

Licensing Committee Agenda



To: Councillor Robert Canning (Chair)
Councillor Pat Clouder (Vice-Chair) and Councillor Margaret Bird (Vice-Chair)
Councillors Chris Clark, Nina Degrads, Karen Jewitt, David Wood, Maddie Henson, Jan Buttinger, Andy Stranack, Robert Ward and Oni Oviri

Reserve Members: Joy Prince, Bernadette Khan, Stephen Mann, Alison Butler, Pat Ryan, Mike Bonello, Louis Carserides, Simon Brew, Richard Chatterjee, Sue Bennett, Badsha Quadir and Ola Kolade

A meeting of the **Licensing Committee** which you are hereby summoned to attend, will be held on **Tuesday, 23 November 2021** at in **Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX**.

KATHERINE KERSWELL
Chief Executive & Head of Paid Service
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Monday, 15 November 2021

Members of the public are welcome to watch the webcast both live and after the meeting has completed at <https://civico.net/croydon/13542-Licensing-Committee>

The agenda papers for all Council meetings are available on the Council website www.croydon.gov.uk/meetings

If you require any assistance, please contact Tariq Aniemeka-Bailey 020 8726 6000 x 64109 as detailed above.

AGENDA – PART A

1. Apologies for Absence

To receive any apologies for absence from any members of the Committee.

2. Minutes of the Previous Meeting (Pages 7 - 16)

To approve the minutes of the meeting held on Wednesday 14 July as an accurate record.

3. Minutes of previous Licensing Sub-Committee Meetings (Pages 17 - 34)

To approve as an accurate record the minutes of the meetings of the Licensing Sub-Committee since the last Licensing Committee:

- 15 July
- 22 July (To follow)
- 25 August
- 28 September

4. Urgent Business (if any)

To receive notice of any business not on the agenda which in the opinion of the Chair, by reason of special circumstances, be considered as a matter of urgency.

5. Disclosure of Interests

Members and co-opted Members of the Council are reminded that, in accordance with the Council's Code of Conduct and the statutory provisions of the Localism Act, they are required to consider in advance of each meeting whether they have a disclosable pecuniary interest (DPI), another registrable interest (ORI) or a non-registrable interest (NRI) in relation to any matter on the agenda. If advice is needed, Members should contact the Monitoring Officer in good time before the meeting.

If any Member or co-opted Member of the Council identifies a DPI or ORI which they have not already registered on the Council's register of interests or which requires updating, they should complete the disclosure form which can be obtained from Democratic Services at any time, copies of which will be available at the meeting for return to the Monitoring Officer.

Members and co-opted Members are required to disclose any DPIs and ORIs at the meeting.

- Where the matter relates to a DPI they may not participate in any discussion or vote on the matter and must not stay in the meeting unless granted a dispensation.
- Where the matter relates to an ORI they may not vote on the matter unless granted a dispensation.
- Where a Member or co-opted Member has an NRI which directly relates to their financial interest or wellbeing, or that of a relative or close associate, they must disclose the interest at the meeting, may not take part in any discussion or vote on the matter and must not stay in the meeting unless granted a dispensation. Where a matter affects the NRI of a Member or co-opted Member, section 9 of Appendix B of the Code of Conduct sets out the test which must be applied by the Member to decide whether disclosure is required.

The Chair will invite Members to make their disclosure orally at the commencement of Agenda item 3, to be recorded in the minutes.

6. Dangerous Wild Animals Act 1976 - Setting of Licence Fees (Pages 35 - 54)

The purpose of this report is to adopt a new fee structure which has been determined on the principle of cost recovery and for the Committee to delegate authority to the Director of Sustainable Communities to undertake reviews of fees and fee setting in addition to making decisions regarding the determination of applications, including decisions as to whether to vary or revoke any condition attached to a licence.

7. The Gambling Act 2005 - Review Of London Borough Of Croydon Statement Of Principles (Pages 55 - 110)

The purpose of this report is for the Committee to consider the revised Statement of Principles and recommend that the Statement of Principles be adopted by Full Council.

8. Exclusion of the Press and Public

The following motion is to be moved and seconded where it is proposed to exclude the press and public from the remainder of a meeting:

“That, under Section 100A(4) of the Local Government Act, 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information falling within those paragraphs indicated in Part 1 of Schedule 12A of the Local Government Act 1972, as amended.”

PART B

Licensing Committee

Meeting of Licensing Committee held on Wednesday, 14 July 2021 at 6.30 pm in Council Chamber, Town Hall, Katharine Street, Croydon CR0 1NX

This meeting was Webcast – and is available to view via the Council’s Web Site

MINUTES

Present: Councillor Robert Canning (Chair);
Councillor Pat Clouder (Vice-Chair) and Councillor Margaret Bird (Vice-Chair);
Councillors Nina Degrads, Karen Jewitt, David Wood, Maddie Henson,
Stephen Mann (In place of Chris Clark), Jan Buttinger, Andy Stranack,
Badsha Quadir and Robert Ward

Also Present: Jessica Stockton (Solicitor and Legal Advisor)
Michael Goddard (Head of Environment Health, Trading Standards and
Licensing)
Fiona Woodcock (Market and Street Trading Compliance Officer)
Michelle Ossei-Gerning (Democratic Services)
Tariq Aniemeka-Bailey (Democratic Services)

Apologies: Councillor Chris Clark. Councillor David Wood for lateness.

PART A

8/21 **Minutes of the Previous Meeting**

The minutes of the meeting held on Wednesday 17 March 2021 were agreed as an accurate record.

9/21 **Minutes of previous Licensing Sub-Committee Meetings**

The Committee **RESOLVED** to approve the minutes of the last Licensing Sub-Committee meetings held on Wednesday 24 March 2021, Thursday 29 April 2021 and Wednesday 23 June 2021 as an accurate record.

10/21 **Urgent Business (if any)**

There were no items of urgent business.

11/21 **Disclosure of Interests**

There were none.

12/21

London Local Authorities Act 1990: Application for Street Designation Order

The Committee was advised that the application to designate a section of public highway outside **288 London Road, CR0 2TG (Appendix A)** had been withdrawn by the applicant, and thus was not considered at the meeting.

The Committee considered the application to designate a section of public highway outside **228 London Road, CR0 2FT (Appendix B)**.

The Licensing Manager introduced the item, explaining the process of designation for street trading and applying for street trading licences and the details of the application before the Committee. The Committee was informed that the application had been sent to responsible authorities and advertised in the local press; no representations had been received.

The section of highway in question was Croydon Council maintained.

The Applicant was not present to make a representation.

In response to questions from the Committee, the licensing manager advised that the application site fell within the saturation area of the Council's street trading policy.

The Committee discussed their concerns around the storage and removal of the display cages after 11pm from the highway which would create noise and disturb neighbouring residents who resided above the shop. As the applicant was not present, the concerns were not addressed. The Committee were not satisfied, on the basis of the information before them that the applicant would be able to adhere to the requirements for street trading.

The Committee were asked to indicate whether they were in favour of granting a street designation order for the site applied for and none were in favour. The Committee were then asked whether they were in favour of refusal and this was carried with all twelve Members unanimously voting in favour of refusal.

The Committee **RESOLVED**:

1. To refuse to designate 228 London Road for the purposes of street trading and accordingly the Committee did not consider whether or not to grant a Street Trading License to the Applicant.

London Local Authorities Act 1990: Review of Trading Pitch Licence Fees - Surrey Street

Officers spoke to the report on the trading pitch licence fees of Surrey Street and highlighted the proposal to increase the fees. In summary, officers informed the Committee that the Council was entitled to calculate fees so that the estimated income for the year covered the estimated costs to the Council of providing the service. The current fees were set in 2006. It was estimated that the additional income from the revised fees would be sufficient to balance the current costs of the council providing street trading services.

Officers informed the Committee that the new fee proposed is £95 per week per trading pitch where the pitch measured 3m x 3m for permanent annual licence holders trading six days a week, Monday to Saturday; £10 per day per trading pitch measuring at 3m x 3m for the first four weeks of trading for new casual (start-up) temporary licence holders; and £20 per day per trading pitch, measuring 3m x 3m, after the first four weeks of trading for casual temporary licence holders. For a permanent and any casual temporary licence holder to trade on a Sunday it would cost £20 per day.

Officers explained that under the London Local Authorities Act 1990 a street trading licence issued by the Council is required to display goods for sale or to supply a service for gain, such as the placing of tables and chairs on the public highway. The current fixed fee in Surrey Street for an annual street trading licence to trade Monday to Saturday from a fixed pitch of 3m x 3m was £75.10. In addition, casual traders are charged £10 per day for the first four weeks and £15 per day thereafter. Temporary street trading licences were also available to permanent and casual traders to trade on Sunday at £15 per day.

Officers further informed the Committee of the statutory consultation process that had been followed by the Council in accordance with the London Local Authorities Act 1990 to give notice of the proposed new fees. It was noted that the permanent traders were predominantly of fresh fruit and vegetables, and were issued with an annual street trading licence. In more recent years, there were a number of hot food vendors trading on Surrey Street, who operated as casual traders and under temporary licences.

The Act allows the local authority to charge such fees for the grant or renewal of a street trading licence or for the grant of a temporary licence so that the fees are sufficient in aggregate to cover in whole or in part the reasonable administrative or other costs to the Council in connection with their functions under the Act. Other costs may include enforcement and compliance, the cleansing of streets in which street trading takes place and the collection and disposal of refuse.

Officers informed the Committee that there were sixty-seven available trading pitches with currently seventeen permanent licence holders trading over thirty-six and a half pitches, and eight casual traders who trade for an average of

three days a week. There were a small number of casual traders who traded on a more occasional basis.

Members' attention was drawn to Appendix 3 of the report which set out the comments received in response to the statutory notice and consultation. Two comments were received during the statutory consultation period and the points raised by both respondees were addressed in the report to the Committee.

Market traders had been able to continue trading for selling food throughout the pandemic as they were classed as essential retail.

Committee Members welcomed the report presented by officers.

A Member of the Committee queried the sixty-seven pitches that were available, as there were seventeen permanent traders and eight casuals that did not fill the Surrey Street area. The Member was concerned that the increase in fees may put traders off from doing business at Surrey Street; although the Member was in favour that fees should increase as the last increase was in 2006.

There was a discussion around the hard times traders experienced during the pandemic and it was desired for more people to be encouraged to conduct business on Surrey Street. Further questions were raised by Members around the administration and enforcement compliance and costs to the Council and the issues around parked cars affecting trading.

Officers clarified that the seventeen permanent traders covered over thirty-six pitches and a half of pitches traded three days or more per week. Traders had also been classed as essential retailers and able to continue to trade during the pandemic. In relation to the enforcement and compliance for parking, Members were informed that officers were present at Surrey Street daily to ensure trader compliance with trading conditions and other matters such as dealing with disputes, complaints and resolving matters that troubled traders.. The parked vehicles were not the problem they were 20 years ago with access to Surrey Street being much more controlled now and enforced by cameras. The camera enforcement was very successful and it was rare for vehicles to be left overnight, though infrequently there were issues around Christmas.

In relation to questions raised around the financial risk assessment in the report over the next three years and whether the rise in fees could be introduced incrementally, officers clarified that the finance section in the report was forecasted only and that the main focus was the current shortfall in terms of fees income versus how much it would cost to deliver services to traders. Whilst fees needed to increase in full now to meet all of the costs currently being incurred by the Council, it was noted that fees may increase or decrease in the future.

In relation to questions around the number of stallholders pre-pandemic and post-pandemic and the types of stalls provided, officers informed Members that the permanent or established traders (such as the fruit and vegetables stalls) had either one or one and a half or more pitches and had been trading throughout the pandemic. The fish stalls had also been trading through the pandemic though the flower stall had stopped trading over the past year. There were a number of free pitches where officers were hopeful that all traders would return. There was also a growth in hot food vendors.

Some Members had concerns around the timing of the request to raise fees given that there had been a global pandemic and it has been a particularly difficult time for traders during the previous year.

One Member raised concerns about the possible loss of ethnic diversity on Surrey Street and the wider economic impact on traders from the increase of fees at this particular time. Whilst this would benefit the Council financially, it may reduce the number of businesses on Surrey Street and therefore risk having to increase fees again to cover the lost income from businesses who had left.

Officers recognised that businesses had struggled during the pandemic, but noted that the traders were classed as essential retail and had continued to trade. Information on the grants available to them was provided where they had been impacted by covid.

A Member asked what work had been undertaken to reduce the cost of the waste contract. It was noted that the waste charges were part of the wider waste contract and the sums included in the report were only the costs for cleansing and removal of the Surrey Street waste. The new fees which traders would pay was licensed fees that included enforcement, refuse collection removal of waste and cleansing, which was required for what was serviced. The Chair noted that the Cabinet Member for Resources and Financial Governance is reviewing a range of contracts to ensure that the Council is getting good value for money.

In response to a question around comparative costs for markets across London, officers confirmed that fees were based on the actual costs of the service being provided and not in comparison to the fees levied by other local authorities. The fees levied were to cover the costs incurred. These could vary between councils.

In response to questions relating to the nature of the review of fees and what had triggered a review of fees and how traders received the consultation documents (as there were concerns as to the reliability of the postal system during covid), officers confirmed to Members that the fees had not increased since 2006, though the costs of providing services had. The decision to review the fees was therefore made and it was clear that the costs of service had exceeded the Council's income and therefore the proposal before Members was to raise the fees so the Council's financial situation in Surrey Street was balanced.

Further, Members were reminded that as part of the Croydon Renewal Plan the Council was to review all fees and charges across the Council to ensure that the Council was recovering the full costs of the services it was providing in order to balance its budget. The consultation documents were sent to all traders electronically and instantly received and the fact that two responses to the consultation were submitted showed that traders were aware of the consultation.

There were comments raised by Members on the detrimental impact of raising the fees for the casual and smaller traders or temporary traders. Other comments acknowledged that the fees had not increased since 2006 whilst costs to the council had; and though the new fees may seem reasonable, there was concern for the affect the pandemic has had on trading and hitting traders with a large increase in fees in one go. There was also uncertainty around what trading in Surrey Street would look like in the future.

The Chair summarised that there was never a good time to increase fees but a sizeable increase after a pandemic was not helpful to the market traders. However, the increase in fees was about removal of what is essentially a subsidy which the traders have enjoyed since 2006 and which the Council can no longer afford.. The Chair also suggested that, going forward, officers should review the fees on a more frequent basis.

The Committee was referred to the recommendations in the report and the vote to approve the recommendations, was carried with eight Members voting in favour, three Members voting against and one Member abstained their vote.

The Committee **RESOLVED** to:

- 1.1. Consider the comments received in response to the giving of notice of the proposed new fees.
- 1.2. Determine that for the reasons detailed in paragraphs 4.2 & 4.3, the revised fees for trading pitch licenses on Surrey Street as set out below be adopted and agree the giving of public notice for these to be brought into effect on 1 August 2021:
 - £95 per week per trading pitch measuring 3m x 3m for permanent annual licence holders trading six days a week Monday to Saturday
 - £10 per day per trading pitch measuring 3m x 3m for the first four weeks of trading for new casual (start-up) temporary licence holders
 - £20 per day per trading pitch measuring 3m x 3m after the first four weeks of trading for casual temporary licence holders including Sunday (this would also apply to any permanent licence holders who wish to apply for a temporary licence to trade on a Sunday).

Pavement Licensing - The Business and Planning Act 2020

Officers spoke to the report highlighting that the hospitality sector was heavily affected by the pandemic, where businesses such as cafés, pubs and restaurants were required to close. The Business and Planning Act 2020 enabled the hospitality sector with furniture, such as table and chairs, to serve on the public highway once covid restrictions started to be eased and the hospitality sector re-opened. This Act was temporary legislation until 30 September 2021, at a maximum fixed price of £100 per licence.

Officers reminded the Committee that though there had been an easing of lockdown restrictions, the hospitality sector was still affected and thus the government had extended The Business and Planning Act 2020 legislation until 30 September 2022.

The legislation enabled businesses within the hospitality sectors to apply for a pavement licence, and for a delegation to be put in place so that the requirements of the legislation could be met.

The Chair welcomed the report and advised that the Committee was being asked to agree the recommendations presented.

Members asked questions relating to the uptake thus far, and whether pavement licensing would merge into permanent street trading at the end of the temporary pavement licence scheme. Officers clarified that pavement licensing was under the Business and Planning Act 2020, which was a completely separate statutory regime from the street trading licenses, which was considered under the London Local Authorities Act 1990 and had different requirements and considerations.

Further, officers confirmed that should the legislation not be extended beyond September 2022 it would mean businesses would have no permit for a pavement licence and their licence would expire after that date. The service would ensure that all the businesses were advised of the end of their licence and that they are required to apply for a permanent street trading licence under the London Local Authorities Act in advance should they desire to continue providing services on the pavements after the Business and Planning Act 2020 had expired. Additionally, the enforcement team would intervene to ensure that businesses adhered to their licence.

Members noted the difficulties the hospitality industry has had where some businesses' solution to mitigating the risks of covid was to have tables and chairs outside their establishment having not done so before. Members asked questions relating to the implications of businesses taking advantage if the local authority failed to determine an application within the set time period in the legislation and how applications would be handled in saturation areas.

Officers informed the Committee that they had currently issued forty-eight businesses with the current extension that had been available for the last nine months. There was no expectancy of an increase in numbers of applications

as the licence was extending what businesses currently have for another year. The service was up to date with all applications that had requested an extension. Saturation areas were not applicable under the Business and Planning Act. Saturation areas only relate to street trading designations made under the London Local Authorities Act which is a different piece of legislation.

Members said that they would be interested to hear at a subsequent meeting how services would work with traders when the temporary legislation came to an end, as there were concerns around possible difficulties for hospitality businesses that will have become used to trading on the public highway.

The proposed recommendations were put to the vote and carried with all twelve Members unanimously voting in favour.

The Committee **RESOLVED** to:

- 1.1. Delegate authority to the Interim Executive Director Place to do all things necessary to extend and continue to implement and operate the pavement licensing arrangements under the Business and Planning Act 2020, as amended, including but not limited to the determination of standard conditions which apply, determining applications, revocation of licenses and authorising officers to enforce and exercise these functions.
- 1.2. Set the fee for an application for a pavement licence at £100, which is the maximum fee permitted under the legislation for these licenses, such licenses to be granted for a period up to and including 30 September 2022.

15/21 **Update of Proposed Training for Licensing Committee**

The Committee discussed the training sessions available for Members. The Chair acknowledged that there were new members and returning members sitting on the Committee and the required training was proposed to be completed by all Members before the next Committee meeting scheduled for Wednesday 15 September 2021.

Officers informed that it was important that Members were trained specifically for the Licensing Sub-Committee on the Licensing Act and the Gambling Act and were looking into appropriate providers for training.

There was a request from the Chair to have briefing on the Safety Advisory Group (SAG) where there were licensable activities such as major events, and whether Members were interested in understanding the way in which SAG worked regarding health and safety, and the planning and management of events in parks, for reassurance when considering applications on the Licensing Sub-Committees. Members of the Committee were in favour of the SAG briefing.

.....
It was therefore concluded that mandatory training would be scheduled and provided to all Members with a separate additional briefing of the work of the Safety Advisory Group open to all Committee Members and other Ward Members if of interest.

16/21 **Exclusion of the Press and Public**

This was not required.

The meeting ended at 8.15 pm

Signed:

Date:

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Licensing Sub-Committee

Meeting held on Wednesday, 15 July 2021 at 10.30 am. This meeting was held remotely. To view the meeting, please use this link –

Present: Councillor Robert Canning (Chair)
Councillors Pat Clouder & Margaret Bird

Also Present: Michael Goddard (Head of Environmental Health, Trading Standards and Licensing); Nicola Thoday (Corporate Lawyer); Eddie Adjei (Senior Pollution Enforcement Officer); Cliona May (Democratic Services Officer); Tariq Aniemeka-Bailey (Trainee Democratic Services Officer).

PART A

Appointment of Chair

Councillor Pat Clouder nominated Councillor Robert Canning as Chair and Councillor Margaret Bird seconded the motion.

The Sub-Committee **RESOLVED** to appoint Councillor Robert Canning as Chair for the duration of the meeting of the Sub-Committee.

Disclosure of Interest

There were none.

Urgent Business (if any)

There were no items of urgent business.

LICENSING ACT 2003 - Temporary Event Notice subject to Police & Pollution Team (EH) Objection Notices

The recording of this meeting can be viewed by clicking here.

The Licensing Sub-Committee considered the Objection Notices in respect of a Temporary Event Notice given by Mr Owen Baker for **Thornton Heath Recreation Ground**. The Sub-Committee, have made their decision with reference to the licensing objectives under the Licensing Act 2003, the Statutory s182 Guidance and the Council Licensing Policy.

The Sub-Committee also considered the verbal representations made at the virtual hearing by Mr Baker and the Objectors.

Reasons for the Sub-Committee's decision

The Sub-Committee took into account the following reasons when making their decision:

1. The information provided in the Temporary Event Notice did not correspond in full with the information in the flyer for the event, or with what Mr Baker told the Sub-Committee during the hearing in relation to licensable activities.
2. The Metropolitan Police and the council's Pollution Team (Environmental Health) had both submitted an 'objection notice'. These objection notices were not withdrawn in advance of, or during, the Sub-Committee hearing.
3. Mr Baker told the Sub-Committee that both the Police and the Pollution Team had not contacted him about their objection notices in advance of the Sub-Committee hearing. During the hearing it emerged that Mr Baker had spoken to both parties. The Sub-Committee was satisfied that both parties made reasonable, successful and timely efforts to contact Mr Baker to discuss with him their grounds for objecting ahead of the hearing.
4. No Event Management and Operating Plan, or any other written document setting out how the event would be managed, had been prepared. Based on the evidence presented to the Sub-Committee, the Sub-Committee was of the view that inadequate thought and planning has been given to meeting the four licensing objectives in relation to:
 - a) Noise management (the premises was surrounded by residential dwellings and the council has received complaints about noise from events at this recreation ground in the past). Whilst Mr Baker told the Sub-Committee that he would monitor noise levels, not play amplified music and would stop the music at 7:30 to 8pm, the Sub-Committee was of the view that inadequate arrangements have been put in place for managing noise and that the absence of tangible and written proposals for managing and mitigating noise would undermine the Prevention of Public Nuisance licensing objective.
 - b) Entry policy, security and stewarding (including arrangements for ensuring that alcohol, weapons and drugs are not brought on to the premises). Whilst Mr Baker told the Committee during the hearing that he would provide security and 14 stewards, the Sub-Committee was not convinced based on the evidence presented that this and wider security planning will meet the licensing conditions relating to Public Safety and the Prevention of Crime and Disorder. The Sub-Committee felt that more detail was needed.
 - c) The provision of medical support/first aid (Mr Baker told the Sub-Committee that this would be provided by a local nurse and local people although the map of the event area submitted as part of the Temporary Event Notice does not contain a designated first aid area).
 - d) Child safeguarding and protection (the Sub-Committee was concerned about the potential for accidents). This was another area where more detail was needed if the Sub-Committee was to be satisfied that the event met the licensing objective around the protection of children from harm.
 - e) Crowd management (The Temporary Event Notice said that the event would be for up to 200 people at any one time but no information was provided on

how crowds larger than this would be managed). Mr Baker told the Sub-Committee that the planned event was a family fun day but was unable to say how admission to the event would be controlled. The Sub-Committee noted that there was no arrangement for crowd dispersal assuming that the event did finish at 9pm as specified in the application rather than “till late” as specified on the event flyer.

f) The Sub-Committee was not convinced that satisfactory arrangements had been put in place for collecting rubbish and litter from the premises once the proposed event was over (Mr Baker told the Sub-Committee that local residents would do the cleaning up rather than use a professional waste collection service or trained litter-pickers to guarantee that the premises would be cleaned to a good standard).

g) No Event Risk Assessment seemed to have been prepared.

5. The Sub-Committee acknowledged the community-spirited nature of Mr Baker and the desire to hold a family fun day to mark the coming out of Covid lockdown. The Sub-Committee also noted that Mr Baker had been organising events such as the one proposed here over the last 15 years. The Sub-Committee further noted that Mr Baker agreed to amend his proposal to prepare an Event Management and Operating Plan.

To conclude, the Sub-Committee considered this case on its merits and found that there was not enough evidence (from either the written or verbal representations) to show an understanding of upholding the Licensing Objectives. For example regarding preventing public nuisance to others, the local people may not have wanted to attend the event or hear the music.

The Sub-Committee was of the view that the TEN did not sufficiently address the issues relating to the prevention of crime and disorder, prevention of public nuisance, public safety and the protection of children from harm and therefore the Sub-Committee **DECIDED** that **the event would undermine the Licensing Objectives and should not take place**. Therefore Mr Baker should be **issued with a Counter Notice** on the basis that the proposed Family Fun Day on 25 July did not promote the Licencing Objectives.

The Sub-Committee wanted to take the opportunity to thank the applicant and the objectors for their valuable contributions to the meeting.

Exclusion of the Press and Public

This item was not required.

The meeting ended at 11:54am

Signed:

Date:

Licensing Sub-Committee

Meeting held on Thursday, 25 August 2021 at 10.30 am. This meeting was held remotely. To view the meeting, please use this link –

Present: Councillor Pat Clouder (Chair)
Councillors Maddie Henson & Margaret Bird

Also Present: Councillor Patsy Cummings; Michael Goddard (Head of Environmental Health, Trading Standards and Licensing); Jessica Stockton (Corporate Lawyer); Michelle Gerning (Democratic Services Officer); Tariq Aniemeka-Bailey (Trainee Democratic Services Officer).

PART A

Appointment of Chair

Councillor Maddie Henson nominated Councillor Pat Clouder as Chair and Councillor Margaret Bird seconded the motion.

The Sub-Committee **RESOLVED** to appoint Councillor Pat Clouder as Chair for the duration of the meeting of the Sub-Committee.

Disclosure of Interest

There were none.

Urgent Business (if any)

There were no items of urgent business.

Licensing Act 2003 - Application For a Premises Licence at 17 Portland Road, South Norwood, SE25

The recording of this meeting can be view by clicking [here](#).

Following the item being heard the Licensing Sub-Committee's decision was:

The Licensing Sub-Committee considered the Application for a Premises Licence at **Seafood Den Ltd 17 Portland Road, South Norwood, SE25 4UF** and the representations received as contained in the report of the Executive Director 'Place' and the additional documentary evidence submitted by the Applicant and Parties to the hearing prior to the hearing and incorporated in the supplementary information published as an addendum to the report and videos considered by the Sub-Committee in private session.

The Sub-Committee also considered the representations made by the Applicant and the objectors and their representatives during the hearing.

The Sub-Committee, having reference to the licensing objectives under the Licensing Act 2003 and the Council Licensing Policy, **RESOLVED to REFUSE** the application in respect of Sale of Alcohol on the premises, recorded music and performance of dance but **RESOLVED to GRANT** the application in respect of Sale of Alcohol off the premises subject to conditions detailed below on the basis that the Sub-Committee were satisfied that it would be appropriate to promote the licensing objectives to do so. The Sub-Committee considered that the objectives of the prevention of public nuisance and protection of children from harm were particularly relevant in relation to the consideration of the matter.

The reasons of the Sub-Committee were as follows:

1. The Sub-Committee noted that the premises were situated on the A215 in a small parade of shops with residential premises above and were surrounded by residential premises and a primary school to the rear of the premises. There were also a small parade of shops on the other side of the road, also with residential premises above them.
2. The Sub-Committee noted, as provided in paragraph 2.22 of the Statutory Guidance that the protection of children from harm included the protection of children from moral, psychological and physical harm. This included not only the protection of children from the harms associated directly with alcohol consumption but also wider harms such as exposure to strong language and sexual expletives.
3. In respect of Prevention of Public Nuisance, the Sub-Committee noted the importance of focussing on the effect of the licensable activities at the specific premises on persons living and working (including those carrying on business) in the area around the premises which may be disproportionate and unreasonable, as is suggested by the Statutory Guidance.

4. The Sub-Committee were aware, and had reference to the Statutory Guidance which provided that, beyond the immediate area surrounding the premises, these are matters for the personal responsibility of individuals under the law. An individual who engaged in antisocial behaviour was accountable in their own right. However, it would be perfectly reasonable for a licensing authority to impose a condition, following relevant representations, which required the licence holder to place signs at the exits from the building which would encourage patrons to be quiet until they left the area, and to respect the rights of people who lived nearby to a peaceful night. The Sub-Committee noted that the Applicant had already offered, as part of the proposed conditions to have such conditions on the license if granted.

5. The Sub-Committee noted from the Applicant's evidence that he had operated the venue since February 2019 and his concerns that there was a historic presumption that noise nuisance emanated from the premises and that this was now being attributed to him despite his view that his premises was not responsible for public nuisance in the area. In this regard, the Applicant submitted 7 short videos which were said to have been made between 9th and 19th of June 2021 to illustrate noise coming from elsewhere. In contrast, the Sub-Committee noted that the evidence presented on behalf of the Police was that there had been an intensification of complaints and police intervention at the premises over the past year or so, particularly from July 2020 as more specifically detailed in their supporting statements and representations. The Sub-Committee also noted that the representations from the pollution team related to instances of noise complaints, noise nuisance and statutory nuisance over the period from June 2019 to date, which included a finding of statutory nuisance and service of an abatement order in relation to the premises, which was not challenged by the Applicant and which remained in effect. The ward councillor speaking on behalf of residents was also clear that the noise nuisance which had been described was emanating from the premises in question, whilst acknowledging that there were other anti-social behaviour issues which arose in the area. The Sub-Committee were sympathetic to the fact that there were reported antisocial behaviour

concerns regarding the area, however they were not persuaded, against the background of the contrary evidence presented, that the noise nuisance complained of – including loud music, swearing, DJ commentary and sexually explicit lyrics, noise from large groups of people, vibrations in their homes from the music noise - were not attributable to the premises under the control of the Applicant.

6. The Sub-Committee were very concerned about the descriptions given by the residents as detailed in the representations by the Ward Councillor and impact statement from the police regarding the detrimental impact the noise nuisance was having on residents, including those with families and young children - the impact on among other things, sleep, ability to work and attend school and curtailment of family time and rest due to the noise, some even going so far as to say that they tried to avoid being in their own homes or felt as if they were prisoners in their own homes as a result. The Sub-Committee were also concerned about the fact that none of the affected residents wished to be named or to make representations other than via their ward Councillor and the police impact statement due to fear of reprisals. The Sub-Committee noted that the noise nuisance complained of was such that on occasions it had reportedly drowned out the sound of children playing at the school which backs onto the premises.
7. The Sub-Committee considered that the noise nuisance complained of and the impacts thereof on local residents, jeopardised the licensing objective of prevention of public nuisance and accordingly considered what options might be appropriate in order to promote the prevention of public nuisance.
8. In the first instance, the Sub-Committee considered whether it would be appropriate to impose conditions in order to address the concerns. The Sub-committee took into account the provisions within the Statutory Guidance at paragraph 9.44 regarding the imposition of conditions and noted that determination of whether an action or step is appropriate for the promotion of the licensing objectives requires an assessment of what action or step would be suitable to achieve that end. While this did not therefore require a licensing

authority to decide that no lesser step would achieve the aim, the authority should aim to consider the potential burden that the condition would impose on the premises licence holder (such as the financial burden due to restrictions) as well as the potential benefit in terms of the promotion of the licensing objectives. The above referenced paragraph also suggests that the licensing authority should consider wider issues such as other conditions already in place to mitigate potential negative impact on the promotion of the licensing objectives and the track record of the business.

9. The Applicant had submitted in his application that he wished to simply play background music indoors but that he also wished to apply for performance of dance both indoors and outdoors. The applicant had indicated, as part of the proposed conditions, that there be no DJ and no regulated entertainment at the premises. The Applicant also stated that he has not played music outdoors and that the speakers he uses were small and the maximum volume was not loud. Whilst the Sub-Committee appreciated the suggested conditions and restrictions by the Applicant in the application, the Sub-Committee were concerned as to the willingness or ability of the Applicant to comply with conditions imposed in this regard in light of previous interactions with Police and the Pollution team, both of whom had engaged in a number of attempts to ensure that the Applicant was working with the responsible authorities and ensuring the prevention of public nuisance in how he was running his premises but that this had not lead to an improvement of the situation as issues had continued to arise. In particular the Sub-Committee noted that:

- The Council's pollution team had to attend several times at the premises for example on 2 July 2019 following which the premises was warned about the loud music but this was followed by a further instance not even two days later – 4 July 2019 – when the duty officer again had to give a warning about loud music. On 17 July 2019, following noise complaints a warning letter was sent to the premises and three days later there was another loud party which required the duty officers' attendance twice when the first warning wasn't adhered to

and the music turned up again after the duty officers' departure. Following easing of restrictions post national lockdown, a statutory nuisance was observed by an officer by virtue of the loud music and an abatement notice served on 21 July 2020. A contravention of this took place on 25 August 2020 and a contravention letter was sent to the applicant. Officer attendance was again required due to loud noise at the premises on 2 September 2020. Further officer attendance took place on 22 July 2021. The Pollution team statement also detailed a number of further instances of complaints received where officers did not attend.

- The Applicant was notified in writing on 23 July 2020 that there was no premises license in place and there was therefore no authority to provide regulated entertainment at the premises nor was there authority to sell alcohol. Despite this, on 25 July 2020 Police were called to attend an event at the premises due to the loud music where a party of 25-30 people was in progress and alcohol was being sold by the Applicant despite not having a license to do so. This was reported to have been preceded by similar events over the previous three Saturdays. A month later police again had to attend the premises due to noise complaints where a "silent" disco was taking place. The Applicant had not applied for a license for the premises under the Licensing Act 2003, nor had he applied for a temporary event notice for the event. The Police evidence makes clear that this was also contrary to Covid restrictions in place at that time as it was a gathering of 50-60 people and at that point in time it was only permissible for people to meet as two households or 6 people from different households. During October 2020 the South Norwood Neighbourhood Safety Team was required to attend the premises due to breaches of Covid regulations regarding closure of premises by 22h00. During the second and third national lockdown – December 2020- April 2021, the police received no complaints about noise or antisocial behaviour. Following receipt of the first application by the Applicant, the Police Licensing Team and Ward Sergeant for South Norwood attended the premises on 28 May 2021 to continue to discuss how the premises could operate lawfully and in

compliance with the licensing objectives and detailed the concerns about noise nuisance and anti-social behaviour associated with the premises. The next day and over the bank holiday weekend 29-31 May 2021 the police received several complaints about over 100 people being on the premises and causing a noise nuisance. There was a DJ in attendance and was advertising that such events would take place “every weekend”. The police state that this was again an unlicensed music event and in breach of Covid regulations which were in place at the time. On 27 and 28 June 2021 a clubbing event was advertised at the premises at a point in time when nightclubs could not legally be open due to Covid restrictions. The Sub-Committee noted that the Applicant indicated that the premises had been hired out for a private event and that he had not placed the adverts, however the Applicant remained responsible for what occurs at his premises and for ensuring that any person hiring the venue does so in an appropriate manner.

In light of the above, the Sub-Committee were not satisfied that the imposition of conditions would be an appropriate means of ensuring the promotion of the licensing objective of prevention of public nuisance either in relation to the proposed recorded music or the performance of dance. In addition, the sub-committee were not satisfied that the imposition of conditions would support the objective of prevention of children from harm in the current circumstances in relation to the proposed recorded music or the performance of dance.

10. The Sub-Committee noted, in regard to the deregulation of recorded music in certain circumstances, that any conditions added on a determination of an application for a premises licence which related to live music or recorded music were effectively suspended between the hours of 08.00 and 23.00 on the same day where the following conditions are met: a. at the time of the music entertainment, the premises were open for the purposes of being used for the sale or supply of alcohol for consumption on the premises; b. if the music was amplified, it had to take place before an audience of no more than 500 people; and c. the music had to take place between 08.00 and 23.00 on the same day. The premises license application sought hours for sale of

alcohol on and off the premises between 12.00 and 23.00 seven days a week and therefore controlling noise nuisance arising from recorded music at the premises would not come within the purview of conditions during the hours the applicant proposed to operate if a license for on sales were in effect. Whilst the Sub-Committee were aware of the provisions of Section 177A of the Licensing Act 2003 which allowed for the imposition of conditions pertaining to music which would ordinarily be de-regulated, the powers under Section 177A would only arise in the event that the Sub-Committee is considering a review, which was not of assistance to the Sub-Committee in the current circumstances.

11. The Sub-Committee, then went on to consider whether they could permit certain activities applied for, whilst removing certain activities from the any license granted for the premises. The Sub-Committee observed that if the sub-committee were to grant a license for on sales (sales of alcohol on the premises) then the applicant would be permitted to play recorded music at the premises between 0800 and 2300 as a result. If the premises were licensed for off sales only, that would not be the case. The Sub-Committee were very concerned about the consequences of on sales in this regard given the history of issues at the premises in relation to noise and the ongoing need for police and pollution team involvement as a result of a lack of improvement in this regard. The Sub-Committee were also mindful of the extensive detrimental impact which residents have described which arose at a point in which the premises were not even authorised to play recorded music, provide performances of dance or for sales of alcohol on or off the premises.
12. The Sub-Committee noted that the Applicant was both the owner of the business and proposed to be Designated Premises Supervisor (“DPS”) should the premises be authorised for the sale of alcohol. The DPS was the key person who would usually be responsible for the day to day management of the premises, including the promotion of the licensing objectives. The Sub-Committee had regard to the number of police interventions and the numerous instances of involvement from the Council’s pollution team, including in relation to statutory nuisance and abatement notice at the

premises whilst the Applicant was in charge, alleged breaches of Covid-Regulations, and alleged breaches of Licensing Act 2003 requirements detailed by the police and the extensive concerns raised by residents via their ward councillor.

13. The Sub-Committee noted that the Applicant had successfully applied for a Personal License and whilst they did not have confidence in the track record of the premises in relation to activities which could potentially exacerbate ongoing noise nuisance issues which featured so prominently in the representations – the activities of sale of alcohol on the premises, recorded music or performance of dance – the Sub-Committee considered that it could permit sale of alcohol off the premises as applied for without detrimentally impacting on the promotion of the Licensing Objectives provided that the conditions proposed by the applicant and those imposed by the committee were adhered to. The Sub-Committee noted that it had not received any representations to indicate that the provision for off sales specifically would impact detrimentally on the promotion of the Licensing Objectives. Whilst the Sub-Committee were aware that the area in which the premises was situated was within what the Council's Statement of Licensing Policy terms a "special stress area", where concerns had arisen about the number of premises authorised for off sales, the Sub-Committee was clear that the Council had not adopted a cumulative impact policy in relation to the area and furthermore that the Applicant had stated that off sales would be made via deliveries by their delivery partners such as Uber eats and Just Eat and that this could be made a condition to such sales. The Sub-Committee also noted that the Applicant had proposed conditions in Appendix A2 to sales of alcohol generally (conditions 3-10, 15-17, 19-23) and off sales in particular (conditions 22 & 23) and had agreed conditions with the trading standards team, as detailed at Appendix A3 which would apply to such off sales if this part of the application were granted.

14. In light of the above, the Sub-Committee considered that in addition to the conditions offered by the applicant which relate to sales of alcohol generally and off sales in particular, including those at Appendix A2 and A3 to the

report, the following condition would be applied to the sale of alcohol off the premises to cover the Applicant's undertaking that off sales would only be made via delivery partners:

"There shall be no sale by retail of alcohol for consumption on the premises. Any sale by retail of alcohol for consumption off the premises shall only be made via delivery services"

15. The Sub-Committee wished to thank all participants for the manner in which they engaged with and supported the hearing in providing information to allow the Sub-Committee's consideration.

Exclusion of the Press and Public

This item was not required.

The meeting ended at 12:58pm

Signed:

Date:

Licensing Sub-Committee

Meeting held on Thursday, 28 September 2021 at 10.30 am. This meeting was held remotely.

Present: Councillor Robert Canning (Chair)
Councillors Karen Jewitt & Margaret Bird

Also Present: Michael Goddard (Head of Environmental Health, Trading Standards and Licensing); Nicola Thoday (Corporate Lawyer); Eddie Adjei (Senior Pollution Enforcement Officer); Joe Mesure (Pollution Enforcement Officer); Stanley Mushawatu (Pollution Enforcement Officer); Tariq Aniemeka-Bailey (Trainee Democratic Services Officer).

PART A

Appointment of Chair

Councillor Karen Jewitt nominated Councillor Robert Canning as Chair and Councillor Margaret Bird seconded the motion.

The Sub-Committee **RESOLVED** to appoint Councillor Robert Canning as Chair for the duration of the meeting of the Sub-Committee.

Disclosure of Interest

There were none.

Urgent Business (if any)

There were no items of urgent business.

LICENSING ACT 2003 - Temporary Event Notice subject to Pollution Team (EH) Objection Notice

The Sub-Committee also considered the verbal representations made at the virtual hearing by the Senior Pollution Enforcement Officer, Eddie Adjei and Fouleymata Seaka's representative Mr Sutherland.

Reasons for the Sub-Committee's decision:

The Sub-Committee took into account the following reassurances made on behalf of the Fouleymata Seaka (contained in 2 emails dated 27th and 28th September):

- *At this event the recorded music would be played as a 'silent disco' via a head phone system from 23:00 until the end.*
- *The event was a private party by invitation only.*
- *Only guests who had been invited would be able to gain entry.*

- *The party would be in the basement only.*
- *Access to the basement would be through the premises only.*
- *No customers were allowed in the garden after 11pm.*
- *The maximum number of guests had been revised to 70.*
- *2 SIA security would be employed at the premises and they would remain until all guests had left at the end of the evening.*
- *The owner and notice giver would be present at the premises for the event.*
- *At regular intervals during the evening the owner would review the sound levels outside and if any music can be heard would take steps to reduce the sound level. A noise limiter would be installed and set prior to the event.*
- *The majority of guests would be there by midnight and all guests would be at the premises before 1am.*
- *At 2am the music sound levels would be gradually reduced and the lighting raised.*
- *The last drinks orders would be 2:15am*
- *By 2:30am the music would be switched off and lights fully on.*
- *At the end of the evening the DJ would ask people to leave without causing any disturbance or nuisance to neighbours.*
- *Guests would be encouraged to leave quickly and quietly.*
- *Those who have ordered uber would wait inside until their vehicle arrives.*
- *People leaving for their car would be encouraged to leave in small groups together.*
- *The security would be situated outside to encourage them to leave quickly and quietly and keep noise down to a minimum.*
- *The owner and staff would be reminding customers to leave quietly to respect the needs of the neighbours.*
- *Signage reminding customers to respect the neighbouring residents was also on display at the exit.*

It was confirmed during the hearing by Mr Sutherland (Fouleymata Seaka's Representative) that all the existing conditions on the Premises License (at Annex 1 and 2) would apply to this TEN.

The Pollution Team were of the view that the above information and assurances (if followed) would prevent a public nuisance.

On the basis of the assurances given above and that all the existing conditions on the Premises Licence (at Annex 1 and 2) apply to this TEN **the Sub-Committee have decided that the Licensing Objectives can be met and licensable activities referred to in the TEN are authorised to proceed.**

To clarify, the TEN Application had been modified since it was originally submitted, the Sub-Committee considered and agreed to the TEN on the updated details, for example maximum number of guests is 70. In other words, where necessary the Application Form was updated to reflect the additional information and assurances provided to the Sub-Committee, extracted above.

Further, regarding the assurance about Uber cabs, the Sub-Committee would kindly request that when possible, this applied to all vehicles not just Uber. This was to avoid disturbance to neighbouring residents.

Exclusion of the Press and Public

This item was not required.

The meeting ended at 11:00am

Signed:

Date:

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REPORT TO:	LICENSING COMMITTEE 23 NOVEMBER 2021
SUBJECT:	DANGEROUS WILD ANIMALS ACT 1976 – Setting of Licence Fees
LEAD OFFICER:	Interim Corporate Director – Sustainable Communities, Regeneration and Economic Recovery
CABINET MEMBER:	COUNCILLOR MANJU SHAHUL-HAMID Communities, Safety & Business Recovery
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT:	
<p>The local authority may stipulate a fee which in the authority’s opinion is sufficient to meet the direct and indirect costs which it may incur as a result of an application under the legislation.</p>	
FINANCIAL SUMMARY:	
<p>The Council is the Licensing Authority for the purposes of the Dangerous Wild Animals Act 1976 (the ‘Act’).</p> <p>The Act permits the Council to charge such a fee which is, in its opinion sufficient to meet the direct and indirect costs which the Council may incur as a result of an application under the legislation.</p>	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A. Not an Executive Decision.	

For general release

<p>1. RECOMMENDATIONS</p> <p>The Committee is recommended to:</p> <p>1.1 Adopt the new fee structure set out at Appendix 2 to this report. The new fee structure has been determined on the principle of cost recovery</p> <p>1.2 Delegate to the Director of Sustainable Communities, in consultation with the Chair of the Licensing Committee, authority to undertake reviews of fees and fee setting under the Dangerous Wild Animals Act 1976. Such delegation does not preclude the Director from bringing the matter back before the Committee should the Director or the Chair consider it appropriate to do so.</p>

1.3 Delegate to the Director of Sustainable Communities, in consultation with the Chair of the Licensing Committee, authority to make decisions regarding the determination of applications, including decisions as to whether to vary or revoke any condition attached to a licence. Such delegation does not preclude the Director from bringing the matter back before the Committee should the Director or the Chair consider it appropriate to do so.

2. EXECUTIVE SUMMARY

- 2.1 Any person that wishes to keep any animal listed in the Schedule to the Dangerous Wild Animals Act 1976 must obtain a Dangerous Wild Animals Licence from the Council as the local Licensing Authority. A copy of the current list of animals in respect of which a licence is required is at Appendix 1.
- 2.2 Croydon Council currently licences one dangerous wild animal keeper and this has been the position for a number of years. Licenses are issued for a period of two years.
- 2.3 The Council is entitled to charge a fee for an application under the legislation based on the principle of cost recovery.

3. DETAIL

- 3.1 Subject to certain exemptions, no person shall keep any dangerous wild animal except under the authority of a licence granted by a local authority in accordance with the provisions of the Dangerous Wild Animals Act 1976. A local authority shall not grant a licence under this Act unless an application for it:
- (a) specifies the species (whether one or more) of animal, and the number of animals of each species, proposed to be kept under the authority of the licence;
 - (b) specifies the premises where any animal concerned will normally be held;
 - (c) is made to the local authority in whose area those premises are situated;
 - (d) is made by a person who is neither under the age of 18 nor disqualified under this Act from keeping any dangerous wild animal; and
 - (e) is accompanied by such fee as the authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application).**
- 3.2 Licensing is an integral part of councils' broader regulatory services. While economic growth is a priority for every council in the country, there is also the need to ensure that licensing regimes can continue to protect communities and visitors; manage public health risks; and remain responsive to local concerns. All of this work requires funding and it is an accepted principle that licensed activities should be funded on a cost-recovery basis, paid for by those benefiting from the licensed activity, rather than drawing on the public purse. However, in setting the fees under this and many other Licensing regimes which the Council is required to operate, the Council is required to have regard to a number of different considerations and legislative requirements and

parameters, including in relation to the European Services Directive (“the Directive”). This Directive, which remains applicable in the UK despite the UK leaving the EU, aims to make it easier for service and retail providers to establish a business anywhere within Europe. It includes the principle of ensuring that regulation is transparent and that the burdens placed on businesses are kept to a minimum. The legal requirements in the Directive do have practical implications for local licensing regimes, including fee setting.

- 3.3 The general principles of the Services Directive apply to all processes and administrative procedures that need to be followed when establishing or running a service or retail business, including the setting, charging and processing of fees for licences. The core principles of the Directive – non-discriminatory; justified; proportionate; clear; objective; made public in advance; transparent and accessible – apply to fee setting.
- 3.4 Whilst the majority of the principles are self-explanatory, in the context of fee setting, the principle of ‘non-discrimination’ requires a little more explanation. In the Directive it is defined as meaning ‘the general conditions of access to a service, which are made available to the public at large by the provider [and] do not contain discriminatory provisions relating to the nationality or place of residence of the recipient’.
- 3.5 This applies to the Council when considering fee setting meaning that all applicants must be treated equally irrespective of location and/or nationality. The Council should not, for instance, seek to subsidise businesses operating in one geographical area by offering comparatively lower fees than required of those operating in another. Such an approach discriminates against those businesses located elsewhere in the locality.
- 3.6 In the licensing context, the importance of this approach has also been established by case law on taxi and PHV (Private Hire Vehicles) licensing. *Cummings v Cardiff* ruled that the charges within a licensing regime for different categories of licence should not subsidise each other; so a surplus gained on hackney carriage licences should not reduce the cost of a private hire vehicle licence. Guidance in this area indicates that this analogy be extended to mean that the fees received under one licensing regime must not subsidise fees charged under another. For instance, a surplus generated by taxi fees must be reinvested back into taxi licensing and not used to reduce the cost of, for instance, a scrap metal dealer’s licence.
- 3.7 Under the Directive councils need to ensure that details of any fees are easily accessible online, including the ability to make payments online. Councils should be able to separate out the cost of processing an initial application from those costs associated with the ongoing administration of a scheme, because this latter element cannot be charged to unsuccessful licence applicants.
- 3.8 This was a key issue in the *Hemming v Westminster* case, in which the Supreme Court asked the European Court of Justice (ECJ) to rule on how Westminster applied its licence fees. The Supreme Court identified two different approaches to charging fees:
 - (a) Whereby a council charged a fee upon application (covering the costs of authorisation procedures) and a subsequent fee to successful applicants

(covering the cost of administering and enforcing the framework) - the 'type A' approach.

(b) Where a council charged a single fee on application covering all costs, on the basis that the relevant proportion of the fee would be refunded to unsuccessful applicants – the 'type B' approach.

- 3.9 The ECJ published its ruling on the issue on 16 November 2016, following an earlier opinion by the Advocate General in July 2016. The ECJ ruled that the type B approach of fee setting is not compatible with the Services Directive, arguing that the Directive 'precludes the requirement for the payment of a fee, at the time of submitting an application for the grant or renewal of an authorisation, part of which corresponds to the costs relating to the management and enforcement of the authorisation scheme concerned, even if that part is refundable if that application is refused.'
- 3.10 Therefore, in setting the current fees the Council will need to ensure that the fee structures for fees covered by the Services Directive relate solely to the cost of authorisation procedures (i.e. the costs associated with reviewing an application and granting/refusing a licence). Under the type A approach, on which the Supreme Court ruling is still relevant, successful licence applicants could subsequently be charged an additional fee relating to the costs of administering and enforcing the relevant licensing framework. Not all legislation in England and Wales permits councils to separate out elements of the fee in this way. For instance, the Licensing Act 2003 has fees set nationally, which constrains councils' ability to adopt this approach. However, Section 1 (2) (e) of the Act provides that the Council may charge a fee that:
- 'in the authority's opinion is sufficient to meet the direct and indirect costs which it may incur as a result of the application.'*
- 3.11 The Directive also includes specific requirements that apply to the charging of fees. Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme. Councils must not use fees covered by the Directive to make a profit or act as an economic deterrent to deter certain business types from operating within an area
- 3.12 The Guidance anticipates that fees should be broadly cost neutral in budgetary terms, so that, over the lifespan of the licence, the budget should balance. Those benefitting from the activities permitted by the various licences should not, so far as there is discretion to do so, be subsidised by the general fund.
- 3.13 To ensure that fees remain reasonable and proportionate it is necessary to establish a review process. Reviews allow for the fine tuning of fees and allow the Council to take steps to avoid either a surplus or deficit in future years. This will not immediately benefit licence holders where the licence has been granted for a number of years and paid for in a lump sum, but will ensure for new entrants to the licensing scheme or on renewal, that the most appropriate fees are charged. It is for this reason, and due to the fact that it will entail an administrative assessment of the costs to be recovered rather than an engagement of discretion by Members', that a delegation is sought to the Director of Sustainable Communities to undertake reviews and fee setting under the Act in future. Such delegation should not preclude the Director from

bringing the matter back before the Committee should the Director consider it appropriate to do so. In addition, if members are minded to agree the delegation, exercise of this delegation could be reported back to members for information following the annual fee review.

- 3.14 The Council must have regard to the guidance issued by the Secretary of State in carrying out its functions under the Act. The “Procedural guidance notes for Local Authorities” issued by DEFRA in July 2018 is relevant in relation to the setting of fees for Dangerous Wild Animals Licensing and provides as follows at paragraph 59:

“59. When setting fees, local authorities should have regard to Open for business: LGA guidance on locally set licence fees, which sets out the steps that must be taken to set fair and reasonable fees, and explains the EU Services Directive upon which the LGA guidance is based. Local authorities should also have regard to the BEIS Guidance for Business on the Provision of Services Regulations. As with other areas of licensing, regard should also be had to the principles in the Regulators’ Code. “Reasonable anticipated costs” will be fact specific and dependent on the local authority in question. The “Open for business: LGA guidance on locally set licence fees” guidance includes information on what could be considered reasonable.”

- 3.15 In this regard, the LGA guidance makes a number of suggestions as to which elements (subject to legislative restrictions) the Council may wish to consider including within the fees set. In accordance with the Case law set out above, these suggested fees are broken down into two separate elements: initial application costs (“Application fee”) and further compliance and enforcement costs (“Grant/Enforcement fee”).

- 3.16 The Guidance suggests that initial application costs (“Application fee”) could include:

- Administration – this could cover basic office administration to process the licence application, such as resources, photocopying, postage or the cost of handling fees through the accounts department. This could also include the costs of specialist licensing software to maintain an effective database, and printing licences.
- Initial visit/s – this could cover the average cost of officer time if a premises visit is required as part of the authorisation process. Councils will need to consider whether the officer time includes travel. It would also be normal to include ‘on-costs’ in this calculation. Councils will need to consider whether ‘on costs’ include travel costs and management time.
- Third party costs – some licensing processes will require third party input from experts, such as veterinary attendance during licensing inspections at animal related premises. This is true of Dangerous Wild Animal Licensing where the Council may not grant a licence without the benefit of a report from a veterinary surgeon or veterinary practitioner authorised by the authority to do so under section 3 of the Act who has inspected the premises where any animal will normally be held in pursuance of the licence and the authority has received and considered a report by the surgeon or practitioner

- Liaison with interested parties – engaging with responsible authorities and other stakeholders will incur a cost in both time and resources.
- Management costs – councils may want to consider charging an average management fee where it is a standard process for the application to be reviewed by a management board or licensing committee. However, some councils will include management charges within the ‘on-costs’ attached to officer time referenced below.
- Local democracy costs – councils may want to recover any necessary expenditure in arranging committee meetings or hearings to consider applications.
- On costs – including any recharges for payroll, accommodation, including heating and lighting, and supplies and services connected with the licensing functions. Finance teams should be able to provide a standardised cost for this within each council.
- Development, determination and production of licensing policies – the cost of consultation and publishing policies can be fully recovered where they pertain to the licensing regime in question.
- Web material – the EU Services Directive requires that applications, and the associated guidance, can be made online and councils should effectively budget for this work.
- Advice and guidance – this includes advice in person, production of leaflets or promotional tools, and online advice.
- Setting and reviewing fees – this includes the cost of time associated with the review, as well as the cost of taking it to a committee for approval.

3.17 The Guidance suggests that further compliance and enforcement costs (“Grant/Enforcement fee”) could include:

- Additional monitoring and inspection visits – councils may wish to include a charge for risk based visits to premises in between licensing inspections and responding to complaints. As with the initial licensing visit, councils can consider basing this figure on average officer time, travel, administration, management costs and on costs as suggested above.
- Local democracy costs – councils may want to recover any necessary expenditure in arranging committee meetings or hearings to review existing licences or respond to problems.
- Registers and national reporting – some licensing schemes require central government bodies to be notified when a licence is issued. The costs of doing this can be recovered.
- Charging for action against unlicensed traders Councils’ ability to charge for these costs as part of a licensing scheme depends on the licensing scheme in question.

3.18 There is a disadvantage to current operators in increasing the fees. There is also the risk that increasing the licence fees may encourage unlicensed activity and thereby increase risk to animal welfare. An increase in unlicensed activity

would require additional reactive investigation and enforcement by officers.

- 3.19 In setting the proposed fees, an hourly rate for the role(s) that will undertake the task(s) has been calculated. This is the 'on costed' hourly rate for the particular role(s) that perform the task(s) and this also includes basic office administration such as resources, photocopying, postage, processing fees through the accounts department, recharges for payroll, accommodation, including heating and lighting, supplies and services connected with the licensing functions and management and supervision costs (where relevant). Appendix 2 then sets the associated processes out into a series of tasks and the relevant hourly rate was then multiplied by the amount of time, in minutes, that it was considered, based on previous experience that the individual tasks of that nature would take to complete. In addition, there are also fixed inspection fees for veterinary staff that have been factored in. These figures were then added together to give a recommended fee for Members' consideration. Members will note that the proposed fees have been split between application and enforcement parts. When someone applies for a licence, they will be asked to pay the application portion when they apply (Application fee – Part A) and then, if their application is granted, they will be asked to pay the enforcement part (Grant/Enforcement fee – Part B) prior to the licence being issued to them.
- 3.20 In light of the above referenced guidance and requirements on Council officers, Members are asked to consider Appendix 2 which also sets out the overall fees for dangerous wild animal keepers, which are recommended for approval.
- 3.21 Unlike some licensing regimes, where the Council may receive objections to applications for licenses which ought properly to be considered and determined by Councillors, the Dangerous Wild Animals legislation does not make the same provision in respect of objections to applications/renewals, nor does it have a similar regime around responsible authorities seeking to review such licenses. Currently the Council only has one dangerous wild animals licence and it is not anticipated that this number will increase.
- 3.22 It is proposed that the decisions regarding the determination of new applications, renewals and variations & revocations of conditions be delegated to the Director of Sustainable Communities. Where an applicant or existing licence holder is dissatisfied with the outcome of an application for a licence or a decision to vary or revoke a condition, there is a right of appeal to the magistrates' court.
- 3.23 Guidance regarding fee setting considerations can be accessed via the below links:

LGA Guidance:

https://local.gov.uk/sites/default/files/documents/5%2013%20%20OpenForBusiness_02_web.pdf

BEIS guidance:

<http://webarchive.nationalarchives.gov.uk/20121205034810/http://www.bis.gov.uk/files/file53100.pdf>

Regulator's Code:

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/300126/14-705-regulators-code.pdf

3.25 A local authority shall not grant a licence under this Act unless a veterinary surgeon or veterinary practitioner authorised by the authority to do so under the Act has inspected the premises where any animal will normally be held in pursuance of the licence and the authority has received and considered a report by the surgeon or practitioner, containing such particulars as in the authority's opinion enable it to decide whether the premises are such that any animal proposed to be kept under the authority of the licence may suitably be held there, and describing the condition of the premises and of any animal or other thing found there.

4. CONSULTATION

4.1 There are no statutory consultation or advertisement requirements with regard to fee setting under the Dangerous Wild Animals Act 1976.

5. FINANCIAL CONSIDERATIONS

5.1 The Council is entitled to calculate fees that will generate income to offset the estimated cost to the Council of providing the service. The estimated income from the proposed fee structure will offset the cost of the service which is calculated via standard hourly rates.

6. COMMENTS OF THE SOLICITOR TO THE COUNCIL

6.1 The Solicitor to the Council comments that the relevant legislation governing Dangerous Wild Animals is the Dangerous Wild Animals Act 1976 ("the Act") which provides variously that no person shall keep any dangerous wild animal except under the authority of a licence granted in accordance with the provisions of the Act by a local authority.

6.2 A local authority shall not grant a licence under this Act unless an application for it—

- (a) specifies the species (whether one or more) of animal, and the number of animals of each species, proposed to be kept under the authority of the licence;
- (b) specifies the premises where any animal concerned will normally be held;
- (c) is made to the local authority in whose area those premises are situated;
- (d) is made by a person who is neither under the age of 18 nor disqualified under this Act from keeping any dangerous wild animal; and
- (e) is accompanied by such fee as the authority may stipulate (being a fee which is in the authority's opinion sufficient to meet the direct and indirect costs which it may incur as a result of the application)(Section 1(2)).

- 6.3 A local authority shall not grant a licence under this Act unless it is satisfied that—
- (a) it is not contrary to the public interest on the grounds of safety, nuisance or otherwise to grant the licence;
 - (b) the applicant for the licence is a suitable person to hold a licence under this Act;
 - (c) any animal concerned will at all times of its being kept only under the authority of the licence—
 - (i) be held in accommodation which secures that the animal will not escape, which is suitable as regards construction, size, temperature, lighting, ventilation, drainage and cleanliness and which is suitable for the number of animals proposed to be held in the accommodation, and
 - (ii) be supplied with adequate and suitable food, drink and bedding material and be visited at suitable intervals;
 - (d) appropriate steps will at all such times be taken for the protection of any animal concerned in case of fire or other emergency;
 - (e) all reasonable precautions will be taken at all such times to prevent and control the spread of infectious diseases;
 - (f) while any animal concerned is at the premises where it will normally be held, its accommodation is such that it can take adequate exercise. (Section 1(3))
- 6.4 Subject to subsections (2) to (5) of section of the Act, a local authority may grant or refuse a licence under this Act as it thinks fit, but where it decides to grant such a licence it shall specify as conditions of the licence—
- (a) conditions that, while any animal concerned is being kept only under the authority of the licence,—
 - (i) the animal shall be kept by no person other than such person or persons as is or are specified (whether by name or description) in the licence;
 - (ii) the animal shall normally be held at such premises as are specified in the licence;
 - (iii) the animal shall not be moved from those premises or shall only be moved from them in such circumstances as are specified in the licence;
 - (iv) the person to whom the licence is granted shall hold a current insurance policy which insures him and any other person entitled to keep the animal under the authority of the licence against liability for any damage which may be caused by the animal; and
 - (v) the terms of any such policy shall be satisfactory in the opinion of the authority;
 - (b) conditions restricting the species (whether one or more) of animal, and number of animals of each species, which may be kept under the authority of the licence;
 - (c) a condition that the person to whom the licence is granted shall at all reasonable times make available a copy of the licence to any person entitled to keep any animal under the authority of the licence;
 - (d) such other conditions as in the opinion of the authority are necessary or desirable for the purpose of securing the objects specified in paragraphs (c) to (f) of subsection (3) of section 1 (Section 1 (6)).

(Approved by: Sandra Herbert, Head of Litigation and Corporate Law, for and on behalf of, Director of Law and Governance and Deputy Monitoring Officer)

7. HUMAN RESOURCES IMPACT

7.1 The workload associated with this report has been undertaken within existing resources.

8. EQUALITIES IMPACT

8.1 There are no perceived inequalities associated with this legislation.

9. ENVIRONMENTAL IMPACT

9.1 The licensed animal welfare premises in Croydon are not considered to adversely impact on the local environment.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are not considered to be any local crime and disorder problems associated with the local authority having responsibility for the administration of licences under the Dangerous Wild Animals Act 1976

11. DATA PROTECTION IMPLICATIONS

11.1 **WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

NO

The Director of Sustainable Communities comments that agreeing the recommendations in this report will not result in the processing of personal data.

(Approved by: Steve Iles, Director of Sustainable Communities

CONTACT OFFICER: Michael Goddard, Head of Environmental Health, Trading Standards and Licensing Tel. Ext. 61838

BACKGROUND DOCUMENTS: None

Appendices:

Appendix 1 - current list of animals in respect of which a DWA licence is required

Appendix 2 – fee workings and proposed fees

The following is a list of animals for which, when kept privately, a licence is required under the Act.

<i>Scientific name of kind</i>	<i>Common name or names</i>
MAMMALS	
Marsupials	
Family <i>Dasyuridae</i>: The species <i>Sarcophilus laniarius</i> .	The Tasmanian devil.
Family <i>Macropodidae</i>: The species <i>Macropus fuliginosus</i> , <i>Macropus giganteus</i> , <i>Macropus robustus</i> and <i>Macropus rufus</i> .	The western and eastern grey kangaroos, the wallaroo and the red kangaroo.
Primates	
Family <i>Cebidae</i>: All species except those of the genera <i>Aotus</i> , <i>Callicebus</i> and <i>Saimiri</i> .	New-world monkeys (including capuchin, howler, saki, uacari, spider and woolly monkeys). Night monkeys (also known as owl monkeys), titi monkeys and squirrel monkeys are excepted.
Family <i>Cercopithecidae</i>: All species.	Old-world monkeys (including baboons, the drill, colobus monkeys, the gelada, guenons, langurs, leaf monkeys, macaques, the mandrill, mangabeys, the patas and proboscis monkeys and the talapoin).
Family <i>Hominidae</i>: All species except those of the genus <i>Homo</i> .	Anthropoid apes; chimpanzees, bonobos, orang-utans and gorillas.
Family <i>Hylobatidae</i>: All species.	Gibbons and Siamangs.
Family <i>Indriidae</i>: All species of the genera <i>Propithecus</i> and <i>Indri</i> (<i>Avahi laniger</i> is excepted).	Leaping lemurs (including the indri and sifakas). The woolly lemur is excepted.
Family <i>Lemuridae</i>: All species except those of the genus <i>Hapalemur</i> .	Large lemurs. Bamboo or gentle lemurs are excepted.
Edentates	
Family <i>Dasypodidae</i>: The species <i>Priodontes maximus</i> .	The giant armadillo.
Family <i>Myrmecophagidae</i>: The species <i>Myrmecophaga tridactyla</i> .	The giant anteater.
Carnivores	
Family <i>Canidae</i>: All species except those of the genera	Wild dogs, wolves, jackals, the maned wolf, the bush dog and the dhole.

<p><i>Alopex</i>, <i>Cerdocyon</i>, <i>Dusicyon</i>, <i>Otocyon</i>, <i>Pseudalopex</i>, <i>Urocyon</i>, <i>Vulpes</i> and <i>Nyctereutes</i>.</p>	<p>Foxes, raccoon dogs and the domestic dog (but not the dingo) are excepted.</p>
<p>The species <i>Canis familiaris</i>, other than the subspecies <i>Canis familiaris dingo</i>, is also excepted.</p>	
<p>Family Felidae: All except—</p> <ul style="list-style-type: none"> (a) the species <i>Felis silvestris</i>, <i>Otocolobus manul</i>, <i>Leopardus tigrinus</i>, <i>Oncifelis geoffroyi</i>, <i>Oncifelis guigna</i>, <i>Catopuma badia</i>, <i>Felis margarita</i>, <i>Felis nigripes</i>, <i>Prionailurus rubiginosus</i> and <i>Felis silvestris catus</i>; (b) a hybrid which is descended exclusively from any one or more species within paragraph (a); (c) a hybrid of which— <ul style="list-style-type: none"> (i) one parent is <i>Felis silvestris catus</i>, and (ii) the other parent is a first generation hybrid of <i>Felis silvestris catus</i> and any cat not within paragraph (a); (d) any cat which is descended exclusively from any one or more hybrids within paragraph (c) (ignoring, for the purpose of determining exclusivity of descent, the parents and remoter ancestors of any hybrid within paragraph (c)); (e) any cat which is descended exclusively from <i>Felis silvestris catus</i> and any one or more hybrids within paragraph (c) (ignoring, for the purpose of determining exclusivity of descent, the parents and remoter ancestors of any hybrid within paragraph (c)). 	<p>All cats including the bobcat, caracal, cheetah, jaguar, leopard, lion, lynx, ocelot, puma, serval and tiger.</p> <p>The following are excepted:</p> <ul style="list-style-type: none"> (a) the wild cat, the pallas cat, the little spotted cat, the Geoffroy's cat, the kodkod, the bay cat, the sand cat, the black-footed cat, the rusty-spotted cat and the domestic cat; (b) a hybrid cat which is descended exclusively from any one or more species within paragraph (a); (c) a hybrid cat having as one parent a domestic cat and as the other parent a first generation hybrid of a domestic cat and any cat not within paragraph (a); (d) any cat which is descended exclusively from any one or more hybrids within paragraph (c); (e) any cat which is descended exclusively from a domestic cat and any one or more hybrids within paragraph (c).
<p>Family Hyaenidae: All except the species <i>Proteles cristatus</i>.</p>	<p>Hyænas. The aardwolf is excepted.</p>
<p>Family Mustelidae: All species of the genera <i>Amblonyx</i>, <i>Arctonyx</i>, <i>Aonyx</i>, <i>Enhydra</i>, <i>Lontra</i>, <i>Melogale</i>, <i>Mydaus</i>, <i>Pteronura</i> and <i>Taxidea</i>. The genus <i>Lutra</i> except the species <i>Lutra lutra</i>. The species <i>Eira barbara</i>, <i>Gulo gulo</i>, <i>Martes pennanti</i> and <i>Mellivora capensis</i>.</p>	<p>Badgers (except the Eurasian badger), otters (except the European otter) and the tayra, wolverine, fisher and ratel (otherwise known as the honey badger).</p>
<p>Family Ursidae: All species including the species <i>Ailuropoda melanoleuca</i> and <i>Ailurus fulgens</i>.</p>	<p>All bears including the giant panda and the red panda.</p>
<p>Family Viverridae: All of the genus <i>Civettictis</i>.</p>	<p>The African, large-spotted, Malay and Indian civets and the fossa.</p>

All of the genus <i>Viverra</i> . The species <i>Cryptoprocta ferox</i> .	
Pinnipedes	
Family <i>Odobenidae</i> : All species.	The walrus.
Family <i>Otariidae</i> : All species.	Eared seals.
Family <i>Phocidae</i> : All species except <i>Phoca vitulina</i> and <i>Halichoerus grypus</i> .	True or earless seals. The common seal (or harbour seal) and grey seal are excepted.
Elephants	
Family <i>Elephantidae</i> : All species.	Elephants.
Aardvark	
Family <i>Orycteropodidae</i> : The species <i>Orycteropus afer</i> .	The aardvark.
Odd-toed ungulates	
Family <i>Equidae</i> : All species except <i>Equus asinus</i> and <i>Equus caballus</i> .	Asses, horses and zebras. The donkey and domestic horse are excepted.
Family <i>Rhinocerotidae</i> : All species.	Rhinoceroses.
Family <i>Tapiridae</i> : All species.	Tapirs.
Even-toed ungulates	
Family <i>Antilocapridae</i> : The species <i>Antilocapra americana</i> .	The pronghorn.
Family <i>Bovidae</i> : All species except any domestic form of the genera <i>Bos</i> , <i>Bubalus</i> , <i>Capra</i> and <i>Ovis</i> .	Antelopes, bison, buffalo, gazelles, goats and sheep. Domestic cattle, buffalo, goats and sheep are excepted.
Family <i>Camelidae</i> : All species of the genus <i>Camelus</i> .	Camels.
Family <i>Cervidae</i> : All species of the genera <i>Alces</i> and <i>Rangifer</i> , except any domestic form of the species <i>Rangifer tarandus</i> .	The moose or elk and the caribou or reindeer. The domestic reindeer is excepted.
Family <i>Giraffidae</i> : All species	The giraffe and the okapi.
Family <i>Hippopotamidae</i> : All species.	The hippopotamus and the pygmy hippopotamus.
Family <i>Suidae</i> : All species except any domestic form of the species <i>Sus scrofa</i> .	Old-world pigs (including the wild boar and the wart hog). The domestic pig is excepted.
Family <i>Tayassuidae</i> : All species.	New-world pigs (otherwise known as peccaries).
Hybrids	
Any hybrid of a kind of animal specified (other than by way of exception) in the foregoing provisions of this column where at	Any mammalian hybrids with at least one parent of a specified kind, and any animal of which at least one parent is such a hybrid.

least one parent is of a kind so specified, and any animal of which at least one parent is such a hybrid. This does not include an excepted hybrid of the Family <i>Felidae</i> .	This does not apply to excepted cat hybrids.
<u>BIRDS</u>	
Cassowaries	
Family <i>Casuariidae</i> : All species.	Cassowaries.
Ostrich	
Family <i>Struthionidae</i> : All species.	The ostrich.
<u>REPTILES</u>	
Crocodylians	
Family <i>Alligatoridae</i> : All species.	Alligators and caimans.
Family <i>Crocodylidae</i> : All species.	Crocodiles and the false gharial.
Family <i>Gavialidae</i> : All species.	The gharial (otherwise known as the gavial).
Lizards and snakes	
Family <i>Atractaspididae</i> : All species of the genus <i>Atractaspis</i> .	Burrowing asps, also known as mole or burrowing vipers and stiletto snakes.
Family <i>Colubridae</i> . All species of the genera <i>Malpolon</i> and <i>Thelotornis</i> . The species <i>Dispholidus typus</i> , <i>Rhabdophis subminiatus</i> , <i>Rhabdophis tigrinus</i> , <i>Elapomorphus lemniscatus</i> , <i>Philodryas offersii</i> , <i>Tachymenis peruviana</i> and <i>Xenodon severus</i> .	Certain rear-fanged venomous snakes, Montpellier snakes and African vine snakes (otherwise known as African twig or bird snakes). The boomslang, the red-necked keelback, the yamakagashi (otherwise known as the Japanese tiger-snake), the Argentine black-headed snake, the South American green racer, the Peruvian racer and the Amazon false viper.
Family <i>Elapidae</i> : All species.	Certain front-fanged venomous snakes including cobras, coral snakes, kraits, mambas, whipsnakes and all Australian poisonous snakes (including the death adders).
Family <i>Hydrophiidae</i> : All species.	Sea snakes.
Family <i>Helodermatidae</i> : All species.	The gila monster and the (Mexican) beaded lizard.
Family <i>Viperidae</i> : All species.	Certain front-fanged venomous snakes (including adders, the barba amarilla, the bushmaster, the fer-de-lance, moccasins, rattlesnakes and vipers).
<u>INVERTEBRATES</u>	
Spiders	

Family Ctenidae: The genus <i>Phoneutria</i> .	Wandering spiders.
Family Hexathelidae: The genus <i>Atrax</i> .	The Sydney funnel-web spider and its close relatives.
Family Sicariidae: The genus <i>Loxosceles</i> .	Brown recluse spiders (otherwise known as violin spiders).
Family Theridiidae: The genus <i>Latrodectus</i> .	The widow spiders and close relatives.
Scorpions	
Family Buthidae: All species.	Buthid scorpions.
Family Hemiscorpiidae: The species <i>Hemiscorpius lepturus</i> .	Middle-Eastern thin-tailed scorpion.

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Dangerous Wild Animals Act 1976

Fees Assumptions

Dangerous Wild Animal Keepers Licence

- Hourly Licensing Officer (LO) Rate: £38.93
- Hourly Head of Service (HoS) Rate: £53.61
- Veterinary staff fixed fees for inspection & report writing elements*:
 - for new application for commercial or outside premises £396
 - for renewal application for commercial or outside premises £309.60
 - for new application for domestic premises £302.40
 - for renewal application for domestic premises £216
- Fixed fees for DWA on location visits and DWA complaint visits**:
 - £141.60 for 1st hour

Application for New Licence for commercial or outside premises

Part A: Application Fee elements

Initial enquiry and send forms - **£12.80** (LO 20 mins.)

Receipt application, check forms & enquiries of applicant - **£19.20** (LO 30 mins.)

Load application details onto IT database - **£12.80** (LO 20 mins.)

IO conduct inspection* of application premises and provide inspection report – applicable rates as above to be added relevant to the type of application/circumstances*

Consider IO report and make decision on application – **£26.70** (HoS 30 mins.)

Draft licence with appropriate conditions and send to applicant or draft reasons for refusal of application and send to applicant with details of appeal process - **£19.20** (LO 30 mins.)

Part A fee (rounded) for new application for commercial or outside premises **£486**

Part B: Grant/Enforcement fee elements:

Conduct minimum of one unannounced inspection/compliance visit** during term of licence at **£141.60**.

Licence renewal reminder notification process – **£12.80** (LO 20 mins.)

Part B fee = **£154** (rounded)

Total fee if licence granted for new application for commercial or outside premises
£640

Application for renewal of licence for commercial or outside premises

Part A: Application Fee elements

Initial enquiry and send forms - **£12.80** (LO 20 mins.)

Receipt application, check forms & enquiries of applicant - **£19.20** (LO 30 mins.)

Load application details onto IT database - **£12.80** (LO 20 mins.)

IO conduct inspection* of application premises and provide inspection report – applicable rates as above to be added relevant to the type of application/circumstances*

Consider IO report and make decision on application – **£26.70** (HoS 30 mins.)

Draft licence with appropriate conditions and send to applicant or draft reasons for refusal of application and send to applicant with details of appeal process - **£19.20** (LO 30 mins.)

Part A fee (rounded) for renewal application for commercial or outside premises
£400

Part B: Grant/Enforcement fee elements:

Conduct minimum of one unannounced inspection/compliance visit** during term of licence at **£141.60**.

Licence renewal reminder notification process – **£12.80** (LO 20 mins.)

Part B fee = **£154** (rounded)

Total fee if licence granted for renewal application for commercial or outside premises **£554**

Application for New Licence for domestic premises

Part A: Application Fee elements

Initial enquiry and send forms - **£12.80** (LO 20 mins.)

Receipt application, check forms & enquiries of applicant - **£19.20** (LO 30 mins.)

Load application details onto IT database - **£12.80** (LO 20 mins.)

IO conduct inspection* of application premises and provide inspection report – applicable rates as above to be added relevant to the type of application/circumstances*

Consider IO report and make decision on application – **£26.70** (HoS 30 mins.)

Draft licence with appropriate conditions and send to applicant or draft reasons for refusal of application and send to applicant with details of appeal process - **£19.20** (LO 30 mins.)

Part A fee (rounded) for new application for domestic premises **£393**

Part B: Grant/Enforcement fee elements:

Conduct minimum of one unannounced inspection/compliance visit** during term of licence at **£141.60**.

Licence renewal reminder notification process – **£12.80** (LO 20 mins.)

Part B fee = **£154** (rounded)

Total fee if licence granted for new application for domestic premises **£547**

Application for renewal of licence for domestic premises

Part A: Application Fee elements

Initial enquiry and send forms - **£12.80** (LO 20 mins.)

Receipt application, check forms & enquiries of applicant - **£19.20** (LO 30 mins.)

Load application details onto IT database - **£12.80** (LO 20 mins.)

IO conduct inspection* of application premises and provide inspection report – applicable rates as above to be added relevant to the type of application/circumstances*

Consider IO report and make decision on application – **£26.70** (HoS 30 mins.)

Draft licence with appropriate conditions and send to applicant or draft reasons for refusal of application and send to applicant with details of appeal process - **£19.20** (LO 30 mins.)

Part A fee (rounded) for renewal application for domestic premises **£307**

Part B: Grant/Enforcement fee elements:

Licence renewal reminder notification process (and Part B fee) – **£12.80** (LO 20 mins.)

Total fee if licence granted for new application for domestic premises **£319**

Replacement/Additional Copy of Licence:

A licence holder may request a copy of their licence at a fixed fee of **£10.50**

Overall Fees Proposed –

New application for commercial or outside premises = **£640**

Renewal application for commercial or outside premises = **£554**

New application for domestic premises = **£547**

Renewal application for domestic premises = **£319**

REPORT TO:	LICENSING COMMITTEE 23 NOVEMBER 2021
SUBJECT:	THE GAMBLING ACT 2005 – REVIEW OF LONDON BOROUGH OF CROYDON STATEMENT OF PRINCIPLES
LEAD OFFICER:	Interim Corporate Director – Sustainable Communities, Regeneration and Economic Recovery
CABINET MEMBER:	COUNCILLOR MANJU SHAHUL-HAMID Communities, Safety & Business Recovery
WARDS:	ALL
CORPORATE PRIORITY/POLICY CONTEXT: The Gambling Act became fully operational on 1 st September 2007. The Council has been processing applications with regard to this legislation since 21 May 2007.	
FINANCIAL SUMMARY: There are no direct financial implications associated with this report, save for those set out in the body of the report with regard to decision making by the licensing committee and full Council. The costs of administering the functions associated with this report will be met from existing budget.	
FORWARD PLAN KEY DECISION REFERENCE NO.: N/A. Not an Executive Decision.	

For general release

<p>1. RECOMMENDATIONS</p> <p>The Committee is asked to:</p> <p>1.1 Consider the comments received as part of the formal consultation on the draft Gambling Act 2005 Statement of Principles at Appendix 3 and officers' responses to those comments at Appendix 4.</p> <p>1.2 Approve the revised Statement of Principles, at Appendix 5 to this report and recommend to Full Council that the Statement of Principles be adopted by Full Council.</p>

2. EXECUTIVE SUMMARY

- 2.1 The Gambling Act 2005 (the Act) came into force on 1st September 2007 and made local authorities, as licensing authorities, responsible for the administration of licences, registrations, permits, notices and notifications under the Act.
- 2.2 Local authorities are only responsible for licensing the premises on which gambling takes place. They are not responsible for licensing operators as this function falls to the Gambling Commission. As well as issuing premises licenses, local authorities are also responsible for issuing permits in respect of:
- Gaming machines in alcohol-licensed premises, such as pubs
 - Gaming machines in members clubs
 - Gaming in members clubs
 - Unlicensed family entertainment centres (small stake and payout machines only)
 - Prize gaming
 - Occasional Use Notices
 - Temporary Use Notices
 - Provisional Statements
- 2.3 For the Committee's information, as a comparison, the following shows the current number of premises licenses, as opposed to that in 2007:
- Betting Shops – 2007 **59** – 2021 **44**
 - Bingo Premises – 2007 **1** – 2021 **2**
 - Adult Gaming Centres – 2007 **8** – 2021 **7**
 - Family Entertainment Centres – 2007 **0** – 2021 **0**
- 2.4 The Council licensing team undertake inspections and enforce the conditions on these issued licences as well as permits and notices. It also registers small scale society lotteries.
- 2.5 In addition to processing applications and compliance/enforcement responsibilities, the Act requires each local authority to prepare and publish a Statement of Principles (the Statement) setting out how it will exercise its functions under the Act. The first London Borough of Croydon Statement of Principles was published on 3 January 2007. In each 3 year period thereafter, the Council must keep its policy under review and revise it as it considers appropriate. In any event, before the conclusion of each 3 year period, the Act requires the Council to formally consult on its Statement of Principles, revise and/or amend it and re-publish it accordingly.
- 2.6 The Council's Statement of Principles was variously reviewed and published in 2009, 2012, 2015 and most recently in 2018.
- 2.7 For the fifth statutory review, the Council must publish its revised Statement 4 weeks before the existing Statement expires on 31 January 2022 and therefore publication needs to take place no later than 31 December 2021.

3. DETAIL

- 3.1 On 29 September 2021, as part of the formal consultation on the proposed revisions, the draft Statement of Principles was circulated to a number of stakeholders including individuals and bodies in the gambling industry, together with a covering letter which outlined the changes proposed to the current Statement. A copy of that covering letter is attached at Appendix 1.
- 3.2 The consultation period ended on 10 November 2021. A list of the individuals and bodies consulted in accordance with the statutory requirements is attached at Appendix 2.
- 3.3 Written responses were received during the consultation period. Copies are attached at Appendix 3.
- 3.4 A schedule of the specific comments made in those responses is attached at Appendix 4. This also shows where the Statement has, or has not, been changed as a result of those comments.
- 3.5 Attached at Appendix 5, and having due regard to the responses received during the consultation, is a copy of the draft, revised Statement of Principles that the Committee is recommended to approve for adoption by full Council.
- 3.6 Attached at Appendix 6 is a Glossary of Terms for the Gambling Act 2005.

4. CONSULTATION

- 4.1 The timetable leading up to the Statement of Principles being republished is as follows:

DATE	ACTION
10.11.21	Deadline for consultation responses.
23.11.21	Licensing Committee
13.12.21	Full Council
31.12.21	Publication (by)

5. FINANCIAL CONSIDERATIONS

1 Revenue and Capital consequences of report recommendations

There are no direct financial implications associated with this report. This matter is being processed as part of normal duties and therefore the work associated with it is contained within the departmental budget.

2 The Effect of the Decision

There are no direct financial implications associated with this report.

3 Risks

There are no direct risks associated with the recommendations in this report.

4 Options

There are no other options available to the Council.

5 Savings/Future Efficiencies

None identified.

6. COMMENTS OF THE SOLICITOR TO THE COUNCIL

6.1 The Solicitor to the Council comments that Section 349 of the Gambling Act 2005 (“the Act”) requires the Council as Licensing Authority to review and then publish its Statement of Principles at least every three years. In determining what revisions may be appropriate, it must consider any comments made during the formal consultation period in the context of the Act, and any guidance or regulations made under it.

6.2 In preparing a statement or revision as required by the Act a licensing authority shall consult 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 this Act.

(Approved by: Sandra Herbert, Head of Litigation and Corporate Law, for and on behalf of, Director of Law and Governance and Deputy Monitoring Officer)

7. HUMAN RESOURCES IMPACT

7.1 The workload associated with the review of the Statement of Principles has been undertaken within existing resources.

8. EQUALITIES IMPACT

8.1 There are no perceived inequalities associated with this legislation.

9. ENVIRONMENTAL IMPACT

9.1 There are potential environmental and design impacts associated with the development of large casinos. However, the majority of gambling premises in Croydon are small buildings like betting shops, amusement arcades and bingo halls. Many of these premises already have established use and are not considered to impact on the local environment.

10. CRIME AND DISORDER REDUCTION IMPACT

10.1 There are not considered to be any local crime and disorder problems associated with the local authority having responsibility for the administration of licences and permits etc. under the Gambling Act 2005. The local authority is only responsible for premises licensing. The licensing of operators is the responsibility of the Gambling Commission.

11. DATA PROTECTION IMPLICATIONS

11.1 WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?

NO

The Director of Sustainable Communities comments that agreeing the recommendations in this report will not result in the processing of personal data.

(Approved by: Steve Iles, Director of Sustainable Communities)

CONTACT OFFICER: Michael Goddard, Head of Environmental Health, Trading Standards and Licensing Tel. Ext. 61838

BACKGROUND DOCUMENTS: None

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Date: 29 September 2021

Dear Stakeholder,

Consultation on the London Borough of Croydon's Revised Statement of Principles under the Gambling Act 2005

In November 2006, the Council published its first Statement of Principles ("Statement") as per the requirements of the Gambling Act 2005 ("the Act"). The Statement is a policy document and sets out how the Council will exercise its functions under the Act.

The Council is required, by law, to review and publish its revised Statement every 3 years and part of the review process is to consult stakeholders on the proposed changes and the revised Statement prior to its consideration by the Licensing Committee and prior to any recommendation to Full Council for adoption. Once adopted, the new Statement of Principles will be published and implemented. The Statement was previously reviewed in 2009, 2012, 2015 and 2018 and we are now consulting as part of the fifth 3 year review.

The Statement has not been altered substantially from the 2018 version but it is proposed that it be updated to:

- Update to population numbers as reflected in the introduction to the Statement
- Reflect an update in the statutory guidance produced by the Gambling Commission (GC) in terms of gaming machines and the GC definition/comments on "available for use" which stems from their earlier (2019) available for use guidance.
- Include references to tablets (a small portable computer that accepts input directly on to its screen rather than via a keyboard or mouse).
- Include reference to the National Strategy to Reduce Gambling Harms, published on 24 April 2019 and last updated on 8 December 2020
- To clarify references to the Councils Members' Code of Conduct
- Reflect changes to policies, publications and relevant information, including updates to the policy to mirror certain changes in guidance issued by the Gambling Commission, which was last updated on 13 May 2021.

The Council believes these amendments are necessary to reflect the amended statutory guidance and to make readers aware of guidance and research produced by other key organisations.

I invite you to read the attached revised Statement of Principles and if you wish to make any comments on the proposed revisions or any other aspect(s) of the Statement, please send them, in writing and to be received by no later than **5pm** on **Wednesday 10 November 2021** to:

The Licensing Team
Place Department
London Borough of Croydon
Floor 6, Zone A
Bernard Weatherill House
8 Mint Walk
Croydon
CR0 1EA

Alternatively, you may send your comments by e mail to licensing@croydon.gov.uk to be received by the same date and time as above.

All comments will be considered and where appropriate, will be incorporated into the final version of the Statement.

In an effort to reduce printing, this statement is being circulated, where possible, electronically. If you have received this correspondence electronically but would prefer a hard copy, please contact the Council's Licensing Team on 020 8760 5466 or licensing@croydon.gov.uk .

Yours faithfully



Sarah Hayward
Interim Executive Director, Place

GAMBLING ACT 2005

Statutory 3 Year Review of Local Authority Statement of Principles

List of Consultees*

The Metropolitan Police & the other Responsible Authorities under the Gambling Act 2005 (including the Gambling Commission, the national regulator for gambling)

Representatives of holders of Premises Licenses in the borough

All LB Croydon Ward Councillors & the three borough Members of Parliament

GamCare
Croydon BID
New Addington BID
Purley BID
Crystal Palace Business Association
London Road Traders Association
Asian Resource Centre of Croydon
BME Forum
Croydon Churches
Croydon Voluntary Action
LB Croydon Access Officer
LB Croydon Public Health
Chair of Croydon Pubwatch

The neighbouring London boroughs of Sutton, Merton, Lambeth and Bromley

In addition to the above, the Council utilised a wide range of communication channels (including social media, the Council engagement portal and Your Croydon) to bring the consultation to the attention of residents and businesses in the borough.

*The consultation documents gave readers the opportunity to submit comments in writing to the Council licensing team and/or via an online survey.

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Respondee 1

From:

Sent: 03 October 2021 09:59

To: LICENSING <LICENSING@croydon.gov.uk>

Subject: Gambling Statement of Principles: consultation

Dear Croydon Council

I am writing to give feedback to the level of gambling in Thornton Heath where I have lived for 13 years.

There are five gambling shops along Thornton heath High Street and two more have opened since I have lived in the area. There is a William Hill gambling shop at each end of the High Street. In broad daylight I have seen people come out of the shop and urinate on the public pavement while there are children walking along the High Street.

It is known that gambling is addictive and glancing inside the shops it is possible to see it attracts people from a poor and deprived background.

This compounds their situation and makes them poorer. Thornton heath already has a number of challenges with deprivation and these betting shops make the situation worse.

I'm writing to request the council to take responsibility for this deteriorating situation and resolve this problem.

Best regards,

Respondee 2

From:

Sent: 27 October 2021

To: LICENSING <LICENSING@croydon.gov.uk>

Subject: Consultation on 'Revised statement of principles under the Gambling Act (2005)'

Please find below my comments on the 'Revised statement of principles under the Gambling Act (2005)'.

The document:

- 1) Fails to make any statement regarding the moral stance of Croydon Council with respect to gambling, i.e. whether it represents social behaviour that should be encouraged or discouraged and the effect on Croydon Council's actions.
- 2) Fails to make any statement regarding whether Croydon Council believes it is acceptable for Croydon Council to financially profit from gambling.
- 3) Fails to even mention addiction.
- 4) Fails to even mention the effect of gambling on families.
- 5) Only tacitly recognises the linkage between gambling and crime.
- 6) Fails to recognise that (in my opinion) gambling is one of a number of anti-social behaviours that mutually reinforce.
- 7) Fails to recognise the need (in my opinion) to remove gambling from the general public environment, in the same way as has been done for tobacco products. This is vital to change the perception that gambling is normal and acceptable behaviour. Adopting policies similar to those for the tobacco will reduce the risk that children will become gamblers.

I trust that you will take my comments into account such that you have not wasted my time, and are not just paying lip service to the concept of 'consultation'. I have experienced too many 'consultations' where the document, plan or policy in question is already fixed, and no account is taken of the comments, opinions and advice that were solicited only because this is demanded by 'the process'.

Regards

APPENDIX 4

Respondee	How / When	Comments incorporated into policy	Comments not incorporated into policy
<p>A resident – email marked Respondee 1.</p>	<p>By email to the Licensing Team on 3 October 2021.</p>	<p>-</p>	<p><i>I am writing to give feedback to the level of gambling in Thornton Heath where I have lived for 13 years. There are five gambling shops along Thornton heath High Street and two more have opened since I have lived in the area. There is a William Hill gambling shop at each end of the High Street. In broad daylight I have seen people come out of the shop and urinate on the public pavement while there are children walking along the High Street. It is known that gambling is addictive and glancing inside the shops it is possible to see it attracts people from a poor and deprived background. This compounds their situation and makes them poorer. Thornton heath already has a number of challenges with deprivation and these betting shops make the situation worse. I'm writing to request the council to take responsibility for this deteriorating situation and resolve this problem.</i></p> <p>The statutory guidance to the</p>

		<p>Gambling Act 2005 states at para. 5.34 that: 'Licensing authorities should be aware that other considerations such as moral or ethical objections to gambling are not a valid reason to reject applications for premises licences. In deciding to reject an application, a licensing authority should rely on reasons that demonstrate that the licensing objectives are not being, or are unlikely to be, met, and such objections do not relate to the licensing objectives. An authority's decision cannot be based on dislike of gambling, or a general notion that it is undesirable to allow gambling premises in an area (with the exception of the casino resolution powers).'</p> <p>Unlike other legislation, there is no provision for the concept of cumulative impact in the Gambling Act 2005 or accompanying statutory guidance. For information, cumulative impact (under the Licensing Act 2003) is where a Council (as the licensing authority) recognises that a significant number and type of licensed premises in a particular area may lead to problems in respect of the licensing</p>
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			<p>objectives, their cumulative impact on the promotion of the licensing objectives is a proper matter for the Council to consider. Under the Gambling Act 2005, the licensing objectives are:</p> <ul style="list-style-type: none">• preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime• ensuring that gambling is conducted in a fair and open way• protecting children and other vulnerable persons from being harmed or exploited by gambling <p>At Part B, General Principles in its Statement of Principles, the Council states: 'In addition, whereas previous legislation required that the grant of certain gambling permissions should take account of whether there was unfulfilled demand for the facilities, this is no longer the case and each application must be considered on its merits without regard to demand.'</p>
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A resident – email marked
Respondee 2.

Page 68

By email to the Licensing Team on
27 October 2021.

-

Section 197 of the Gambling Act 2005 provides that where a responsible authority or interested party (as defined under the Act) believes that a premises licence is not being operated in a way that is promoting the licensing objectives, they may apply to the licensing authority for a review of that premises licence.

- 1) *Fails to make any statement regarding the moral stance of Croydon Council with respect to gambling, i.e. whether it represents social behaviour that should be encouraged or discouraged and the effect on Croydon Council's actions.*

If properly conducted and regulated, gambling is a legal activity and the Council cannot take decisions based on moral or ethical grounds, nor can it make statements articulating a moral stance against gambling through its gambling statement of principles.

- 2) *Fails to make any statement regarding whether Croydon Council believes it is*

			<p><i>acceptable for Croydon Council to financially profit from gambling.</i></p> <p>If properly conducted and regulated, gambling is a legal activity and the Council cannot refuse to accept and process applications. Any fees received in respect of applications are to cover the Council's reasonable costs in administering and enforcing its responsibilities under the legislation as the licensing authority.</p> <p>3) <i>Fails to even mention addiction.</i></p> <p>Under Part B, General Principles, the document, under the heading 'protecting children and other vulnerable persons from being harmed or exploited by gambling' does highlight the potential risks of gambling. In addition, GamCare were directly consulted with as part of the consultation process. The document also lists potential conditions under each type of licensed premises that may be appropriate to promote the licensing objectives.</p>
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			<p>4) <i>Fails to even mention the effect of gambling on families.</i></p> <p>Under Part B, General Principles, the document, under the heading ‘protecting children and other vulnerable persons from being harmed or exploited by gambling’ does highlight the potential risks of gambling. In addition, GamCare were directly consulted with as part of the consultation process. The document also lists potential conditions under each type of licensed premises that may be appropriate to promote the licensing objectives.</p> <p>5) <i>Only tacitly recognises the linkage between gambling and crime.</i></p> <p>Under Part B, General Principles, the document, under the heading ‘preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime’ does acknowledge that gambling may be a source of crime. The document also lists potential conditions under each type of licensed premises that</p>
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			<p>may be appropriate to promote the licensing objectives. In addition, the Metropolitan Police were directly consulted with as part of the consultation process.</p> <p><i>6) Fails to recognise that (in my opinion) gambling is one of a number of anti-social behaviours that mutually reinforce.</i></p> <p>This opinion is acknowledged and respected. However, under Part B, General Principles, the document, under the heading 'preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime' does acknowledge that gambling may be a source of crime. The document also lists potential conditions under each type of licensed premises that may be appropriate to promote the licensing objectives. In addition, the Metropolitan Police were directly consulted with as part of the consultation process.</p> <p><i>7) Fails to recognise the need (in my opinion) to remove gambling from the general</i></p>
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public environment, in the same way as has been done for tobacco products. This is vital to change the perception that gambling is normal and acceptable behaviour. Adopting policies similar to those for the tobacco will reduce the risk that children will become gamblers.

If properly conducted and regulated, gambling is a legal activity and the Council must discharge its functions under and according to the legislation.

In addition to the above, the Council is required, in its licensing statement of policy and in its consideration of applications to adhere to the statutory requirements within the Gambling Act, which includes the duty of aim to permit – which is that the Act places a legal duty on both the Gambling Commission and licensing authorities (such as the Council) to aim to permit gambling, in so far as it is considered to be reasonably consistent with the pursuit of the licensing objectives. The effect of this duty is that both the Commission and licensing

			<p>authorities must approach their functions in a way that seeks to regulate gambling by using their powers, for example, powers to attach conditions to licences, to moderate its impact on the licensing objectives rather than by starting out to prevent it altogether.</p> <p>The three licensing objectives (s.1 of the Act) which are addressed within the draft statement of licensing policy and which guide the way licensing authorities are required to perform their functions under the Act and the way that gambling businesses carry on their activities, are:</p> <ul style="list-style-type: none">• preventing gambling from being a source of crime or disorder, being associated with crime or disorder, or being used to support crime• ensuring that gambling is conducted in a fair and open way• protecting children and other vulnerable persons from being harmed or exploited by gambling
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**CROYDON
COUNCIL**

STATEMENT OF PRINCIPLES

**PUBLISHED IN ACCORDANCE WITH THE PROVISIONS OF THE
GAMBLING ACT 2005**

**IF YOU WOULD LIKE THIS STATEMENT IN LARGER PRINT,
PLEASE CONTACT THE LICENSING TEAM ON 020 8760 5466
OR AT licensing@croydon.gov.uk**

**London Borough of Croydon
STATEMENT OF PRINCIPLES
Gambling Act 2005**

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*This Statement of Principles was approved by the London Borough of Croydon on ****.*

All references to the Guidance refer to the Gambling Commission's Guidance to Licensing Authorities, last updated 13 May 2021

PART A

1. The Licensing Objectives

In exercising their functions under the Gambling Act 2005 ('the Act'), licensing authorities must have regard to the licensing objectives as set out in section 1 of the Act which the authority seeks to promote through this Statement of Principles. The licensing objectives are:

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

It should be noted that the Gambling Commission has stated: 'The requirement in relation to children is explicitly to protect them from being harmed or exploited by gambling'. The Council is aware of the National Strategy to Reduce Gambling Harms and the importance of close working between teams to deliver important results in promoting the third licensing objective of 'protecting children and other vulnerable persons from being harmed or exploited by gambling'. A database of national, regional and local initiatives can be found on the Commission website.

The Council is aware that, as provided by Section 153 of the Act, in making decisions about premises licences and temporary use notices it should aim to permit the use of premises for gambling in so far as it thinks it is:

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

2. Introduction

The London Borough of Croydon covers an area of 86.5 square kilometres and has a population of approximately 388,500. The borough is mainly urban in character, being made up of a number of district retail and commercial centres each surrounded by residential accommodation. Croydon town centre is a well defined retail and commercial area with a large number of shops and offices.

The London Borough of Croydon ('the Council') is the Licensing Authority for the purposes of the Act and is required to publish a Statement of Principles ('the Statement') which it proposes to apply when exercising its licensing functions under the Act. The Council's original Statement was approved by the full Council on 27 November 2006. Statements last for a maximum of three years but can be reviewed and revised by the Council at any time. All such reviews and revisions of the Statement will be subject to consultation and subsequent re-publication. The Statement was last reviewed in 2018 and subsequently re published by the Council, in accordance with the legislation. This is the fifth statutory review the Council has undertaken.

The Council consulted widely upon this Statement and in accordance with the Act's requirements before its final approval. A list of the persons and bodies consulted is attached at Appendix 1 to this Statement and included:

- The police for this Licensing Authority's area
- Croydon Children's Safeguarding Partnership
- All other Responsible Authorities under the Act
- Public Health Croydon
- GamCare
- Representatives of organisations involved in gambling in the area
- All elected Croydon borough councillors, the GLA Assembly Member for Croydon & Sutton and the three borough MP's
- The Council's Access Officer
- Croydon BID
- The Council also engaged with residents, businesses and community & voluntary groups in the borough via a variety of communication means
- The adjoining London boroughs of Lambeth, Sutton, Merton and Bromley

Consultation took place between 29 September 2021 and 10 November 2021.

The full list of consultees, comments received and details of their consideration by the Council are available on request to: The Licensing Team, Place Department, London Borough of Croydon, 6th Floor, Zone A, Bernard Weatherill House, 8 Mint Walk, Croydon or via the Council's website at: www.croydon.gov.uk.

It should be noted that this Statement sets out the factors the Council may take into account when considering applications made under the Act, and matters it will consider when deciding to review a licence. However it 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 Act.

To assist the reader, a Glossary of Terms is attached at Appendix 2 to this Statement. In addition, at Appendix I in their statutory guidance, the Gambling Commission provide a glossary of terms.

3. Declaration

In producing the Statement, the Council declares that it has had regard to the licensing objectives of the Act, the Guidance to Licensing Authorities ('the Guidance') issued by the Gambling Commission, and any comments received from those consulted on it.

4. Responsible Authorities

In exercising its discretion under Section 157(h) of the Act to designate a body which is competent to advise the Council about the protection of children from harm, the following principles have been applied:

- the need for the body to be responsible for 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 etc.
-

With those principles in mind this Council designates the Croydon Children's Safeguarding Partnership (CSCP) as competent to advise it.

The contact details of all the Responsible Authorities under the Act are available via the Council's website at: www.croydon.gov.uk or by contacting the Council's licensing team on 020 8760 5466 or at licensing@croydon.gov.uk.

5. Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. An interested party is defined in the Act as a person who in the opinion of the licensing authority which issues the licence or to whom the application is made:

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

The Council will determine whether a person is an interested party with regard to particular premises on a case by case basis and will not apply a rigid rule to its decision making. In doing so it will have regard to the below mentioned factors drawn from paragraphs 8.12 and 8.15 of the Statutory Guidance.

The factors the Council will take into account in each case when determining what 'sufficiently close to the premises' means will include relevant factors such as:

- 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 their personal characteristics, but their interests which may be relevant to the distance from the premises. (8.12)

The factors the Council may consider relevant when determining whether persons have business interests which may be affected include:

- the size of the premises
- the 'catchment' area of the premises, that is, how far people travel to visit the premises
- whether the person making the representation has business interests in that catchment area that might be affected. (8.15)

Interested parties can be persons who are democratically elected such as Councillors and MP's. Whilst the Members Code of Conduct adopted by the

Council pursuant to the Localism Act 2011 may place restrictions on ~~Councillors appearing at and addressing licensing committee hearings~~ if they have a disclosable pecuniary interest (DPI), other interest as defined by the Code or conflict of interest in relation to the matter under consideration, this does not prevent them from making written representations. Councillors should however ensure that the Monitoring Officer is made aware of any such interests and declare these at the meeting if these are not already on the Members' register of interests. Where the restrictions apply, it is recommended that councillors seek specific advice from the Council's Monitoring Officer in relation to their ability to make representations to or address the Committee if they have a DPI, "other" interest as defined by the Code or potential or actual conflict of interest.

Further advice can be obtained with regard to applications and representations under the Act by contacting the Council's licensing team on 020 8760 5466 or at licensing@croydon.gov.uk. If an MP/councillor is asked to represent an interested person at a hearing, no specific evidence of being asked to represent that interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected, will be considered to be interested parties. Other than these however, 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.

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. Again, if there are any doubts then please contact the licensing team on 020 8760 5466 or at licensing@croydon.gov.uk.

6. Exchange of Information

When exercising its functions under sections 29 and 30 of the Act with respect to the exchange of information between it and the Gambling Commission, and the functions under section 350 of the Act with respect to the exchange of information between it and the other persons listed in Schedule 6 to the Act, the Council will act in accordance with the provisions of the Act and ensure compliance with the provisions of the General Data Protection Regulations and the Data Protection Act 2018. The Council will also have regard to any Guidance issued by the Gambling Commission to Licensing Authorities on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Act and principles of better regulation.

The Guidance for local authorities refers to this matter and some relevant sections are:

- "Licensing authorities do not need to investigate the suitability of an applicant for a premises licence, including in relation to crime. The issue of suitability will already have been considered by the Commission, because any applicant (except occupiers of tracks who do not propose to offer

gambling themselves) will have to hold an operating licence from the Commission before the premises licence can be issued. However, if the licensing authority receives information during the course of considering a premises licence application, or at any other time that causes it to question the suitability of the applicant to hold an operating licence, these concerns should be brought to the attention of the Commission without delay.”

(5.10).

- “Regulatory issues arising from the prevention of disorder are likely to focus almost exclusively on premises licensing, rather than on operating licences. However, if there are persistent or serious disorder problems that an operator could or should do more to prevent, the licensing authority should bring this to the attention of the Commission so that it can consider the continuing suitability of the operator to hold an operating licence.” (5.6).
- “If it comes to the attention of licensing authorities that alcohol-licensed premises or clubs or institutes are playing bingo during the course of a week which involves significant stakes and prizes, that makes it possible that the £2,000 in seven days is being exceeded, authorities should inform the Commission. To help clubs and institutes to comply with the full range of statutory requirements for gaming, the Commission has developed a statutory code of practice “the Code of Practice for gaming in clubs and premises with an alcohol licence.” (18.16).

7. Enforcement

When exercising its 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, the Council will be guided by the Guidance for local authorities and will also carry out its regulatory functions in accordance with good enforcement practice and will adhere to fundamental principles. Accordingly, enforcement shall be:

- Targeted
- Consistent
- Transparent
- Proportionate
- Necessary
- Also, so far as possible, the Council will endeavour to avoid duplication with other regulatory regimes and aim to adopt a risk based inspection programme.

The main enforcement and compliance role for this Council in terms of the Act will be to ensure compliance with premises licences and the 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 Council but will be notified to the Gambling Commission.

With regard to betting offices, the Council recognises that certain bookmakers have a number of premises within its area. In order to ensure that any compliance issues are recognised and resolved at the earliest stage, operators are requested to give the authority a single named point of contact,

who should be a senior individual and whom the authority will contact first should any compliance queries or issues arise.

This Council recognises that it is subject to and will comply with the Regulators' Code developed by the Better Regulation Delivery Office in relation to matters of gambling licensing and enforcement.

For the purposes of transparency, this Council's enforcement/compliance protocols/written agreements will be available upon request to the licensing department on 020 8760 5466 or at licensing@croydon.gov.uk. Our risk methodology will also be available upon request.

8. Licensing Authority functions

As required under the Act, this Council will:

- Be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- Issue *Provisional Statements*
- Regulate *members' clubs* 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 *Alcohol 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 (see section above on 'information exchange')
- Maintain registers of the permits and licences that are issued under these functions

This Council will not be involved in licensing remote gambling, as this falls to the Gambling Commission via operating licences.

PART B PREMISES LICENCES

1. General Principles

Premises licences are subject to the requirements set-out in the Act and regulations, as well as specific mandatory and default conditions which are detailed in regulations issued by the Secretary of State. Licensing authorities are able to exclude default conditions and also attach others, where it is believed to be appropriate. The Guidance makes clear that Licensing authorities should not turn down applications for premises licences where relevant objections can be dealt with through the use of conditions.

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

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

It is appreciated that as per the Guidance for local authorities "moral or ethical objections to gambling are not a valid reason to reject applications for premises licences" In addition, whereas previous legislation required that the grant of certain gambling permissions should take account of whether there was unfulfilled demand for the facilities, this is no longer the case and each application must be considered on its merits without regard to demand.

Meaning of "premises" – the following paragraphs are taken from the statutory guidance produced by the Gambling Commission -

'In the Act, 'premises' is defined as including 'any place'. S.152 therefore prevents more than one premises licence applying to any place. But, there is no reason in principle why a single building could not be subject to more than one premises licence, provided they are for different parts of the building, and the different parts of the building can reasonably be regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as pleasure parks, tracks, or shopping malls to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-division of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed. (7.5)

In most cases the expectation is that a single building/plot will be the subject of an application for a licence, for example, 32 High Street. But that does not mean that 32 High Street cannot be the subject of separate premises licences for the basement and ground floor, if they are configured acceptably. Whether different parts of a building can properly be regarded as being separate premises will depend on the circumstances. The location of the premises will clearly be an important consideration and the suitability of the division is likely

to be a matter for discussion between the operator and the licensing authority.
(7.6)

The Commission does not consider that areas of a building that are artificially or temporarily separated, for example by ropes or moveable partitions, can properly be regarded as different premises. If a premises is located within a wider venue, a licensing authority should request a plan of the venue on which the premises should be identified as a separate unit. (7.7)

The Commission recognises that different configurations may be appropriate under different circumstances but the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence – with the machine entitlements that brings – and are not an artificially created part of what is readily identifiable as a single premises. (7.8)

The Act sets out that the type and number of higher stake gaming machines allowable in premises is restricted according to the type of premises licence or permit granted. For example, a converted casino licence allows for 20 gaming machines in categories B, C or D. With the exception of AGCs and FECs, premises are not permitted to be used exclusively for making gaming machines available, but rather to provide the gaming facilities corresponding to the premises licence type. Further detail on gaming machines is set out in Part 16 of this guidance. (7.9)

The Act states that an application must be made to a licensing authority in whose area the premises are wholly or partly situated. In circumstances where the premises lie in more than one licensing authority's area, the operator should make their application to just one of those authorities. As both licensing authorities are responsible authorities under s.157 of the Act, the other licensing authority must be notified of the application and is entitled to make representations. As a responsible authority, it has an opportunity to pass relevant information about the premises to the licensing authority determining the application. Further detail on responsible authorities is set out at Part 8 of this guidance. (7.10)

Casino premises are subject to separate regulations, involving a two-stage application process. Details of the two stage process can be found in Part 17 of this guidance.' (7.11)

This Council takes particular note of the Guidance for local authorities, which at paragraphs 7.32 & 7.33 states:

'Licensing authorities should take particular care in considering applications for multiple premises 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 in which by law they are not allowed to

participate. Therefore premises should be configured so that children are not invited to participate in, have accidental access to, or closely observe gambling where they are prohibited from participating.

- Entrances to and exits from parts of a building covered by one or more premises licences should be separate and identifiable so that the separation of different premises is not compromised and people do not 'drift' into a gambling area. In this context it should normally be possible to access the premises without going through another licensed premises or premises with a permit.
- Customers should be able to participate in the activity named on the premises licence' (7.32).

'In determining whether two or more proposed premises are truly separate, the licensing authority should be aware of factors which could assist them in making their decision. Depending on all the circumstances of the case, these may include:

- Is a separate registration for business rates in place for the premises?
- 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?' (7.33)

The Council will consider these and all other relevant factors in making its decision, depending on all the circumstances of the particular case.

Gaming Machines in Gambling Premises

Attention is drawn to Social Responsibility Codes 9.1.1, 9.1.2 and 9.1.3 of the Licence Conditions and Codes of Practice document produced by the Gambling Commission, a copy of which can be found at <https://www.gamblingcommission.gov.uk/licensees-and-businesses/lccp/2/9>

To assist, Code 9.1.1 states as follows –

“Social responsibility code provision 9.1.1

Gaming machines in gambling premises – betting

All non-remote general betting operating licences, except where betting is offered under a 2005 Act casino premises licence

1 Gaming machines may be made available for use in licensed betting premises only where there are also substantive facilities for non-remote betting, provided in reliance on this licence, available in the premises.

2 Facilities for gambling must only be offered in a manner which provides for appropriate supervision of those facilities by staff at all times.

3 Licensees must ensure that the function along with the internal and/or external presentation of the premises are such that a customer can

reasonably be expected to recognise that it is a premises licensed for the purposes of providing betting facilities.”

The meaning of ‘available for use’ is discussed further in paragraphs 16.16 to 16.26 of the statutory guidance published by the Gambling Commission (13 May 2021 version) and some key components are as follows, with the specific wording taken direct from the statutory guidance –

‘that a gaming machine is ‘available for use’ if a person can take steps to play it without the assistance of the operator’ (16.17)

‘More than the permitted number of machines may be 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’ (16.18)

‘Gaming machine entitlements in AGC or bingo premises set out that only 20% of machines can be category B machines in order to ensure a balanced offering of gambling products and restrict harder gambling opportunities.’ (16.21)

‘We updated our ‘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.’ (16.23)

We have published our ‘available for use’ guidance on the Commission website, and provided additional information specifically in relation to when is a gaming machine ‘available for use’ in AGC or bingo premises under the 20% regulations. (16.26)

Location - The Council is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives can be. As per the Guidance for local authorities, this authority will pay particular attention to the protection of children and vulnerable persons from being harmed or exploited by gambling, as well as issues of crime and disorder.

Croydon is a very diverse borough, both culturally and socio economically and also has areas where levels of crime and disorder and anti-social behaviour are more prevalent than in others.

The Gambling Commission’s Licence Conditions and Codes of Practice (LCCP), formalise the need for operators to consider local risks. The current version, effective from 31 October 2020, is available on the Gambling Commission’s website.

In this regard, operators are specifically referred to the Social Responsibility (SR) code 10.1.1 which requires all premises licensees to assess the local risks to the licensing objectives posed by the provision of gambling facilities at each of their premises, and have policies, procedures and control measures to mitigate those risks. In undertaking their risk assessments, they must take

into account relevant matters identified in the Council's statement of licensing policy (Statement of Principles).

This Council expects all operators to prepare robust and considered assessments of the local risks to the licensing objectives posed by the provision of gambling facilities at the application premises and address any factors that may have a negative impact on the licensing objectives. In addition, the Council expects all operators to review (and update as necessary) their local risk assessments:

- to take account of significant changes in local circumstances, including those identified in this statement of licensing policy;
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks;
- when applying for a variation of a premises licence; and
- in any case, undertake a local risk assessment when applying for a new premises licence.

It is not possible to provide a complete list of factors to consider in relation to the risk assessment but the following are examples of the factors the Council would expect gambling operators to consider –

- The location of schools, sixth form colleges and youth centres in the local area of the licensed or application premises, with reference to the potential risk of under age gambling or the direct exposure to gambling by under age persons as a result and the mitigation measures the operator intends to introduce to reduce any such risks;
- The location of hostels or places offering support services for vulnerable people, such as those with addiction issues in the local area of the licensed or application premises. The Council expects operators to give very careful consideration to the suitability of locating new licensed premises close to such sensitive premises, or to varying the terms of existing licenses in such areas, given the greater risk of problem gambling amongst these groups and would expect to see clear and robust mitigation measures from the operator on how they would intend to reduce any such risks;
- Any reasonably available information about issues with problem gambling in the area of the licensed or application process. In assessing the negative impact premises may have on the licensing objectives, the Council will expect operators to include consideration of the existing density of licensed gambling premises and the status of the night time economy in the area local to their licensed or application premises. The Council will expect operators to particularly assess the risk of gambling being a source of crime, being associated with crime or being used to support crime in that area and to set out any mitigation measures they would intend to introduce to reduce any such risks.
- The Council will expect operators, perhaps in prior discussions with the Police, to assess patterns of crime, disorder and anti-social behaviour

in the area local to the licensed or application premises, specifically ~~that linked to gambling premises and set out the measures they believe~~ will mitigate any risks of their premises having a negative impact on those crime etc. patterns.

While none of the above preclude any application being made and each application will be decided on its merits, it is expected that any application will demonstrate how potential risks/concerns can be overcome.

The Council will expect licensees 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, such as, for example, when there is an inspection of a premises. Ideally, a copy of the current local area risk assessments will be kept at the licensed premises.

Local Area Profiles

The Council is aware of the Gambling Commission recommendation that licensing authorities map and prepare their own assessments of local risks, in the form of local area profiles. Such profiles will be prepared and be available for operators to utilise when preparing their risk assessments through a specific request to the Council licensing team.

Undoubtedly, such local areas profiles will develop over time but at the outset, to assist operators, they will incorporate data on the matters listed above.

Duplication with other regulatory regimes - The Council will seek to avoid any duplication with other statutory/regulatory systems where possible, including planning. The Council 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, however, 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. Operators are also reminded of the 'Sui Generis Use Class' status of betting shops in the Planning context which came into being in 2016.

Licensing objectives - Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, the Council has considered the Guidance to local authorities:

Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime - The Council is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Guidance does however envisage that licensing authorities 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 this authority will carefully consider the effect on the licensing objectives of gambling premises being located in this area and whether additional conditions may be appropriate. The Council is aware of the distinction

between disorder and nuisance and in determining whether disorder may occur, will consider factors such as whether police assistance was required and how threatening the behaviour was to those who could see or hear it, so as to make that distinction.

Ensuring that gambling is conducted in a fair and open way - The Council has noted that licensing authorities would generally not be expected to become concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. However its role with regard to tracks is explained in more detail at paragraph 7.

Protecting children and other vulnerable persons from being harmed or exploited by gambling – The Council notes that this objective means preventing children from taking part in gambling and is aware of the content of the following paragraphs in the statutory guidance –

The Gambling Act 2005 permits the advertising of gambling in all forms, provided that it is legal and there are adequate protections in place to prevent such advertisements undermining the licensing objectives. The Advertising Standards Authority (ASA) is the UK's independent regulator of advertising. It enforces the UK Advertising Codes (the Codes), written by the Committees of Advertising Practice. The Codes cover the content and placement of advertising and are designed to ensure that advertisements for gambling products are socially responsible, with particular regard to the need to protect children, young persons under 18 and other vulnerable persons from being harmed or exploited. The Codes also require that advertisements for gambling products or services do not mislead. Any complaint about the content and placement of advertising or marketing communications should be sent directly to the ASA. (1.19)

The LCCP requires licensees to ensure that their policies and procedures for preventing underage gambling take account of the structure and layout of their gambling premises. This therefore requires licensees not only to be able to supervise their premises but also that they should mitigate the risks of under 18s being attracted to enter premises by the products available within them. Where a licensing authority has concerns that such products are visible, they could for example require the licensee to re-site the products out of view. (7.29)

The Council will therefore consider, as suggested in the Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include:

- proof of age schemes
- supervision of entrances
- supervision of machine areas
- physical separation of areas
- appropriate notices/signage
- location of entry

The Council will make itself aware of the Codes of Practice which the Gambling Commission issues as regards this licensing objective, in relation to

specific premises. In addition, the Council is aware of the concerns set out by the Gambling Commission in their briefing paper entitled 'Gambling-related harm as a public health issue' dated February 2018, of the advice to local authorities from the Local Government Association in their document entitled 'Tackling gambling related harm – A whole Council approach', last updated in November 2018 and of the National Strategy to Reduce Gambling Harms, which was most recently updated on 8 December 2020.

The Council is also aware of the Social Responsibility Charter for Gaming Machines in Pubs, produced by the British Beer & Pub Association (BBPA) and UK Hospitality, which *'sets out a Code of Practice with regards to gaming machines in pubs, and in particular the steps to take to tackle and prevent under-age players of these machines.'*

As regards the term "vulnerable persons" it is noted that the Gambling Commission is not seeking to offer a definition but states that "it will for regulatory purposes assume that this group includes people who gamble more than they want to; people who gamble beyond their means; and people who may not be able to make informed or balanced decisions about gambling due to a mental impairment, alcohol or drugs." In relation to this licensing objective, the Council will consider each application on a case by case basis. Should a practical definition prove possible in future then this policy statement will be updated.

Conditions – The starting point when considering an application is that it will be granted subject only to the mandatory and default conditions and additional conditions will only be imposed where there is evidence of a risk to the licensing objectives, such that there is a need to supplement the existing mandatory and default conditions.

Any additional 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; and
- reasonable in all other respects.

Decisions upon additional conditions will be made on a case by case basis, although there will be a number of measures that the Council will consider utilising should there be a perceived need. There are specific comments made in this regard under some of the licence types below.

The Council may consider measures to meet the licensing objectives, such as:

- leaflets giving assistance to problem gambling to be clearly displayed in all areas of the premises
- self exclusion forms to be made available for customer use
- machines such as fixed odds betting terminals to clearly display odds
- ATM or cash terminals to be sited away from gaming machines

- Details of the GamCare helpline and website to be displayed prominently in premises
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The Council 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 Guidance.

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

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

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

A summary of machine provisions by premises is provided in Appendix A and a summary of gaming machine categories and entitlements in Appendix B of the Statutory Guidance published by the Gambling Commission.

The Council is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. There cannot be more than one premises licence covering the same area of the track. As per the Guidance, the Council will consider the impact upon the third licensing objective and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

It is noted that there are conditions which the Council cannot attach to premises licences which are:

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

Door Supervisors – this Council notes that licensing authorities may consider whether there is a need for door supervisors in terms of the licensing objectives of protecting children and vulnerable persons from being harmed or exploited by gambling, and also in terms of preventing premises becoming a source of crime. Whilst there is currently no apparent evidence that the operation of betting offices requires door supervisors for the protection of the public, this authority will consider making a door supervision requirement with regard to a betting office if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and/or that door supervision is both necessary and proportionate.

Where operators and the Council decide that supervision of entrances/machines is appropriate for particular cases, it will need to be decided whether these staff need to be Security Industry Authority (SIA) licensed or not. Furthermore, if a person carries out 'door supervisor' duties but is exempt from the requirement to be licensed by the SIA, the Council will expect that person to be trained to a nationally recognised standard and be able to show that they have undergone relevant and appropriate police records checks. Door supervision will not, however be seen in isolation as the only remedy for concerns and the Council will consider other options, if considered appropriate, to achieve the licensing objectives.

2. Adult Gaming Centres

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

The Council may consider measures to meet the licensing objectives, such as:

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

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

The Council also notes that paragraph 21.4 in the statutory guidance issued by the Gambling Commission states –

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. There is also an Ordinary Code provision at 3.5.7. The full details can be found within the LCCP (Licence Conditions and Codes of Practice).

3. (Licensed) Family Entertainment Centres

The Council will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority, 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.

The Council may consider measures to meet the licensing objectives, such as:

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

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

The Council will, as per the Guidance, refer to the Commission's website to see any conditions that apply to operating licences covering the way in which the area containing the category C machines, should be delineated. The Council will also make itself aware of any mandatory or default conditions on these premises licences, when they have been published.

4. Casinos

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

The Council is aware that, where its area is enabled to grant a premises licence for a new style casino (i.e. the Secretary of State has made such regulations under Section 175 of the Gambling Act 2005), there are likely to be a number of operators which will want to run the casino. In such situations the Council will run a 'competition' under Schedule 9 of the Act and in line with any regulations / codes of practice issued under the Act.

5. Bingo premises

The Council notes that the Guidance states:

Licensing authorities need to satisfy themselves that bingo can be played in any bingo premises for which they issue a premises licence. An operator may choose to vary their licence to exclude a previously licensed area of that premises, and then apply for a new premises licence, or multiple new premises licences, with the aim of creating separate premises in that area. Essentially providing multiple licensed premises within a single building or site. Before issuing additional bingo premises licences, licensing authorities need to consider whether bingo can be played at each of those new premises (18.5).

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. Social Responsibility (SR) code 3.2.5 (3) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling (18.7).

S.172(7) (of the Act), as amended, provides that the holder of a bingo premises licence may make available for use a number of category B gaming machines not exceeding 20% of the total number of gaming machines on the premises. For example, a premises with a total of 25 gaming machines available for use can make five or fewer category B3 gaming machines available on that premises. Premises that were licensed before 13 July 2011 are entitled to make available eight category B gaming machines, or 20% of the total number of gaming machines, whichever is the greater. There are no restrictions on the number of category C or D machines that can be made available. Regulations state that category B machines at bingo premises are restricted to sub-category B3 (SI 2007/2158: Categories of Gaming Machine Regulations 2007) (but not B3A) and B4 machines. Licensing authorities should ensure that gambling machines are made available for use in a manner consistent with our guidance within Part 16. 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. This includes tablets. (18.8)

The gaming machines must remain within the licensed area covered by the premises licence. In the unusual circumstance that an existing bingo premises covered by one premises licence applies to vary the licence and acquire additional bingo premises licences (so that the area that was the subject of a single licence will become divided between a number of separate licensed premises) it is not permissible for all of the gaming machines to which each of the licences brings an entitlement to be grouped together within one of the licensed premises (18.9).

The Council will have regard to the Guidance on the issues that licensing authorities should take into account in relation to the suitability and layout of bingo premises.

6. Betting premises

The Council notes the following paragraphs from statutory guidance –

Children and young persons are not permitted to enter premises with a betting premises licence, although exemptions apply to tracks, as explained in Part 20 of the Gambling Commission guidance, and s.46 and s.47 of the Act set out offences of inviting, causing or permitting a child or young person to gamble, or to enter certain gambling premises. Social Responsibility (SR) code 3.2.7(3) in the Licence Conditions and Codes of Practice (LCCP) states that 'licensees must ensure that their policies and procedures take account of the structure and layout of their gambling premises' in order to prevent underage gambling. Children and young persons are not allowed to be employed at premises with a betting premises licence. (19.4)

S.172(8) (of the Act) provides that the holder of a betting premises licence may make available for use up to four gaming machines of category B, C or D. Regulations state that category B machines at betting premises are restricted to sub-category B2, B3 and B4 machines (the terminals commonly in use are able to provide both B2 and B3 content). (19.5)

Self-service betting terminals (SSBT's) –

S.235(2)(c) provides that a machine is not a gaming machine if it is designed or adapted for use to bet on future real events. Some betting premises may make available machines that accept bets on live events, such as horse racing, as a substitute for placing a bet over the counter. These SSBTs are not gaming machines and therefore neither count towards the maximum permitted number of gaming machines, nor have to comply with any stake or prize limits. SSBTs merely automate the process that can be conducted in person and the Act exempts them from regulation as a gaming machine. (19.7)

S.181 contains an express power for licensing authorities 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 or to a casino premises licence (where betting is permitted in the casino). When considering whether to impose a condition to restrict the number of SSBTs in particular premises, the licensing authority, amongst other things, should take into account the ability of employees to monitor the use of the machines by children and young persons or by vulnerable people. (19.10)

The Council may consider measures to meet the licensing objectives, such as:

- leaflets giving assistance to problem gambling to be clearly displayed in all areas of the premises
- self exclusion forms to be made available for customer use
- if available, QR (Quick Response) Codes for accessing the above information/forms
- machines such as fixed odds betting terminals to clearly display odds
- ATM or cash terminals to be sited away from gaming machines

- details of the GamCare helpline and website to be displayed prominently in premises
- provide door supervision

With regard to door supervision, whilst there is no apparent evidence that the operation of betting offices requires door supervisors for the protection of the public, this authority will consider making a door supervision requirement if there is clear evidence from the history of trading at the premises that the premises cannot be adequately supervised from the counter and/or that door supervision is both necessary and proportionate.

With regard to applications to re-site betting office premises in the locality to provide improved facilities for customers, this authority will treat any such application on its individual merits but recognises that such applications may enhance the quality of the facility provided for the benefit of the betting public.

The Council will expect that sufficient facilities are available at individual licensed premises for the provision of betting and attention is drawn again to Social Responsibility Code 9.1.1., referenced at page 9 above.

Where two or more Betting shops are sited in a neighbourhood shopping area or town centre, the Licensing Authority strongly encourages the managers of each shop to meet with the Police and representatives of the other Responsible Authorities on at least a quarterly basis to discuss local crime and disorder problems and certain individuals that persistently cause crime and disorder in Gambling Premises.

7. Tracks

S.353 of the Act defines a track as a horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place or is intended to take place.

The following paragraphs from the statutory guidance, issues by the Gambling Commission provide further information about tracks –

The on-course betting operator is one who comes onto the track, temporarily, while races or sporting events are taking place. On-course betting operators tend to offer betting only on the events taking place on the track, that day. For example, betting operators attending horserace and greyhound racing meetings will only attend on race days. Similarly, betting operators at cricket and football grounds are only likely to attend on days when matches are taking place. (20.17)

Betting on tracks is organised in different ways and can take place in different parts of the track in many different forms. These include the following:

- **'Betting rings'** The ring can be dispersed throughout the track, and can include 'temporary' rings at large meetings, but all different locations form part of the betting area. On-course betting operators will be located in the betting ring according to a position (pitch) allocated to

them under the commercial arrangement they have with the track owner.

- **Betting counters or kiosks** A betting counter or booth may be a permanent or temporary outlet from which a bookmaker provides betting facilities. Examples include manned stands or porta-cabins located at football grounds on match days, and the temporary kiosks used by bookmakers at cricket grounds during test matches.
- **Mobile betting** Mobile betting machines (often handheld) operated by employees of betting operators allow customers to place a bet or receive payouts away from betting kiosks or the betting ring, most commonly in hospitality areas.
- **Self-service betting terminals (SSBTs)** SSBT, described in paragraph 19.6, lack the direct human intervention of a betting counter staffed by a cashier, and can be located at different parts of tracks. See below more details on SSBTs at tracks.
- **Pool betting** This involves the pooling of stakes on a given event, and the splitting of the total pool, less a commission for the operator amongst the winners. Pool betting at horseracing and greyhound tracks can be offered under a pool betting operating licence – be that the owner of the track or a third party provider. Tracks may also conduct inter-track pool betting when other tracks are holding races. (20.18)

Off-course betting

Off-course betting operators are typically those who provide betting facilities from betting premises such as those found on the high street. In addition to such premises, betting operators may operate self-contained betting premises or designated areas such as a row of betting kiosks within the track premises. These premises provide facilities for off-course betting (in effect, the opportunity to bet on other events not just those taking place on the track), although they normally operate only on race days. (20.19)

The provision of off-course betting facilities as described above is generally conducted in reliance on the track premises licence held by the occupier of the track and consequently the off-course operator is prohibited from making any gaming machines available for use unless they hold a separate betting premises licence in relation to part of the track. The track premises licence holder will need to vary their existing premises licence so that it does not have effect in relation to the area where the additional betting premises licence is located. The additional betting premises licence would need to be secured by the holder of an appropriate betting operating licence. Such a premises would then be subject to the conditions outlined in Part 19 (of the guidance). (20.20)

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

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

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

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

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

The following paragraphs from the statutory guidance are in relation to self-service betting terminals (SSBTs) –

S.235(2)(c) of the Act provides that a machine is not a gaming machine by reason only of the fact that it is designed or adapted for use to bet on future real events. Betting operators may make available machines that accept bets on live events, such as horseracing, as a substitute for placing a bet with a member of staff. These self-service betting terminals are not gaming machines; they merely automate the process that can be conducted in person and therefore are not regulated as gaming machines. (20.39)

Licensed operators may install SSBTs on tracks. There is no restriction on the number of SSBTs that may be in use but operators must, by virtue of their

operating licence conditions, supervise such terminals to prevent them being used by those under 18 years of age. (20.40)

There is no formal requirement on track premises licence holders to involve themselves in the procedures used by betting operators to supervise their SSBTs (unless specific local conditions specifying supervisory arrangements are added to the track premises licence by the licensing authority). Some betting operators may agree supervisory assistance to be provided by employees of the track premises licence holders, but this is a commercial matter between the track owner and betting operators. (20.41)

While track premises licence holders have no formal responsibilities in this regard, the Commission has advised them to inform it of instances where they are aware that betting operators are persistently failing to ensure the adequate supervision of their SSBTs. (20.42)

8. Travelling Fairs

It will fall to the Council to decide 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.

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

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. The Council will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional Statements

The Act allows an operator to apply for a provisional statement if a building is not yet complete, needs alteration or he/she does not yet have a right to occupy it. This would allow an operator to know whether a full premises licence would, in due course, be granted.

The Council notes however that the Guidance states that "requiring the building to be complete ensures that the authority could, if necessary, inspect it fully".

In terms of representations about premises licence applications, following 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. In addition, the Council, as licensing authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:

- (a) which could not have been raised by objectors at the provisional licence stage; or
-
- (b) which in the Council's opinion, reflect a change in the operator's circumstances.

The Council notes that in determining matters licensing authorities should not take into consideration matters that are not related to gambling and the licensing objectives. One example of such a matter would be the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

10. Reviews

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

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

As licensing authorities are required to permit the use of premises for gambling, in so far as it is in accordance with the s.153 principles, applications that raise general objections to gambling as an activity, that relate to demand for gambling premises, or raise issues relating to planning, public safety, and traffic congestion are unlikely to be considered an appropriate basis for review, leading to rejection under the bullet points above.

In addition, consideration will be given as to whether the request for review is frivolous, vexatious, would not cause the Council to wish to alter/revoke/suspend the licence or to remove, amend or attach conditions on the premises licence, or whether it is substantially the same as previous representations or requests for review.

The Council can also initiate a review of a licence on the basis of any reason which it thinks is appropriate. In doing so, the Council will be mindful of the fact that licensing authority actions, including reviews, should be in pursuit of the principles set out in s.153 of the Act or underpinned by reasonable concerns, such as changes to the local environment or resident complaints.

PART C

Permits / Temporary & Occasional Use Notice

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

Where premises do not hold a premises licence but wish to provide gaming machines, it may apply to the licensing authority for this permit. The applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).

The Council may prepare a separate *statement of principles* that it would propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission under section 25 of the Act. It is proposed that any statement regarding Unlicensed Family Entertainment Centre (FEC) permit applications be appended to this main statement of principles.

An application for a permit may be granted only if the Council is satisfied that the premises will be used as an unlicensed FEC, and if the chief officer of police has been consulted on the application. The Council may ask applicants to demonstrate:

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

It should be noted that the Council cannot attach conditions to this type of permit.

The Council has not currently adopted a Statement of Principles on Permits. Should it decide to do so it will be available from the Licensing Team. Potential applicants / other interested persons are advised to check with the Licensing Team as to whether a Statement of Principles on Permits has been adopted.

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

There is provision in the Act for premises licensed to sell alcohol for consumption on the premises, to automatically have 2 gaming machines, of categories C and/or D. The premises merely need to notify the licensing authority. The licensing authority can remove the automatic authorisation in respect of any particular premises if:

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Gambling Act (i.e. that written notice has been provided

to the licensing authority, that a fee has been provided and that any relevant code of practice issued by the Gambling Commission about the location and operation of the machine has been complied with);

- the premises are mainly used for gaming; or
- an offence under the Gambling Act has been committed on the premises.

If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the Council will consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and “such matters as they think relevant.”

The Council considers that “such matters” will be decided on a case by case basis but generally there will be regard to the need to protect children and vulnerable persons from 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 under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the Council that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons applicants may wish to consider the provision of information leaflets/helpline numbers and where available, QR (Quick Response) Codes for organisations such as GamCare. Each application for more than 2 gaming machines in licensed premises shall, therefore be dealt with on its merits.

The Council can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.

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.

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

3. Prize Gaming Permits - (Statement of Principles on Permits - Schedule 14 paragraph 8 (3))

The Act states that a licensing authority may prepare a *statement of principles* that they propose to apply in exercising their functions under this Schedule which may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit. It is proposed that any statement regarding Prize Gaming Permit applications be appended to this main statement of principles.

The Council may require applicants to set out the types of gaming that he or she is intending to offer and furthermore that the applicant should be able to demonstrate:

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

In making its decision on an application for this permit the licensing authority does not need to have regard to the licensing objectives but must have regard to any Gambling Commission guidance.

Though there are conditions in the Act with which the permit holder must comply the licensing authority cannot attach its own conditions. The conditions in the Act are:

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

4. Club Gaming and Club Machines Permits

Members Clubs and Miners' Welfare Institutes (but not Commercial Clubs) may apply for a Club Gaming Permit or a Club Machine Permit. The Club Gaming Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in regulations. A Club Machine Permit will enable the premises to provide gaming machines (3 machines of categories B, C or D).

Members clubs must have at least 25 members and be established and conducted "wholly or mainly" for purposes other than gaming, unless the gaming is permitted by separate regulations. It is anticipated that this will cover bridge and whist clubs, which will replicate the position under the Gaming Act 1968. A members' club must be permanent in nature, not established to make commercial profit, and controlled by its members equally. Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

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

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

There is also a 'fast-track' procedure available under the Act for premises which hold a Club Premises Certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Under this 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. However an application under the process may be refused due to the fact that:

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

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

Additional information about Club Gaming and Club Machine Permits can be obtained from the Council's Licensing team prior to applying by contacting: licensing@croydon.gov.uk .

5. Temporary Use Notices

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.

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.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices, and The Gambling Act 2005 (Temporary Use Notices) Regulations 2007 (SI. No. 3157) state that Temporary Use Notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner.

The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises.

The Council may object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises."

6. Occasional Use Notices

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

7. Small Society Lotteries

This licensing authority will adopt a risk based approach towards its enforcement responsibilities for small society lotteries. This authority considers that the following list, although not exclusive, could affect the risk status of the operator:

- submission of late returns (returns must be submitted no later than three months after the date on which the lottery draw was held)
- submission of incomplete or incorrect returns
- breaches of the limits for small society lotteries

Non-commercial gaming is permitted if it takes place at a non-commercial event, either as an incidental or principal activity at the event. Events are non-commercial if no part of the proceeds is for private profit or gain. The proceeds of such events may benefit one or more individuals if the activity is organised:

- by, or on behalf of, a charity or for charitable purposes
- to enable participation in, or support of, sporting, athletic or cultural activities.

Charities and community groups should contact this licensing authority on 020 8760 5466 to seek further advice.

NOTE:

Information regarding this Statement of Principles and the Act in general can be obtained from:

The Licensing Team, Place Department, London Borough of Croydon, Bernard Weatherill House, 8 Mint Walk, Croydon, CR0 1EA.

E-mail: licensing@croydon.gov.uk or telephone 020 8760 5466.

Information about the Act can also be obtained from the Gambling Commission website at www.gamblingcommission.gov.uk or the Department of Culture, Media and Sport website at www.culture.gov.uk

Gambling Act 2005 - Statement of Principles

Glossary of Terms

1. The Licensing Objectives under the Gambling Act 2005 –

In exercising most of their functions under the Gambling Act 2005, licensing authorities must have regard to the licensing objectives set out in section 1 of the Act. In particular, licensing authorities must have regard to the licensing objectives when exercising their functions in relation to premises licences, temporary use notices and some permits. The objectives are:

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

2. Responsible Authorities –

Public bodies that must be notified of applications and that are entitled to make representations to the licensing authority in relation to applications.

3. Interested Parties –

An interested party may make representations on an application. Someone who the licensing authority considers lives sufficiently close to the premises to be likely to be affected by the authorised activities, has business interests that might be affected by the authorised activities or represents persons in either of these groups would be classed as an interested party. Democratically elected people like Ward councillors and MP's can also be interested parties.

4. Enforcement –

Enforcement is carried out by authorised officers of the licensing authority and responsible authorities to ensure compliance with legislation.

5. Adult Gaming Centre –

An amusement arcade to which only persons over the age of 18 years may be admitted. These premises are allowed certain higher categories of gaming machine.

6. Licensed Family Entertainment Centre –

An amusement arcade to which persons under 18 years of age may be permitted. These premises are allowed one higher category of gaming machine but under 18's must not be permitted to use these.

7. Unlicensed Family Entertainment Centre –

An amusement arcade that is only allowed the lowest category of machine and persons under 18 years of age are allowed access.

8. Bingo Premises –

Premises permitted to offer games of bingo and certain categories of gaming machine.

9. Betting Shop –

Premises permitted to offer the placing of bets and certain categories of gaming machine.

10. Betting Track –

A horse racecourse, greyhound track or other premises on any part of which a race or other sporting event takes place.

11. Casino –

A casino permits the participating in of one or more casino games, which means games of chance. A casino is also allowed to offer certain higher categories of gaming machine.

12. Provisional Statement –

A person may apply for a provisional statement for a premises that he or she:

- Expects to be constructed
- Expects to be altered
- Expects to acquire a right to occupy

13. Review –

A responsible authority or interested party may seek a review of a premises licence if, for example, they feel that one or more of the licensing objectives is being compromised by that licence.