Lunar House 40 Wellesley Road Croydon CR9 2BY</p> | <p>alcohol@homeoffice.gov.uk</p> |
| <p>Home Office Direct Communications Unit 2 Marsham Street London SW1P 4DF</p> | <p>AlcoholStrategy@homeoffice.gov.uk</p> |



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Scale 1/6609
 Centre = 331601 E 388480 N

Date 29/6/2017

Dept:

Section:

Phone:



Licensing Act Committee – Terms of Reference

The principal role of the Licensing Act Committee is to act as the administrative committee, acting under statutory delegation pursuant to the Licensing Act 2003, and responsible for making decisions as licensing authority under the Licensing Act 2003 and Gambling Act 2005.

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