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**North
Northamptonshire
Council**

Meeting: Licensing and Appeals Committee
Date: Monday 22nd November 2021
Time: 7.00 pm
Venue: Council Chamber, Cedar Drive, Thrapston, Northants, NN14 4LZ

To:
Members of the Licensing and Appeals Committee

Councillors Jonathan Ekins (Chair), Jennie Bone (Vice-Chair), John Currall, Clive Hallam, Barbara Jenney, Lora Lawman, Anne Lee, Dorothy Maxwell, Peter McEwan, Anup Pandey, Geoff Shacklock, Sarah Tubbs and Lee Wilkes

Substitutes:
Councillors Cedwien Brown, Scott Brown, Ian Jelley, Elliott Prentice (Conservatives) Ross Armour, Alison Dalziel (Labour) and Jim Hakewill (Independent)

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<p>Adele Wylie, Monitoring Officer North Northamptonshire Council</p>  <p>Proper Officer Friday 12 November 2021</p>			

This agenda has been published by Democratic Services.

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Licensing and Appeals Committee 22 November 2021

Report Title	Statement of Licensing Policy 2022 – 2027
Report Author	Iain Smith, Assistant Director - Regulatory Services

List of Appendices

Appendix A - Draft Licensing Act 2003 Statement of Licensing Policy 2022 – 2027

Appendix B - Consultation responses

1. Purpose of Report

- 1.1 To seek recommendation for the Licensing Act 2003 Statement of Licensing Policy, to be adopted by North Northamptonshire Council.

2. Executive Summary

- 2.1 The Licensing Act 2003 requires that a licensing authority has a Statement of Licensing Policy.
- 2.2 This Policy is presented to meet that legal requirement and support the Authority's Licensing Act 2003 processes going forward. It will be in effect from January 2022 – January 2027.
- 2.3 The document can be subject to further review during this period as necessary.

3. Recommendations

- 3.1 The Committee is asked to recommend to Council that the Policy be adopted by North Northamptonshire Council.

4. Report Background

- 4.1 Each of the sovereign authorities had their own Statement of Licensing Policy which is due for review at the end of 2023.
- 4.2 Those policies were all very similar as they were prepared as a county wide project.
- 4.3 The policy before the Licensing and Appeals Committee is therefore the amalgamation of those documents to produce a North Northamptonshire Council policy.

- 4.4 No substantive changes have been made to the contents of the sovereign documents, in bringing them together to produce this North Northamptonshire Policy.
- 4.5 Before determining its policy, the licensing authority consulted with the following:
- the chief officer of police for the area;
 - the fire and rescue authority for the area;
 - the Director of Public Health (DPH)
 - persons/bodies representative of local premises licence holders;
 - persons/bodies representative of local club premises certificate holders;
 - persons/bodies representative of local personal licence holders; and
 - persons/bodies representative of businesses and residents in its area.
- 4.6 The Policy is in principle identical to the policies previously in place, therefore consultation was limited to a 4-week period.
- 4.7 The consultation responses are attached together with the details of any actions relating to each one.
- 4.8 The Policy must be reviewed every five years, so this Policy will be in effect from 31 January 2022 – 31 January 2027. The document can be subject to review during this period as necessary.

5. Issues and Choices

- 5.1 Section 5 of the Licensing Act 2003 requires that each licensing authority must in respect of each five-year period, determine its policy with respect to the exercise of its licensing functions and publish a statement of that policy.
- 5.2 That policy must be adopted by full Council.

6. Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 There are no resource or financial implications in relation to this report

6.2 Legal

- 6.2.1 Section 5 of the Licensing Act 2003 requires that each licensing authority must in respect of each five-year period, determine its policy with respect to the exercise of its licensing functions or review as necessary during that period.

6.3 Risk

- 6.3.1 There are no significant risks arising from the proposed recommendations in this report.
- 6.3.2 There is a risk of decisions made under the Licensing Act 2003 by the Authority being subject to challenge through the Courts, if no Statement of Licensing Policy is in place.

6.4 Consultation

6.4.1 A consultation process has been carried out in accordance with the requirements of the Licensing Act 2003 and associated guidance.

6.5 Consideration by Scrutiny

6.5.1 Not considered

6.6 Climate Impact

6.6.1 No climate impact.

6.7 Community Impact

6.7.1 The overall conclusion of the Equality Impact Assessment is that there is no negative impact on any characteristic or group as a result of this Policy.

6.7.2 The Licensing Act 2003 provides a clear focus on the promotion of four statutory objectives which must be addressed when licensing functions are undertaken.

6.7.3 The licensing objectives are:

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

Each objective is of equal importance. There are no other statutory licensing objectives, so that the promotion of the four objectives is always a paramount consideration.

6.7.3 The legislation also supports a number of other key aims and purposes. These are vitally important and should be principal aims for everyone involved in licensing work. They include:

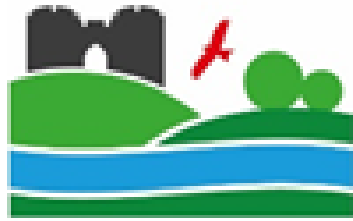
- protecting the public and residents from crime, anti-social behaviour and noise nuisance caused by irresponsible licensed premises;
- giving the police and licensing authorities the powers, they need to effectively manage and police the night-time economy and act against those premises that are causing problems;
- recognising the important role which pubs and other licensed premises play in our local communities by minimising the regulatory burden on business, encouraging innovation and supporting responsible premises;
- providing a regulatory framework for alcohol which reflects the needs of local communities and empowers local authorities to make and enforce decisions about the most appropriate licensing strategies for their local area; and

- encouraging greater community involvement in licensing decisions and giving residents the opportunity to have their say regarding licensing decisions that may affect them.

6.7.4 The Licensing Act 2003 Statement of Licensing Policy is fundamental to supporting the Licensing Authority's engagement in all of the above.

7. Background Papers

None



North
Northamptonshire
Council

LICENSING ACT 2003

**STATEMENT OF LICENSING
POLICY FOR REGULATED
ENTERTAINMENT, LATE NIGHT
REFRESHMENT AND THE SALE OF
ALCOHOL**

2022 – 2027

Revisions

Version	Date	Author
NNCLP1	07/09/21	RH
NNCLP2	10/11/21	RH

North Northamptonshire Council
Licensing Act 2003 Statement of Licensing
Policy for
Regulated Entertainment, Late Night Refreshment and the Sale of Alcohol

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1. Executive Summary

- 1.1 The Licensing Act 2003 introduced a revised licensing system for alcohol, entertainment and late night refreshment.
- 1.2 Section 5 of the Licensing Act 2003 imposed a statutory duty on the Licensing Authority to produce a statement of licensing policy for a five years period. This policy commenced ??????.
- 1.3 The policy provides guidance on the general approach the Council, as the Licensing Authority within the meaning of the Act, will take in terms of licensing. However, each licence application will be considered separately on its individual merits.
- 1.4 The Licensing Authority in adopting this policy recognises both the needs of residents for a safe and healthy environment to live and work in and the importance of safe and well run entertainment premises to the local economy and vibrancy of the area. However, the Council also recognises that balancing these interests will not always be straightforward and will be guided by the four licensing objectives as set out in this policy.
- 1.5 This policy does not seek to undermine the right of any individual to apply under the Act for a variety of permissions and as stated above each application will be considered on its individual merits. Nor does the Policy seek to override the right of a person to make representations on an application or seek a review of a licence or certificate. However, this Council in adopting the policy is indicating that a wide range of considerations will be taken into account.
- 1.6 The Council will use its powers to promote best practice in relation to the operation of licensed premises and is committed to partnership working with responsible authorities, local businesses, licensed trade, residents and others to ensure that they have a clear understanding of the legislation.
- 1.7 The Licensing Authority has had regard to the guidance issued by the Secretary of State under Section 182 of the Act when developing this statement of Licensing Policy. This Council may deviate from the guidance but will demonstrate good reasons for doing so.
- 1.8 The scope of this policy covers new applications, transfers and variations of licences and certificates including temporary event notices. This includes the review of licences and certificates which could lead to a range of sanctions including the revocation of a licence or a certificate

2. Purpose and Scope of the Licensing Policy

- 2.1 The Licensing Act 2003 makes it a duty for the local authority to carry out its functions under the Act with a view to promoting the four licensing objectives:
 - The prevention of crime and disorder
 - Public safety
 - The prevention of public nuisance, and

- The protection of children from harm

- 2.2 The purpose of this Policy is to detail how this Authority will comply with that duty.
- 2.3 In determining its statement of licensing policy, this Authority will have regard to the guidance issued by central government and other regulatory bodies to ensure that its actions are consistent with those nationally. To further ensure consistency, the licensing authorities of North and West Northamptonshire will meet as necessary to ensure that a consistent approach is being achieved.
- 2.4 Licensing decisions will be made in accordance with the current legislation, case law, relevant guidance and in accordance with this policy.
- 2.5 No decision will be made which undermines the right of any individual to apply under the terms of the Act for a variety of permissions and to have any such application considered on its individual merits.
- 2.6 Authorised persons, interested parties and responsible authorities, as defined in the Act, will have the right to make representations to the Licensing Authority on any application or seek a review of a licence or certificate where provision has been made for them to do so in the Act. This Authority recognises that in the absence of relevant representations it will grant licences on the terms sought.
- 2.7 Licensing is about regulating the provision of licensable activities on licensed premises, by qualifying clubs and at temporary events within the terms of the Licensing Act 2003. The terms and conditions attached to various permissions will be focused on matters which are within the control of individual licensees and others granted relevant permissions. Accordingly, these matters will centre on the premises and places being used for licensable activities and the vicinity of those premises and places.
- 2.8 This authority will primarily focus on the direct impact of the activities taking place at the licensed premises on members of the public living, working or engaged in normal activity in the area concerned. However, this Council recognises that licensing legislation is not a mechanism for the general control of anti-social behaviour by individuals once they are beyond the direct control of the club or business holding the licence, certificate or permission concerned.
- 2.9 The Licensing Act 2003 is not the primary mechanism for the general control of nuisance and anti-social behaviour by individuals once they are away from licensed premises and, therefore, beyond the control of the licence holder. Nonetheless, it is a key aspect of such control and licensing laws will always be part of the holistic approach to the management of the evening and night-time economy.
- 2.10 The objective of the licensing process is to allow for the carrying on of retail sales of alcohol, supply of alcohol by or on behalf of a club to its members, regulated entertainment, and late night refreshment, and the prevention of public nuisance, prevention of crime and disorder, public safety and protection of children from harm. This Licensing Authority wishes to facilitate well run and managed premises with licence holders displaying sensitivity to the impact of the premises on local residents.

- 2.11 This Licensing Authority recognises that the provision of entertainment is a major contributor to the economy of the area attracting tourists and visitors and is a source of employment.
- 2.12 This Licensing Authority will also have regard to wider considerations affecting the residential population and the amenity of any area. These include littering, fouling, noise and street crime.
- 2.13 In determining a licence application, the overriding principle adopted by the Licensing Authority will be that each application will be determined on its merits. Only mandatory conditions and conditions offered or agreed with by the applicant will be imposed except where relevant representations against an application are received. Where relevant representations are received then further additional conditions to meet the licensing objectives may be added provided they are appropriate, proportionate and reasonable and deal with the issues raised. Licence conditions will not be imposed where other regulatory regimes provide sufficient protection to the public e.g. health and safety at work and fire safety legislation.
- 2.14 In considering licensing hours, this Licensing Authority will place significant emphasis on the individual merits of an application. In addition, the views of the Police and other agencies will be important in this consideration.
- 2.15 Licensing hours will not inhibit the development of a thriving and safe evening and night-time local economy. It is recognised that the night time economy is important for investment and employment locally and beneficial to tourism. Providing consumers with greater choice and flexibility is an important consideration.
- 2.16 Shops and public houses will generally be permitted to sell alcohol during the hours they intend to open. Entertainment providers will be encouraged to provide a range of entertainment during their operating hours and to promote live music, dancing and theatre for the wider cultural benefit of the community. Individual applicants should address the licensing objectives in their operating schedule within the context of the nature of the location; type of premises; entertainment to be provided; operational procedures and the needs of the local community.
- 2.17 The purpose of this policy document is to assist the Licensing Authority in reaching a decision on a particular application, setting out those matters which will normally be taken into account. In addition, this policy document seeks to provide clarity for applicants, residents and other occupiers of property and investors, enabling them to make plans to move to, remain or invest in the area with some measure of certainty.
- 2.18 Before determining its policy for any five-year period, this Authority will undertake full consultation as prescribed by the 2003 Act.
- 2.19 The views of all of those consulted will be given appropriate weight when the policy is determined together with those of any other persons or bodies which the Authority considers appropriate to consult with. When undertaking consultation exercises, this Authority will also have regard to cost and time.

3. Duplication

- 3.1 The enforcement of licensing legislation will at all times be distinct from other regulatory regimes such as fire safety and health and safety, so far as is practicable.
- 3.2 Conditions will only be attached to premises licences and club premises certificates that are necessary and proportionate for the promotion of the licensing objectives detailed in the introduction to this policy, be they mandatory conditions, conditions made against the operating schedule and/or following relevant representations. Under normal circumstances where matters are already provided for in other legislation, they cannot be considered necessary in the context of licensing law.
- 3.3 To ensure clarity of enforcement roles, appropriate liaison with other enforcing authorities will take place and, where considered appropriate, joint inspections by enforcement agencies will be arranged.

4. Strategies

- 4.1 Where relevant representations are received, this Licensing Authority will attach conditions to premises licences and club premises certificates where appropriate to reflect local crime prevention strategies, for example, the provision of closed-circuit television cameras in certain premises. The need for such conditions will be considered specifically as part of the application consultation process with Northamptonshire Police and more generally through Community Safety Partnerships.
- 4.2 The Licensing Committee will be advised of any relevant information received either reactively or proactively indicating that this policy is having a detrimental impact on live music and dancing and other regulated activities, to ensure that broader cultural activities and entertainment are not being affected. Where indications are that there is a negative effect on such events then this policy will be reviewed in order to identify how the issues may be remedied. Advice will be sought from other relevant bodies as appropriate where such issues are identified. Every care will be taken to ensure that only necessary, proportionate and reasonable licensing conditions are applied.

5. Live Music Act

- 5.1 The Live Music Act came into force on 1st October 2012 and is designed to encourage more performances of 'live' music.
- 5.2 Where licensable activities take place on premises, any licence conditions relating to 'live' music will be suspended between 08:00 and 23:00 hours, but it will be possible to impose new, or reinstate existing conditions following a review. When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits.

6. Objectives

6.1 Prevention of crime and disorder

The essential purpose of the licence or certificate is to regulate behaviour on premises or in the immediate vicinity of them, where this relates to licensable activities and the licensing objectives. Conditions attached to licences cannot seek to manage the behaviour of customers once they are beyond the direct management of the licence holder and their staff or agents. They can however directly impact on the behavior of those under the licensee's direction when on their premises, or in the immediate vicinity of the premises as they seek entry or leave.

There are a number of offences both within the Licensing Act 2003 and other legislation that relate to crime and disorder that a licensee should be familiar with. These offences stand in their own right and will not be duplicated as conditions on any licence/certificate.

Various 'PubWatch' schemes operate in North Northamptonshire which aim to counter individuals who damage property; are violent and cause disorder; or use or deal in drugs, through exclusions. This Licensing Authority is supportive of such schemes and considers premises should join where it is appropriate to do so.

6.2 Public safety

The public safety objective is concerned with the physical safety, including fire safety, of the people using the relevant premises and not with public health, which is dealt with in other legislation. Public safety includes the safety of performers appearing at any premises. The Authority has noted that from 1st October 2006 the Regulatory Reform (Fire Safety) Order 2005 replaced previous fire safety legislation. Responsibility for complying with the order rests with the 'responsible person' who has control of premises.

There are a number of other key publications that relate to public safety at entertainment events, which the Licensing Authority would recommend to applicants.

6.3 The prevention of public nuisance

The public nuisance objective is designed to deal with any disproportionate and unreasonable impacts of licensable activities at specific premises, on persons living and working (including doing business) in the vicinity. The main issues for concern will be noise nuisance, light pollution, noxious smells and litter.

The provision of welfare facilities such as toilets within licensed premises is relevant to the prevention of public nuisance. Adequate welfare provisions may prevent nuisance activities taking place within the street, such as urination. Licensees should therefore ensure that adequate facilities are provided within the premises and include these details within their operating schedule.

Public nuisance is not defined within the Act but is given a broad common law definition. The prevention of public nuisance could therefore include low-level

nuisance perhaps affecting a few people living locally, as well as major disturbances affecting the whole community. This may also include in appropriate circumstances the reduction of the living and working amenity and environment of interested parties (as defined) in the vicinity of the licensed premises.

This Licensing Authority will have regard to the powers available within the Anti-Social Behaviour Act 2003. This provides that if noise from licensed premises is causing a public nuisance the local authority has powers to issue a closure order for up to 24 hours. This compliments the police powers under Part 8 of the 2003 Act.

6.4 The protection of children from harm

The Act has tightened up on the controls relating to the sale and supply of alcohol to children with new and further principle offences contained within the Act itself. However, the intention of the Act is to make licensed premises accessible to families and only limit access to children where it is necessary in order to prevent physical, moral or psychological harm to them. This would include the protection of children from too early an exposure to strong language, sexual expletives, violence or frightening images, for example, in the context of film exhibitions, or where adult entertainment is provided.

When deciding where restrictions should be imposed, this Licensing Authority will examine the individual merits of each application and only impose conditions when the circumstances justify them.

Aspects of an application that would be likely to raise concerns in relation to access by children would include:

- Where entertainment or services of an adult or sexual nature are commonly provided;
- Where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
- With a known association with drug taking or dealing;
- Where there is a strong element of gambling on the premises (but not, for example, the simple presence of a small number of cash prize gaming machines); and
- Where the supply of alcohol for consumption on the premises is the exclusive or primary purpose of the services provided at the premises.

It is not possible to provide an exhaustive list of the entertainment or services that are of an adult or sexual nature, therefore a commonsense approach will be taken to interpretation. However, such entertainment or services would also include entertainment involving strong and offensive language.

Where conditions are required for the prevention of harm to children, a range of alternatives will be considered as methods for limiting access. These could include:

- Limitations on hours when children may be present;
- Limitations of the presence of children under certain ages when particular specified activities are taking place;
- Limitations on the parts of the premises to which children might be given access;
- Age limitations (below 18);

- Requirements for accompanying adults (including for example, a combination of requirements which provide that children under a particular age must be accompanied by an adult); and
- Full exclusion of those people under 18 from the premises when any licensable activities are taking place.

This Licensing Authority, the Trading Standards Service and Northamptonshire Police take a very serious view of the persistent and illegal sale of alcohol and other age-restricted goods to children. Together with Trading Standards, this Licensing Authority will continue to seek to ensure that illegal sales of alcohol and other age-restricted goods are reduced and ultimately eradicated.

The sale of alcohol to minors (under 18 years of age) is a criminal offence and the Trading Standards Service has over time, worked to advise the off-licence trade on how to set up systems to avoid sales taking place.

The Licensing Authority will maintain close contact with the police, young offender's team and Trading Standards officers regarding unlawful activities and share actions and intelligence where appropriate.

7. The Licensing Authority as a responsible authority

- 7.1 This Licensing Authority acknowledges that it is now included in the list of responsible authorities. The 2003 Act does not require responsible authorities to make representations about applications for the grant of premises licences or to take any other steps in respect of different licensing processes. Therefore, it is for this Licensing Authority to determine when it considers it appropriate to act in its capacity as a responsible authority.
- 7.2 This Licensing Authority will not normally act as a responsible authority on behalf of other parties (for example, local residents, local councillors or community groups) although there are occasions where the authority may decide to do so. Such parties can make relevant representations to the Licensing Authority in their own right, and it is reasonable for this licensing authority to expect them to make representations themselves where they are reasonably able to do so. However, if these parties have failed to take action and this licensing authority is aware of relevant grounds to make a representation, a choice may be made to act in its capacity as responsible authority.
- 7.3 This Licensing Authority expects that other responsible authorities should intervene where the basis for the intervention falls within the remit of that other responsible authority. For example, the police should make representations where the representations are based on concerns about crime and disorder. Likewise, it is reasonable to expect the local authority exercising environmental health functions to make representations where there are concerns about noise nuisance.
- 7.4 The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention and may do so where the authority consider it appropriate without having to wait for representations from other responsible authorities.

- 7.5 In cases where this Licensing Authority is also acting as responsible authority in relation to the same process, there will be a separation of responsibilities within the authority to ensure procedural fairness and eliminate conflicts of interest. In such cases, licensing determinations will be made by the licensing committee or sub committee comprising elected members of the authority (although they are advised by a licensing officer). Therefore, a separation is achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority.
- 7.6 Accordingly, the officer advising the licensing committee (i.e. the authority acting in its capacity as the licensing authority) will be a different person from the officer who is acting for the responsible authority. The officer acting for the responsible authority will not be involved in the licensing decision process and will not discuss the merits of the case with those involved in making the determination by the licensing authority. Communication between these officers in relation to the case will remain professional and consistent with communication with other responsible authorities.

8. Health as a responsible authority

- 8.1 Directors of Public Health (DPH) are now responsible authorities with all of the powers and responsibilities this brings. The introduction of Public Health as a responsible authority has gone some way towards starting to reduce alcohol-related harms through the use of licensing legislation. Conditions may be added by way of representation against an application or review of a licence if there is a specific health concern at a premises, related to any or all of the four licensing objectives.
- 8.2 This Licensing Authority acknowledges that DPH will be useful in providing evidence of alcohol- related health harms when there is a revision of policy, particularly in relation to cumulative impact policies or early morning restriction orders.
- 8.3 This Licensing Authority envisages that DPH's will also be useful in providing evidence such as alcohol-related Accident and Emergency admissions or ambulance service data that might be directly relevant to an application under the Act.

9. Responsible Authorities

- 9.1 The responsible authorities are:
- Northamptonshire Police Service
 - Northamptonshire Fire and Rescue Service
 - Trading Standards
 - Environmental Health (Health and Safety and Environmental Protection)
 - Planning
 - Child Protection
 - Home Office Immigration Enforcement
 - Local Health Authority
 - In relation to a vessel, a navigation authority, the Environment Agency or the Canal and River Trust

10. Planning

- 10.1 This Licensing Authority acknowledges that there must be proper separation of the planning and licensing regimes to avoid duplication and inefficiency. Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority Planning Committee or following appeals against decisions taken by that committee.
- 10.2 The Licensing Committee may provide reports to the Planning Committee on licensed premises in the area, to ensure proper integration. This will allow consideration of the general impact of alcohol related crime and disorder and provide background information to any planning applications under consideration.
- 10.3 The planning authority also has a duty to consider matters of crime and disorder at this stage. This will enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.
- 10.4 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. There is no legal basis for this Licensing Authority to refuse a licence application because it does not have planning permission,
- 10.5 The strength of planning policies is that there is an obligation both on the council, as local planning authority, and the decision maker on any appeal to give considerable weight to them. This helps ensure consistency in the decision making process.

11. Licensing Hours

- 11.1 Consideration will always be given to the individual merits of an application in line with the four licensing objectives and any relevant representations. This Authority recognises that longer licensing hours with regard to the sale of alcohol need to be managed effectively to ensure that the concentrations of customers leaving premises simultaneously are avoided. This is necessary to reduce the friction at late night fast food outlets, taxi ranks and other sources of transport, which may lead to disorder and disturbance.
- 11.2 However, when issuing a licence with hours beyond 23.00 hours, higher standards may be expected to be included in Operating Schedules to address the Licensing Objectives especially premises which are situated near to residential properties.
- 11.3 In considering licence applications, where relevant representations are made, this Licensing Authority will consider the adequacy of measures proposed to deal with the potential for public nuisance and/or public disorder having regard to all the circumstances of the case.
- 11.4 Where relevant representations are made, this authority will demand stricter conditions with regard to noise control in areas that have denser residential accommodation, but this will not limit opening hours without regard for the individual merits of any application. This authority will consider each application and work with

the parties concerned to ensure that adequate noise control measures are in place.

12. Temporary Event Notices

- 12.1 The most important aspect of the system of permitted temporary activities is that no permission as such is required for these events from the Council. The system involves the notification of an event to the Licensing Authority, Environmental Health and Northamptonshire Police, subject to fulfilling certain conditions.
- 12.2 As many users giving TEN's will not have commercial backgrounds or ready access to legal advice, the Licensing Authority will ensure that guidance is clear and understandable and will aim to keep arrangements manageable and user friendly for these groups.
- 12.3 North Northamptonshire Council recommends that at least 28 days and no more than 3 months notice be given to hold such events, to allow it to help organisers plan their events safely.
- 12.4 The Licensing Authority will also remind notice givers of relevant offences under licensing law, including:
- the sale of alcohol to minors,
 - the sale of alcohol to a person who is drunk,
- 12.5 The Licensing Authority would encourage event organisers not to rely on giving the minimum amount of notice; Event organisers are encouraged to contact Northamptonshire Police Licensing Officers as early as possible about their proposed event(s).

13. Sexual Entertainment

- 13.1 This Licensing Authority will adopt a policy in relation to sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. In the meantime the policies of the four sovereign authorities will be applied. With reference to this, standard conditions are attached to such licences and where there are similar conditions in the two regimes, the more onerous will apply.
- 13.2 This Licensing Authority acknowledges that there is an exemption under the Local Government (Miscellaneous Provisions) Act 1982, that allows premises to provide sexual entertainment no more than 11 times per year and no more frequently than monthly.

14. Cumulative Impact and Special Policies

- 14.1 Commercial demand for additional licensed premises is not a matter for this Licensing Authority or its statement of licensing policy but a matter for planning committees and for the market. On the other hand, the cumulative impact of licensed premises on the promotion of the licensing objectives is a proper matter for

the Licensing Committee.

- 14.2 Conditions may only relate to matters that the licensee can be reasonably expected to control. These are likely to relate to the premises themselves and the immediate vicinity. Where the number, type and density of premises selling alcohol are unusual, serious problems of nuisance and disorder can sometimes arise or begin to arise outside or some distance from the licensed premises. This has been described as the cumulative effect of the increasing capacity of all premises taken together and is outside of the control of licence conditions. There may be circumstances where this Licensing Authority receives relevant representations from a responsible authority or interested party that the Cumulative effect of new licences is leading to an area becoming saturated with premises, making it a focal point for large groups of people to gather and circulate, away from the licensed premises themselves. This might be creating exceptional problems of disorder and nuisance over and above the impact from the individual premises. In such circumstances this Licensing Authority may consider the question of whether the granting of any further premises licences or club premises certificates would undermine one of the licensing objectives. The Licensing Act 2003 allows for this, so long as cumulative impact is addressed in the context of the individual merits of any application.
- 14.3 However, this Licensing Authority will not impose quotas that restrict the consideration of any application on its individual merits or which seek to impose limitations on trading hours in particular areas, either formally or informally.
- 14.4 However, it may be necessary for this Licensing Authority to adopt a special policy of refusing new licences because the area is already saturated with certain types of licensed premises. In such circumstances this policy is not absolute and will still allow for the circumstances of each application to be considered properly and for licences which are unlikely to add significantly to saturation to be approved, provided all other requirements are met.
- 14.5 In deciding whether to adopt such a policy, the licensing authority will have regard to:
- Identification of serious and chronic concern about crime and disorder or public nuisance;
 - Consideration of whether it can be demonstrated that crime and disorder and nuisance are arising and are caused by the customers of licensed premises and if so identify the area from which problems are arising and the boundaries of that area; or that the risk factors are such that the area is reaching a point when a cumulative impact is imminent;
 - Consultation with those persons and bodies identified in Section 5(3) of the 2003 Act.
- 14.6 Where this process identifies such a need, this Licensing Authority will consider adoption of a special policy relating to future licence applications from that area. Reference to any such special policy will be made in the Licensing Policy Statement and the special policy will be published as part of the statement of licensing policy.
- 14.7 A special policy cannot be used to set a terminal hour for premises in the identified area.
- 14.8 This Licensing Authority has duties under Section 17 of the Crime and Disorder Act

1998 to do all that it reasonably can to prevent crime and disorder in its locality and to promote the licensing objectives in the Licensing Act 2003.

- 14.9 In considering representations relating to a particular application, this Licensing Authority will have regard to the impact on the promotion of the licensing objectives in the area. In any representations, the onus will be on the objector to lay an evidentiary base for the assertion that the addition of the premises in question would produce the cumulative impact claimed. The impact can be expected to be different for premises with different styles and characteristics.
- 14.10 Any special policy adopted by this Licensing Authority will be reviewed regularly to assess whether it has had the effect intended, whether it is needed any longer or whether it needs extending.
- 14.11 A special policy on cumulative impact will not be used as grounds for removing a licence when representations are received about problems with an existing licensed premises. Nor can it justify rejecting variations to a licence except where those variations are directly relevant to the policy (as would be the case with an amendment significantly to increase the capacity limits of a premises).
- 14.12 This Licensing Authority will not adopt quotas which pre-determine the individual merits of any application – even in respect of premises selling alcohol for consumption on those premises – as they have no regard to the individual characteristics of the premises concerned. Public houses, nightclubs, restaurants, hotels, theatres, concert halls and cinemas all sell alcohol, serve food and provide entertainment but with contrasting styles and characteristics. Proper regard will be given to those differences and the differing impact they will have on the local community.
- 14.13 This Licensing Authority recognises that once away from these premises, only a minority of consumers will behave badly and unlawfully. The licensing policy is part of a much wider strategy for addressing these problems. Other mechanisms which may be used to deal with such issues which fall outside of the scope of this licensing policy include:
- planning controls;
 - positive measures to create a safe and clean town centre environment in partnership with local businesses, transport operators and other departments of the local authority;
 - the provision of CCTV surveillance in town centres, ample taxi ranks, provision of public conveniences open late at night, street cleaning and litter patrols;
 - powers of local authorities to designate parts of the local authority area as places where alcohol may not be consumed publicly;
 - police enforcement of the general law concerning disorder and antisocial behaviour, including the issuing of fixed penalty notices;
 - the prosecution of any personal licence holder or member of staff at such premises who is selling alcohol to people who are drunk;
 - the confiscation of alcohol from adults and children in designated areas;
 - Police powers to close down instantly for up to 24 hours, any licensed premises or temporary events on grounds of disorder, the likelihood of disorder or excessive noise emanating from the premises causing a nuisance;
 - the power of the Police, other responsible authority or a local resident or business

to seek a review of the licence or certificate in question.

14.14 This Licensing Authority and Northamptonshire Police will continue to work closely together to ensure that these other mechanisms are used appropriately to deal with the issues of concern and where possible will supplement these with other local initiatives that similarly address these problems.

15. Early Morning Restriction Orders

15.1 The power for this Licensing Authority to introduce an EMRO is specified in sections 172A to 172E of the 2003 Act which was amended by Section 119 of the Police Reform and Social Responsibility Act 2011. Regulations prescribing the requirements in relation to the process for making an early morning restriction order (EMRO) were brought in force on 31st October 2012.

15.2 This Licensing Authority will have reference to the guidance that has been introduced which relates to:

- the EMRO process
- the evidence base
- introducing an EMRO
- advertising an EMRO
- dealing with representations
- hearings
- implementation
- limitations
- enforcement

15.3 The legislation provides this Licensing Authority with the discretion to restrict sales of alcohol by introducing an EMRO to tackle high levels of alcohol related crime and disorder, nuisance and anti- social behaviour. The order may be applied to the whole or part of this Licensing Authority's area and if relevant on specific days and at specific times. This Licensing Authority will be satisfied that such an order would be appropriate to promote the licensing objectives.

15.4 The only exemptions relating to EMROs are New Years Eve and the provision of alcohol to residents in premises with overnight accommodation by means of mini bars and room service.

15.5 The decision to implement an EMRO will be evidence based and will be considered by Full Council.

16. Children

16.1 This Authority recognises that there will be a considerable variety of premises for which licences may be sought. These include theatres, cinemas, restaurants, concert halls, cafes, take-away food businesses and fast food outlets as well as public houses and nightclubs. In addition, subject to the licensee's discretion and any conditions included in a premises licence or club premises certificate, the Licensing Act 2003 does not prohibit children in licensed premises except in the

circumstances detailed in s145 of the Licensing Act 2003.

- 16.2 This Authority will not limit the access of children to such premises unless it is necessary for the prevention of harm to children. No statement of policy can properly anticipate every issue of concern that could arise in respect of children with regard to individual premises and so general rules have not been included. Consideration of the individual merits of each application remains the best mechanism for judging such matters.
- 16.3 However, notwithstanding the above, this Authority considers that the following premises give rise to particular concern in respect of children:
- where there have been convictions of members of the current staff at the premises for serving alcohol to minors or with a reputation for underage drinking;
 - with a known association with drug taking or dealing;
 - where there is a strong element of gambling on the premises;
 - where entertainment or services of an adult or sexual nature are commonly provided;
- 16.4 In these circumstances this Authority will consider the appropriate option for the prevention of harm to children where relevant representations are made. While complete bans on access to children are likely to be rare, there may be circumstances when no other option is considered appropriate. However, in the majority of cases where limiting the access of children to licensed premises is considered necessary, the options which will be considered are:
- Limitations on the hours when children may be present;
 - Age limitations (below 18);
 - Limitations on the exclusion of the presence of children under a certain age when particular specified activities are taking place;
 - Requirements for an accompanying adult;
 - Full exclusion of people under 18 from the premises when any licensable activities are taking place
- 16.5 Where the above restrictions are not considered necessary, access to licensed premises by children will remain a matter for the discretion of the holder of the premises licence or club premises certificate. Where the licence holder volunteers prohibitions and restrictions and no other relevant representations are made, the volunteered prohibitions and restrictions will be made into conditions and no other conditions in relation to the presence of children will be applied.
- 16.6 Northamptonshire Police and the Trading Standards Service are jointly responsible for the enforcement of ss146, 147, 147(a) and 147(b) of the Licensing Act 2003 (The sale of, and allowing the sale of alcohol to children). Trading Standards are mainly responsible for 'off licence' premises and the Police have the main responsibility for 'on licence' premises.
- 16.7 With regard to children in premises giving film exhibitions, this Authority will request conditions requiring that arrangements must be in place for restricting children from viewing age-restricted films or videos classified according to the recommendations of the British Board of Film Classification or the local authority itself.

16.8 The Portman Group operates a Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks on behalf of the alcohol industry. The Code seeks to ensure that drinks are packaged and promoted in a socially responsible manner and only to those who are 18 years old or older. Complaints about products under the Code are considered by an Independent Complaints Panel and the Panel's decisions are published on the Portman Group's website, in the trade press and in an annual report. If a product's packaging or point-of-sale advertising is found to be in breach of the Code, the Portman Group may issue a Retailer Alert Bulletin to notify retailers of the decision and ask them not to replenish stocks of any such product or to display such point-of-sale material, until the decision has been complied with. The Code is an important weapon in protecting children from harm because it addresses the naming, marketing and promotion of alcohol products sold in licensed premises in a manner which may appeal to or attract minors. A copy of the Code can be found at www.portmangroup.org.uk. www.portmangroup.org.uk

17. Conditions

17.1 A key concept underscoring the Licensing Act 2003 is for conditions to be attached to licences and certificates that are tailored to the individual style and characteristics of the premises and events concerned. Conditions may only be applied following the receipt of relevant representations where they have been agreed by all parties concerned or have been applied by the Licensing Committee. This is essential to avoid the imposition of disproportionate and overly burdensome conditions on premises where there is no need for such conditions.

17.2 This Licensing Authority agrees that any condition imposed must be:

- clear;
- enforceable;
- evidenced;
- proportionate;
- relevant; and be expressed in plain language capable of being understood

17.3 This Authority will therefore avoid the general application of standardised conditions to licences and certificates.

17.4 However, to ensure consistency, when it is necessary to apply conditions, this Authority will draw from pools of model conditions where available, from which appropriate and proportionate conditions may be drawn in particular circumstances to suit individual cases. The model conditions will cover the following:-

- Crime and disorder
- Public safety
- Public nuisance
- Protection of children from harm

18. Reviews

- 18.1 The Licensing Act 2003 makes provision for the review of premises licenses where problems associated with crime and disorder, public safety, public nuisance or the protection of children from harm are occurring.
- 18.2 At any stage following the grant of a premises licence or club premises certificate, a responsible authority or an interested party (such as a resident living in the vicinity of the premises), may request this Licensing Authority review the licence because of a matter arising at the premises in connection with any of the four licensing objectives.
- 18.3 A review of a premises licence will follow any action by Northamptonshire Police to close down premises for up to 24 hours on grounds of disorder or noise nuisance as a result of a Magistrates' Courts' determination sent to the Licensing Authority.
- 18.4 In all cases, the representation must relate to a particular premises for which a licence is in force and must be relevant to the promotion of the licensing objectives.
- 18.5 Representations must be made in writing and may be amplified at the subsequent review or may stand in their own right. Additional representations, which do not amount to an amplification of the original representation, may not be heard at the hearing.
- 18.6 Where the request for a review originates from an interested party e.g. a local resident or residents' association, this Licensing Authority will first consider whether the complaint made is relevant, vexatious, frivolous or repetitious.
- 18.7 A repetitious complaint is one that is identical or substantially similar to:
- a ground for review made in respect of the same premises licence which has already been determined; or
 - representations considered by the Licensing Authority when the premises licence was granted; or
 - representations which would have been made when the application for the premises licence was first made and which were excluded then by reason of the prior issue of a provisional statement; and
 - in addition to the above grounds, a reasonable interval has not elapsed since that earlier review or the grant of a licence.
- 18.8 This Licensing Authority recognises the need to prevent attempts to review licences, following the failure of representations on earlier occasions. The Licensing Authority will judge what is to be regarded as a reasonable interval in these circumstances. This Licensing Authority has regard to the recommendation in the guidance that more than one review originating from an interested party should not be permitted within a period of 12 months on similar grounds except in compelling circumstances or where it arises following a Closure Order.
- 18.9 This Licensing Authority also recognises that the promotion of the licensing objectives relies heavily on a partnership approach. The Council would encourage authorised persons and responsible authorities to give licence holders warning of their concerns about problems identified at premises and of the need for

improvement. This Licensing Authority will advise licence holders that a failure to respond to such a warning may lead to a responsible authority requesting a Review.

- 18.10 This Licensing Authority will hold a hearing following a request for a Review from a responsible authority, interested party or after closure procedures described earlier. This Licensing Authority will make the licence holder fully aware of the representations received together with supporting evidence in order for the licence holder or his legal representatives to be able to prepare a response.
- 18.11 In determining a review, this Authority has a range of powers it may exercise where it considers them necessary for the promotion of the licensing objectives:
- no action necessary, as no steps are required to promote the licensing objectives;
 - issuing an informal warning to the licence holder and/or to recommend improvement within a particular period of time. This Licensing Authority regards such warnings as important mechanisms for ensuring that the licensing objectives are effectively promoted and any warning issued will be in writing to the licence holder;
 - modify the conditions of the premises licence (including adding new conditions, altering/omitting an existing condition);
 - excluding a licensable activity from the licence;
 - remove the designated premises supervisor;
 - suspend the licence for a period of three months;
 - revoke the licence.
- 18.12 This Licensing Authority in determining what action to take will seek to establish the causes of concern and any action taken will be directed at these causes. Any action taken to promote the licensing objectives will be necessary and proportionate.

19. Minor Variations

- 19.1 The purpose of the minor variation process is to save time, money and regulatory resources by allowing small variations that will not impair the promotion of the licensing objectives, to be made to premises licences and club premises certificates through a simplified and less costly procedure. Under this process, the applicant is not required to advertise the variation in a newspaper or copy it to Responsible Authorities. They must however display it on a white notice at the premises. The notice must be displayed for a period of 10 working days, starting on the working day after the minor variation application was given to the Licensing Authority.
- 19.2 The holder of a premises licence or a club premises certificate can apply to the Licensing Authority for a minor variation to their licence or certificate, using the prescribed form. In determining an application this licensing authority will consult those Responsible Authorities it considers appropriate.
- 19.3 This Licensing Authority will take into account any relevant representations made concerning the application by Responsible Authorities or by an interested party. Relevant representations must be about the **likely effect** of the grant of the application on the promotion of the licensing objectives. This Licensing Authority will grant an application only if it considers that none of the variations proposed in the application could have an adverse effect on the promotion of any of the licensing

objectives. In any other case the authority must reject the application. There is no right to a hearing in this process.

- 19.4 An application may not be made under the minor variation provision if the effect of the variations proposed in it would be to:
- extend the period for which a premises licence has effect;
 - to vary substantially the premises to which a premises licence/club premises certificate relates;
 - to specify (in a premises licence) an individual as the Designated Premises Supervisor (DPS);
 - to authorise the sale or supply of alcohol, or to authorise the sale by retail or supply of alcohol at any time between 11pm and 7am, or increase in the amount of time on any day during which alcohol may be sold by retail or otherwise supplied; or
 - to disapply the mandatory conditions concerning the supervision of alcohol sales by a personal licence holder and the need for a Designated Premises Supervisor who holds a personal licence at a community premises.
- 19.5 If an application is refused, the Authority must notify the applicant in writing, giving its reasons for the refusal. The Authority is required to reach its determination within a period of fifteen (15) working days starting on the first working day after the authority receives the application, otherwise the application is rejected and the Authority must return the application fee.
- 19.6 Minor variations will generally fall into four categories:
- minor changes to the structure or layout of a premises;
 - small adjustments to licensing hours;
 - the removal of out of date; irrelevant; unenforceable or volunteered conditions;
 - the addition of certain licensable activities.

20. Enforcement

- 20.1 This Licensing Authority will establish protocols and have regular liaison with the local police, fire & rescue service, trading standards, other County local authorities and other agencies on enforcement issues. This will provide for a more efficient deployment of local authority staff and police officers who are commonly engaged in enforcing licensing law and the inspection of licensed premises. There will also be regular liaison with other enforcement authorities.
- 20.2 In particular, these protocols will provide for the targeting of agreed problem and high risk premises which require greater attention, while providing a lighter touch in respect of low risk premises which are well run. The limited validity of public entertainment, theatre, cinema and late night refreshment house licences has in the past led to a culture of annual inspections regardless of whether such inspections are necessary.
- 20.3 The Licensing Act 2003 does not require inspections to take place, save at the discretion of those charged with this role. The principle of risk assessment and targeting will prevail and inspections will not be undertaken routinely but when and if

they are judged necessary. This should ensure that resources are more effectively concentrated on problem premises.

21. Licence Suspensions

- 21.1 This Licensing Authority must suspend premises licences and club premises certificates on the non-payment of annual fees. The procedure to be used is set out in the Police Reform and Social Responsibility Act 2011.

22. Administration, Exercise and Delegation of Functions

- 22.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a sub-committee or by one or more Officers acting under delegated authority.
- 22.2 Many of the licensing procedures will be largely administrative with no perceived areas of contention. In the interests of efficiency and effectiveness officers will generally carry out these duties.
- 22.3 On applications where there are relevant representations, these will be dealt with by a committee or sub-committee of the Licensing Authority, as will any application for review of a licence.
- 22.4 This Licensing Authority will expect applicants to address the licensing objectives in their Operating Schedule having regard to the type of premises, the licensable activities to be provided, the operational procedures, the nature of the location and the needs of the local community.
- 22.5 Applicants will be encouraged to make themselves aware of any relevant planning and transportation policies, tourism and cultural strategies or local crime prevention strategies and to have taken these into account, where appropriate, when formulating their Operating Schedule.
- 22.6 The 2003 Act provides that decisions and functions may be taken or carried out by licensing committees or delegated to sub-committees or in appropriate cases, to officials supporting the Licensing Authority. In the interests of speed, efficiency and cost-effectiveness, as many of the administrative decisions and functions will be delegated to the appropriate level within the organisation as possible. See Annex 1.
- 22.7 Where applications are not contentious, (for example, no representations to the grant of a premises licence) these applications will be delegated to officers in order to speed matters through the system.

23. Advice and Guidance

- 23.1 Advice may be obtained from the Licensing Administration Team on the type of licences applicants will need to apply for. The unit can be contacted in the following ways:-

Website: www.northnorthants.gov.uk

Email: LicensingUnit.ENC@northnorthants.gov.uk

Telephone: 01832 742102

In person or writing to:

Licensing Administration Team
Regulatory Services
North Northamptonshire
Council Cedar Drive
Thrapston
NN14 4LZ

24. Equal Opportunities

- 24.1 Over the last four decades, discrimination legislation has played an important role in helping to make Britain a more equal society. However, the legislation was complex and, despite the progress that has been made, inequality and discrimination persist and progress on some issues has been stubbornly slow.
- 24.2 [The Equality Act 2010](#) provides a new cross-cutting legislative framework to protect the rights of individuals and advance equality of opportunity for all; to update, simplify and strengthen the previous legislation; and to deliver a simple, modern and accessible framework of discrimination law which protects individuals from unfair treatment and promotes a fair and more equal society.
- 24.3 In implementing the Licensing Act 2003, associated legislation and guidance, this Licensing Authority is committed to ensuring that the obligations and duties within this legislation are met.

25. Review of the Policy

- 25.1 This licensing policy will be formally reviewed and published every five years (section 5 Licensing Act 2003). This review of the policy will be subject to the consultation process. Section 5(4) of the Act provides that the licensing authority must keep its policy under review during each five year period and make appropriate revisions. A revisions must be subject to consultation.
- 25.2 Where a special policy relating to cumulative impact or early morning restriction orders is being adopted this will be reviewed regularly at least every five years, to assess whether it is needed any longer, or indeed needs expanding. Any cumulative impact policy will also be reviewed to ensure that it has had the intended effect. There will be on-going dialogue and consultation with local residents to consider whether any area is nearing the point where the concentration of premises has a cumulative impact.
- 25.3 This Licensing Authority will consider the most appropriate time to refresh policies, with a view to balancing businesses' need to be kept advised of changes with the

additional burden that responding to frequent consultations can bring.

26. Late Night Levy

26.1 The legislative provisions relating to the late night levy are not part of the Licensing Act 2003, but are contained in Sections 125 to 139 of the Police Reform and Social Responsibility Act 2011. The provisions came into force on 31st October 2012.

26.2 Regulations have been brought into force setting out the way in which the levy must be applied and administered, and arrangements for expenses, exemptions and reductions.

Guidance has also been introduced in relation to:

- implementing the levy and the consultation process
- the design of the levy
- exemptions from the levy
- reductions in levy charges
- how revenue raised from the levy may be spent
- the levy charges
- the levy collection process

26.3 With regard to exemptions, this licensing authority retains discretion whether to exempt certain premises or not, but only for those types of premises set out in paragraphs 1.24 to 1.31 of the guidance on the Late Night Levy.

26.4 This Licensing Authority also has the discretion whether to reduce the amount of the levy by 30% for premises which participate in business-led best practice schemes such as Best Bar None.

26.5 Any revenue from a levy will be split between this licensing authority and Northamptonshire Police, with at least 70% of the 'net' levy (after expenses) paid to the Police. A formal service level agreement will be established to ensure that this licensing authority and Northamptonshire Police are aware of responsibilities and undertakings, and to ensure that the use of levy funds can be clearly communicated to those businesses contributing to it.

26.6 These new powers enable licensing authorities to charge a levy in relation to persons who are licensed to sell or supply alcohol late at night as a means of raising a contribution towards the costs of policing the night-time economy. Any decision to introduce, vary or cease the requirement for a levy will be made by the full council. Other decisions in relation to how the levy is administered may be subject to delegation.

Annex 1 - Delegation of functions

Matter to be dealt with or Panel	Full Committee	Sub Committee	Officers
Application for personal Licence	-	If a police objection made	If no objection made
Application for personal licence with unspent convictions	-	All cases	-
Application for premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application for provisional statement	-	If a relevant representation made	If no relevant representation made
Application to vary premises licence/club premises certificate	-	If a relevant representation made	If no relevant representation made
Application to vary designated premises supervisor (DPS)	-	If a police objection	All other cases
Request to be removed as DPS	-	-	All cases
Application for transfer of premises licence	-	If a police objection	All other cases
Applications for interim Authorities	-	If a police objection	All other cases
Application to review premises licence/club premises certificate	-	All cases	-
Decision on whether a complaint is irrelevant frivolous vexatious etc.	-	-	All cases
Decision to object when local authority is a consultee and not the relevant authority considering the application	-	All cases	-
Determination of an objection to a temporary event notice	-	All cases	-
Determination of application to vary premises licence at community premises to include alternative licence condition		If a police objection	All other cases
Decision whether to consult other responsible authorities on minor variation application			All cases
Determination of minor variation application.			All cases

Annex 2 - Other policies, legislation, and guidance sources

There are a number of other local and national policies, strategies, responsibilities, and guidance documents which should be taken into account in order to complement this authority's licensing policy. In particular the policy should provide a clear indication of how the licensing authority will secure the proper integration of the licensing policy and other local policies such as the local crime prevention, planning, transport, tourism, cultural strategies and the local alcohol policy.

(i) Legislation

- Policing and Crime Act 2009
- Crime and Disorder Act 1998
- Crime and Security Act 2010
- Human Rights Act 1998
- Criminal Justice and Police Act 2001
- Private Security Industry Act 2001
- Equality Act 2010
- Deregulation Act 2015
- The Anti-social Behaviour, Crime and Policing Act 2014
- Violent Crime Reduction Act 2006
- The Health Act 2006
- Live Music Act 2012
- Policing Act 2014
- Immigration Act 2016
- Gambling Act 2005
- Environmental Protection Act 1990
- Noise Act 1996
- Clean Neighbourhoods and Environmental Act 2005
- Regulators' Code under the Legislative and Regulatory Reform Act 2006

Note: These and other relevant pieces of legislation can be found at www.opsi.gov.uk

(ii) Strategies and Policies

- Alcohol Strategy
- Alcohol Harm Reduction Strategy for Northamptonshire
- Best Bar None
- British Beer and Pub Association Partnerships Initiative
- Community Alcohol Strategy
- Community Safety Strategy
- Compliance Code
- Crime & Disorder Reduction Strategy
- Council's Enforcement Policy
- Cultural and Tourism Strategies including promotion of live music and community events
- Home Office: Selling Alcohol Responsibly: Good Practice Examples from the Alcohol Retail and Hospitality Industries
- Local Development Framework
- Local Transport Plan
- National and local PubWatch schemes
- [Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.](#)
- Purple Flag (ATCM)
- Safer Socialising
- Northamptonshire Health and Wellbeing Strategy

- Director of Public Health Northamptonshire Annual Report

(iii) Guidance Documents

- [Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems](#)
- [Home Office 'Practical Guide for Preventing and Dealing with Alcohol Related Problems](#)
- [Home Office Safer Clubbing Guide link doesn't work – document not found](#)
- [Home Office Designated Public Place Order \(DPPO\) Guidance](#)
- [Home Office s182 Guidance](#)
- [LACORS/TSI Code of Practice on Test Purchasing link doesn't work – document not found](#)
- [The Event Safety Guide](#)
- [Licensing large scale events \(music festivals etc.\) this link doesn't seem to work](#)
- [Managing Crowds Safely](#)
- [5 Steps to Risk Assessment](#)
- [The Guide to Safety at Sports Grounds](#)
- [Safety Guidance for Street Arts, Carnivals, Processions and Large-scale Performances](#)
- [UK BIDS: Business Improvement Districts \(national BIDS advisory service\)](#)
- [BIS Code of Practice on Consultation](#)
- [The Plain English Campaign](#)
- [Regulators Code](#)

(iv) Relevant case law regarding policy statements

- Limits of licensing policy:
[BBPA & Others v Canterbury City Council \[2005\] EWHC 1318 \(Admin\)](#)
[this isn't a link](#)
- “Strict” licensing policies and exceptions to policy:
[R \(Westminster City Council\) v Middlesex Crown Court and Chorion plc \[2002\] LLR 538](#)
- Cumulative impact policies and hours
[R \(JD Wetherspoon plc\) v Guildford Borough Council \[2006\] EWHC 815 \(Admin\)](#)
- Duplication and conditions:
[R \(on the application of Bristol Council\) v Bristol Magistrates' Court \[2009\] EWHC 625 \(Admin\)](#)
- Extra-statutory notification by the licensing authority:
[R \(on the application of Albert Court Residents Association and others\) v Westminster City Council \[2010\] EWHC 393 \(Admin\)](#)
- The prevention of crime and disorder: ambit of the objective
[Blackpool Council, R \(on the application of\) v Howitt \[2008\]](#)
- Crime and disorder: sanctions on review: deterrence
[Bassetlaw District Council, R \(on the application of\) v Workshop Magistrates Court \[2008\]](#)

- Guidance to Licensing Committees and Responsible Authorities
[*R \(on application of Hope and Glory Public House Ltd\) v City of Westminster Magistrates' Court and Others \(2011\) EWCA Civ 312*](#)
- Role of responsible authorities in providing information to decision makers
[*R \(on application of Daniel Thwaites plc\) v Wirral Magistrates' Court and Others \(2008\) EWHC 838 \(Admin\)*](#)
- Licensing committees and courts can require applicants to provide any information that they believe will help them make a decision about the promotion of the licensing objectives.
[*R \(on application of Murco Petroleum Ltd\) v Bristol City Council \[2010\] EWHC 1992 \(Admin\)*](#)
- Reaffirms the principle that Responsible Authorities need not wait for the licensing objectives to actually be undermined before objecting to a licence being granted.
[*East Lindsey District Council v Abu Hanif \(t/a Zara's Restaurant\) 2016*](#)

Note: This list is not exhaustive

Annex 3 - Useful References (organisations)

Local Government Association:

<http://www.local.gov.uk/regulatory-services-and-licensing> link doesn't work
<http://www.locale.gov.uk>

Association of Convenience Stores (ACS)

<http://www.acs.org.uk/>

Association of Licensed Multiple Retailers (ALMR)

Now incorporating Bar, Entertainment and Dance Association (BEDA)

<http://www.almr.org.uk/> page doesn't exist

Association of Town Centre Managers (ACTM and Purple Flag)

<http://www.atcm.org/>

Better Regulation Delivery Office (BRDO)

<http://www.bis.gov.uk/brdo>

British Beer and Pub Association (BBPA)

<http://www.beerandpub.com/>

British Board of Film Classification (BBFC)

<http://www.bbfc.co.uk/>

British Institute of Inn Keeping (BII)

<http://www.bii.org/home> link doesn't work
<http://www.bii.org>

British Retail Consortium (BRC)

http://www.brc.org.uk/brc_home.asp

Cinema Exhibitors' Association (CEA)

<http://www.cinemauk.org.uk/>

Department for Culture, Media and Sport

www.culture.gov.uk

Home Office

www.homeoffice.gov.uk

Institute of Licensing (IOL)

<http://www.instituteoflicensing.org/>

Licensed Victuallers Associations (LVAs)

<http://www.flva.co.uk/>

National Association of Licensing and Enforcement Officers (NALEO)

<http://www.naleo.org.uk/>

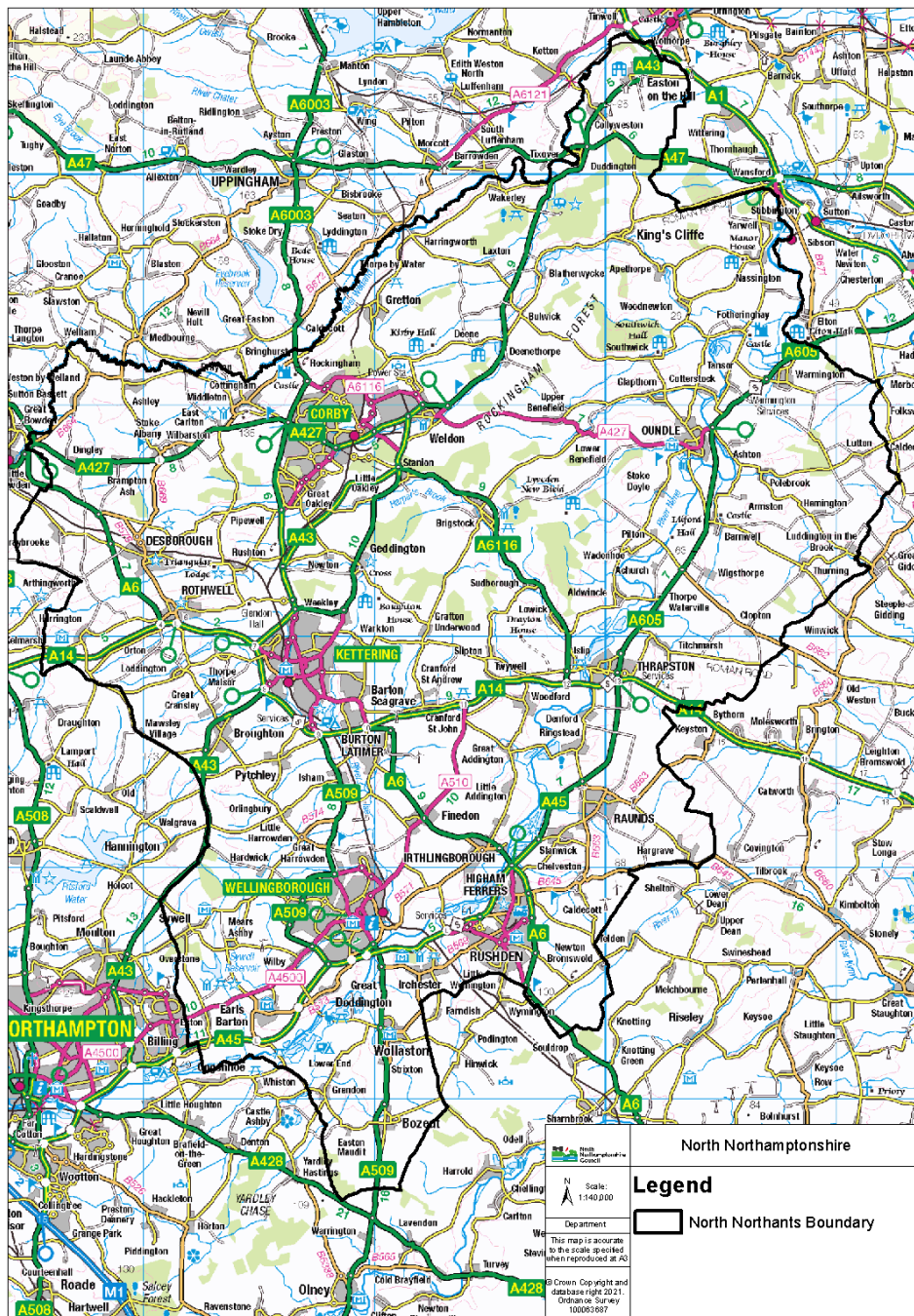
The Portman Group

<http://www.portmangroup.org.uk/>

Annex 4 – Local Area Profile: North Northamptonshire Council

North Northamptonshire is characterised by market towns, attractive villages and countryside. The area is served by a number of major roads - A14, A45, A6 and A43 with ready access to the country's motorway system. The area is also served by the East Midlands mainline service from the North into St Pancras station, London via Corby, Kettering and Wellingborough.

The area is growing rapidly with population increasing by 30% in the last 30 years to 345,000 with expectations of further growth to 400,000 by 2041.



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Ref	Respondent	Comments	Appraisal	Response
1	Chelveston Parish Council	In Section 9.1, please be advised that the statutory body "British Waterways Board" has not existed in England & Wales since 2012. Its successor is the charity "Canal & River Trust".	Comment noted	Policy amended accordingly
2	Councillor Anne Lee	The only comment is non-material, simply pointing out that the last 4 pages need to be repaginated. This is a trivial comment, it shows that I have printed out and read through the document. Annex 1 actually starts on page 20, not 24 Annex 2 starts on page 21, not 25 Annex 3 starts on page 24, not 28 Annex 4 is on page 26, not 30. One point that I would have liked to see is that NNC can regulate the sound levels of the annual fair that visits Kettering, because those sound levels have been exceptionally high. I am not sure if this falls under this policy. How and when can we achieve that?	Pagination comment noted. Comment noted	Already identified and amended during consultation. Fairs are not covered by this policy. Noise nuisance would be dealt with through the Environmental Protection Act 1990 or possibly through the booking system if on Council land.
3	Councillor Gill Mercer	Is there to be a separate licensing policy for gambling and other areas that are licensed by the councils, e.g. street trading, sex shops, taxis etc.? <i>2.3 To further ensure consistency, the licensing authorities of Northamptonshire will meet as necessary to ensure that a consistent approach is being achieved.</i> There are only 2 licensing authorities in Northamptonshire now should this not say West and North Northamptonshire? <i>3.2 Conditions will only be attached to premises licences and club premises certificates that are necessary for the promotion of the licensing objectives</i>	Comment noted Comment noted	Policies for other areas of licensing will be produced in due course. Policy amended as suggested.

		<p>It should be necessary and proportionate</p> <p><i>4.1 The need for such conditions will be considered specifically as part of the application consultation process with Northamptonshire Police and more generally through Crime and Disorder Partnerships.</i></p> <p>a) Should this not refer to the Police and Crime Plan of the PCC?</p> <p>b) Are these Crime and Disorder Partnerships the same as Community Safety Partnerships? Should this be referring to Community Safety Partnerships instead?</p> <p><i>5.2 Where licensable activities take place on premises, any licence conditions relating to 'live' music will be suspended between 08:00 and 23:00 hours, but it will be possible to impose new, or reinstate existing conditions following a review. When considering whether an activity constitutes 'the provision of regulated entertainment' each case will be treated on its own merits.</i></p> <p>This seems to relate to licenses that were in place before the Act came into force. Does this apply to licenses issued during & after 2012?</p> <p><i>6.1 In the first section it says "The essential purpose of the licence or certificate is to regulate behaviour on premises and access to them".</i></p> <p>I think it should be "or in the immediate vicinity of the premises instead of and access to them".</p> <p><i>Para 2 There are a number of offences both within the Licensing Act 2003 and other legislation that relate to crime</i></p>	<p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p>	<p>Policy amended as suggested</p> <p>Not applicable</p> <p>Policy amended as suggested.</p> <p>This paragraph applies to all authorisations irrespective of date of issue.</p> <p>Policy amended as suggested.</p>
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		<p><i>and disorder that a licensee should be familiar with.</i></p> <p>Is this the premises licensee or the personal licensee?</p> <p><i>Para 3 Various 'PubWatch' schemes operate in Northamptonshire</i></p> <p>Should this not refer to North Northamptonshire?</p> <p><i>6.2 The public safety objective is concerned with the physical safety, including fire safety, of the people using the relevant premises and not with public health, which is dealt with in other legislation.</i></p> <p>This refers to fire safety but at 2.13 last line it states specifically that fire safety is controlled under different legislation</p> <p><i>6.2 The Licensing Authority is familiar with the "Safer Clubbing Guide" and its application to nightclubs and dance events.</i></p> <p>We have never come across this. Should members be given a copy of this?</p> <p><i>6.4 When deciding where restrictions should be imposed, this Licensing Authority will examine the individual merits of each application and only impose conditions <i>whether</i> the circumstances justify them.</i></p> <p>Shouldn't whether be when?</p>	<p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p>	<p>This relates to the holder of the premises licence – no action required.</p> <p>Policy amended</p> <p>While there is specific legislation relating to aspects of public safety, there will be times where this legislation can provide additional controls.</p> <p>Reference removed as no longer available.</p> <p>Policy amended as suggested</p>
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<p><i>10.1 Licensing applications should not be a re-run of the planning application and should not cut across decisions taken by the local authority Planning Committee or following appeals against decisions taken by that committee.</i></p> <p>Very few of the planning decisions go to the Planning committee. Many are decided under delegated authority. This paragraph should recognise that.</p>	<p>Comment noted</p>	<p>This section relates to the submission of representations which duplicate objections already considered by planning. No action required.</p>
<p><i>10.2 The Licensing Committee may provide reports to the Policy and Development Control Committee on licensed premises in the area, to ensure proper integration.</i></p> <p>There is no Policy and Development Control Committee</p>	<p>Comment noted</p>	<p>Policy updated</p>
<p><i>10.3 This will enable the planning committee to have regard to such matters when taking its decisions and avoid any unnecessary overlap.</i></p> <p>Very few of the planning decisions go to the Planning committee. Many are decided under delegated authority. This paragraph should recognise that.</p>	<p>Comment noted</p>	<p>Para 10.3 relates to para 10.2 and therefore no action required.</p>
<p><i>10.4 Applications for premises licences for permanent commercial premises should normally be from businesses with planning consent for the property concerned. However, applications for licences may be made before any relevant planning permission has been sought or granted by the planning authority. There is no legal basis for this Licensing Authority to refuse a licence application because it does not have planning permission,</i></p>		

		<p>Applications do not need to be from businesses. I would suggest “applicants” would be better.</p> <p><i>12.3 Northamptonshire Licensing Authorities recommend that at least 28 days and no more than 3 months notice be given to hold such events, to allow it to help organisers plan their events safely.</i></p> <p>This states Northamptonshire Licensing Authorities. There are only 2. This should refer either to North Northants alone or to North and West Northants.</p> <p><i>13.1 This Licensing Authority has adopted a policy in relation to sexual entertainment venues under the Local Government (Miscellaneous Provisions) Act 1982, as amended by the Policing and Crime Act 2009. With reference to this related policy, standard conditions are attached to such licences and where there are similar conditions in the two regimes, the more onerous apply.</i></p> <p>Is this policy a NNC one or does it still need to be adopted?</p>	<p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p>	<p>The expectation is that these licence applications will be made by the business or their representative and therefore best placed to provide the information relevant to the application. No action.</p> <p>Policy updated</p> <p>The Authority is currently working to the sovereign policies for the previous areas. Policy updated to reflect this.</p>
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		<p><i>14.1 Commercial demand for additional licensed premises is not a matter for this Licensing Authority or its statement of policy</i></p> <p>Should this be its statement of <u>licensing</u> policy?</p> <p><i>14.1 but a matter for planning committees and for the market.</i></p> <p>This should be planning authority as it is not necessarily the planning committee that hears the case if it is delegated.</p> <p><i>14.2 Conditions may only relate to matters that the licensee can be expected to control</i></p> <p>Should this say the premises licensee or personal licensee?</p> <p><i>Also Conditions may only relate to matters that the licensee can be expected to control.</i></p> <p>This should state “reasonably be expected”.</p> <p><i>14.2 Where the number, type and density of premises selling alcohol are unusual</i></p> <p>The word “unusual” needs explanation. Excessive would be</p>	<p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p>	<p>Policy amended</p> <p>This relates to item above which would be considered through planning committees on applications if deemed necessary.</p> <p>The licence conditions are the responsibility of the holder of the premises licence. No action.</p> <p>Policy amended</p> <p>No action.</p>
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<p>better.</p> <p><i>14.8 This Licensing Authority has duties under Section 17 of the Crime and Disorder Act 1998 to do all that it can to prevent crime and disorder in its locality and to promote the licensing objectives in the Licensing Act 2003.</i></p> <p>This should add the word reasonably, i.e. to do all that it reasonably can to prevent crime and disorder?</p> <p><i>15.5 The decision to implement an EMRO will be evidence based and will be considered by Full Council.</i></p> <p>Should this be the Licensing Committee or the Executive?</p> <p><i>16.5 Where the above restrictions are not considered necessary, access to licensed premises by children will remain a matter for the discretion of the individual licence holder or club.</i></p> <p>Should this state the premises or personal licensee?</p> <p><i>22.1 The powers of the Licensing Authority under the Act may be carried out by the Licensing Committee, by a sub-committee or by one or more Officers acting under delegated authority.</i></p> <p>Should the end of this sentence say “under the appropriate delegated authority?”</p> <p><i>26.5 Any revenue from a levy will be split between this licensing authority and Northamptonshire Police, with at least 70% of the ‘net’ levy (after expenses) paid to the Police. A formal service level agreement will be established to ensure that this licensing authority and Northamptonshire Police are aware of responsibilities and undertakings, and to ensure that the use of levy funds can be clearly communicated to those</i></p>	<p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p> <p>Comment noted</p>	<p>Policy amended as suggested</p> <p>No action – policy as stated.</p> <p>Amend individual to premises in policy.</p> <p>No action.</p>
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		<p><i>Hospitality Industries</i></p> <ul style="list-style-type: none"> ♣ <i>Local Development Framework</i> ♣ <i>Local Transport Plan</i> ♣ <i>National and local PubWatch schemes</i> ♣ <i>Portman Group Code of Practice on the Naming, Packaging and Promotion of Alcoholic Drinks.</i> ♣ <i>Purple Flag (ATCM)</i> ♣ <i>Safer Socialising</i> ♣ <i>Northamptonshire Health and Wellbeing Strategy</i> ♣ <i>Director of Public Health Northamptonshire Annual Report</i> <p>Have these strategies all been updated for NNC?</p>	Comment noted	Many of these strategies are from bodies outside of North Northamptonshire. Those for NNC will be updated in due course. No change at this time.
4	Stanwick Parish Council	<p>Firstly, the policy does not make any reference to the consultation of Town and Parish Councils and I would be grateful if you could explain the situation.</p> <p>I do recall that in the initial period after the introduction of the 2003 Act, Town and Parish Councils were consulted.</p>	Comment noted	Town and Parish Councils are not statutory consultees so are not formally consulted but are notified of matters out for consultation.

		<p>Secondly paragraph 19.1 refers to Responsible Authorities. In the interests of clarity I would suggest that document defines, somewhere, what constitutes a Responsible Authority.</p> <p>As a final point, you may wish to examine paragraphs 1.2, 6.2 and 16.8 for typographical issues. I have only looked at the copy emailed to the Council. The version online may be different.</p>	<p>Comment noted</p> <p>Comment noted</p>	<p>No action. Responsible Authorities are identified in Sec 9.</p> <p>Comment noted – Policy reviewed and updated as necessary.</p>
5	Thrapston Town Council	<p>Section 22 – ‘The Licensing Authority shall, as default, post all relevant elements of the application online, including but not limited to red line plans, application form and relevant supplementary documents’</p> <p>Our Committee believe this is standard in the majority of authorities.</p>	<p>Comment noted</p>	<p>There are GDPR and technical issues which prevent this. No action.</p>

Licensing and Appeals Committee 22 November 2021

Report Title	Gambling Act 2005 Statement of Licensing Principles 2022 – 2025
Report Author	Iain Smith, Assistant Director - Regulatory Services

List of Appendices

Appendix A - Gambling Act 2005 Statement of Licensing Principles 2022 – 2025
Appendix B - Consultation responses

1. Purpose of Report

- 1.1 To seek recommendation for the Gambling Act 2005 Statement of Licensing Principles to be adopted by North Northamptonshire Council and to consider whether to make a 'no-casino' resolution under section 166 of the Gambling Act 2005.

2. Executive Summary

- 2.1 The Gambling Act 2005 requires that a licensing authority has a Statement of Licensing Principles.
- 2.2 This Statement is presented to meet that legal requirement and support the Authority's Gambling Act 2005 processes going forward. It will be in effect from 31 January 2022 – 30 January 2025.
- 2.3 The document can be subject to review during this period as necessary.
- 2.4 The Act also gives the Licensing Authority the option of making a 'no-casinos' resolution which, if made, will apply during the same dates as the Statement.

3. Recommendations

- 3.1 The Committee is asked to recommend to Council the adoption of the Statement of Licensing Principles by North Northamptonshire Council.
- 3.2 The Committee is also asked to consider if a 'no-casinos' resolution for the North Northamptonshire area is appropriate and make recommendation to Council for inclusion in the Statement of Licensing Principles.

4. Report Background

- 4.1 Each of the sovereign authorities had their own Statement of Licensing Principles which were due for review in January 2022. Due to the large timescales involved in a full review process, the unification of existing policies is considered to be the first stage and is felt to be appropriate at this point. It will be necessary in the next year to fully consider the new Authority area and gambling activities therein, to identify if there is any need for a wider review to be undertaken. This will ensure that the Statement continues to properly address the needs of the area.
- 4.2 The sovereign authority documents were all very similar as they were prepared as a county wide project.
- 4.3 The policy before the Licensing and Appeals Committee is therefore the amalgamation of those documents to produce a North Northamptonshire Council policy.
- 4.4 No substantive changes have been made to the contents of the sovereign documents in bringing them together to produce this North Northamptonshire Policy.
- 4.5 Before determining its policy, the licensing authority consulted with the following:
- the chief officer of police for the authority's area,
 - persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area, and
 - 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.
- 4.6 Because the Policy is in principle identical to those previously in place, consultation was limited to a 4-week period.
- 4.7 The consultation responses are attached together with the details of any actions relating to each one.
- 4.8 The Statement must be reviewed every three years so this Statement once adopted will be in effect from 31 January 2022 – 30 January 2025. The document can be subject to review during this period as necessary.
- 4.9 With regards to casinos, the Secretary of State has powers under Section 175(4) of the Gambling Act 2005 to determine the geographical distribution of casino premises licences. The Act sets out an overall limit nationally of no more than one regional casino, eight large casinos and eight small casinos. In 2005 Local Authorities with an interest in hosting a casino were asked to indicate their interest and to take part in a selection process. A local licensing authority can only award a casino premises licence if one has been identified for its area.
- 4.10 None of the sovereign authorities had a resolution with regards to casinos but none were in the selection process with the Government for sites for casino licences.
- 4.11 As a result, nationally casino sites have been identified for the available licences and none are in the North Northamptonshire area.

- 4.12 The Council's resolution relating to casinos under Section 166 of the Gambling Act 2005 must be included in the Statement of Licensing Principles and must be reviewed every three years.
- 4.13 The Council has two options, suggested below:
- a) The Authority has not passed a 'no-casino' resolution under Section 166 of the Act, but it is aware that it has the power to do so. Should the Authority decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.
 - b) The Authority has passed a "no-casino resolution" under Section 166 of the Gambling Act 2005. This means that it has taken the decision not to issue any casino premises licences in the district of North Northamptonshire. This resolution shall take effect from January 2022 and shall remain in force for a period of three years from that date unless a resolution is passed before that date revoking the "no-casino resolution".
- 4.14 The passing of a 'no-casino' resolution can be seen as a statement of principle that casino operations are not considered appropriate for the district.
- 4.15 By deciding not to make a 'no-casino' resolution, it can be seen to indicate that the authority is willing to consider casino operations in the district in the future. However, on a practical level this is unlikely as all future casino operations have been allocated to other districts and a change in the law would be required to permit any additional casino numbers or the transfer of locations.
- 4.16 The Gambling Commission's guidance to Licensing Authorities on the exercise of their functions under the Gambling Act 2005 makes the following points about making a 'no- casino- resolution:
- The decision to pass such a resolution may only be taken by the Authority as a whole and cannot be delegated to the licensing committee. In passing such a resolution the Authority may consider any principle or matter, not just the licensing objectives.
 - The resolution must apply to casino premises generally, so that the Authority cannot limit its effect to geographic areas or categories of casinos.
 - The resolution must specify the date it comes into effect.
 - The Authority may revoke the resolution at any time by passing a counter-resolution

5. Issues and Choices

- 5.1 Section 349 of the Gambling Act 2005 requires that a licensing authority shall before each successive period of three years prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period and publish the statement.
- 5.2 That Statement must be adopted by Council.
- 5.3 The Authority may choose to have a “no-casino” resolution under Section 166 of the Gambling Act 2005. If made, this resolution must be included within the Statement of Principles above.

6. Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 There are no resource or financial implications in relation to this report

6.2 Legal

- 6.2.1 Section 349 of the Gambling Act 2005 requires that a licensing authority shall before each successive period of three years prepare a statement of the principles that they propose to apply in exercising their functions under this Act during that period and publish the statement.
- 6.2.2 Section 166 of the Gambling Act 2005 allows an Authority to make a no-casinos resolution. Should it do so then that must be included within the Statement of Licensing Principles and will expire at the end of three years unless renewed.

6.3 Risk

- 6.3.1 There are no significant risks arising from the proposed recommendations in this report.
- 6.3.2 There is a risk of decisions made under the Gambling Act 2005 by the Authority being subject to challenge through the Courts if no Statement of Licensing Principles is in place.

6.4 Consultation

- 6.4.1 The consultation process has been carried out in accordance with the requirements of the Gambling Act 2005 and associated guidance.

6.5 Consideration by Scrutiny

- 6.5.1 Not considered

6.6 Climate Impact

- 6.6.1 No climate impact.

6.7 Community Impact

- 6.7.1 The overall conclusion of the Equality Impact Assessment is that there is no negative impact on any characteristic or group as a result of this Policy.
- 6.7.2 The three licensing objectives in the Gambling Act 2005 which guide the way that licensing authorities perform their functions and the way that gambling businesses carry on their activities, 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
- 6.7.3 Licensing authorities have a duty to pursue the licensing objectives, and gambling businesses are expected to deliver them.
- 6.7.4 The statement of licensing policy is a very important part of the architecture of local gambling regulation, and it is expected that licensing authorities will use it to set out the local issues, priorities and risks that inform and underpin its approach to local regulation.
- 6.7.5 It provides the opportunity for licensing authorities to agree and set out how gambling is to be managed in different parts of the local authority area to deal with local concerns and issues. It provides clarity of expectation for licensees and prospective licensees about how their businesses are likely to be treated in different localities. The existence of a clear and agreed policy statement will provide greater scope for licensing authorities to work in partnership with local businesses, communities, and responsible authorities to identify and mitigate local risks to the licensing objectives.
- 6.7.6 The policy statement is the primary vehicle for setting out the licensing authority's approach to regulation having considered local circumstances. It ensures that operators have sufficient awareness and understanding of the relevant licensing authority's requirements and approach, including its view on local risks, to help them comply with local gambling regulation

7. Background Papers

None



**North
Northamptonshire
Council**

Gambling Act 2005

Statement of Licensing Principles

2022-2025

This Statement of Principles was adopted by North Northamptonshire Council at its Council meeting on
'date to be confirmed'

Revisions

Version	Date	Author
NNCGP1	07/09/21	RH
NNCGP2	10/11/21	RH

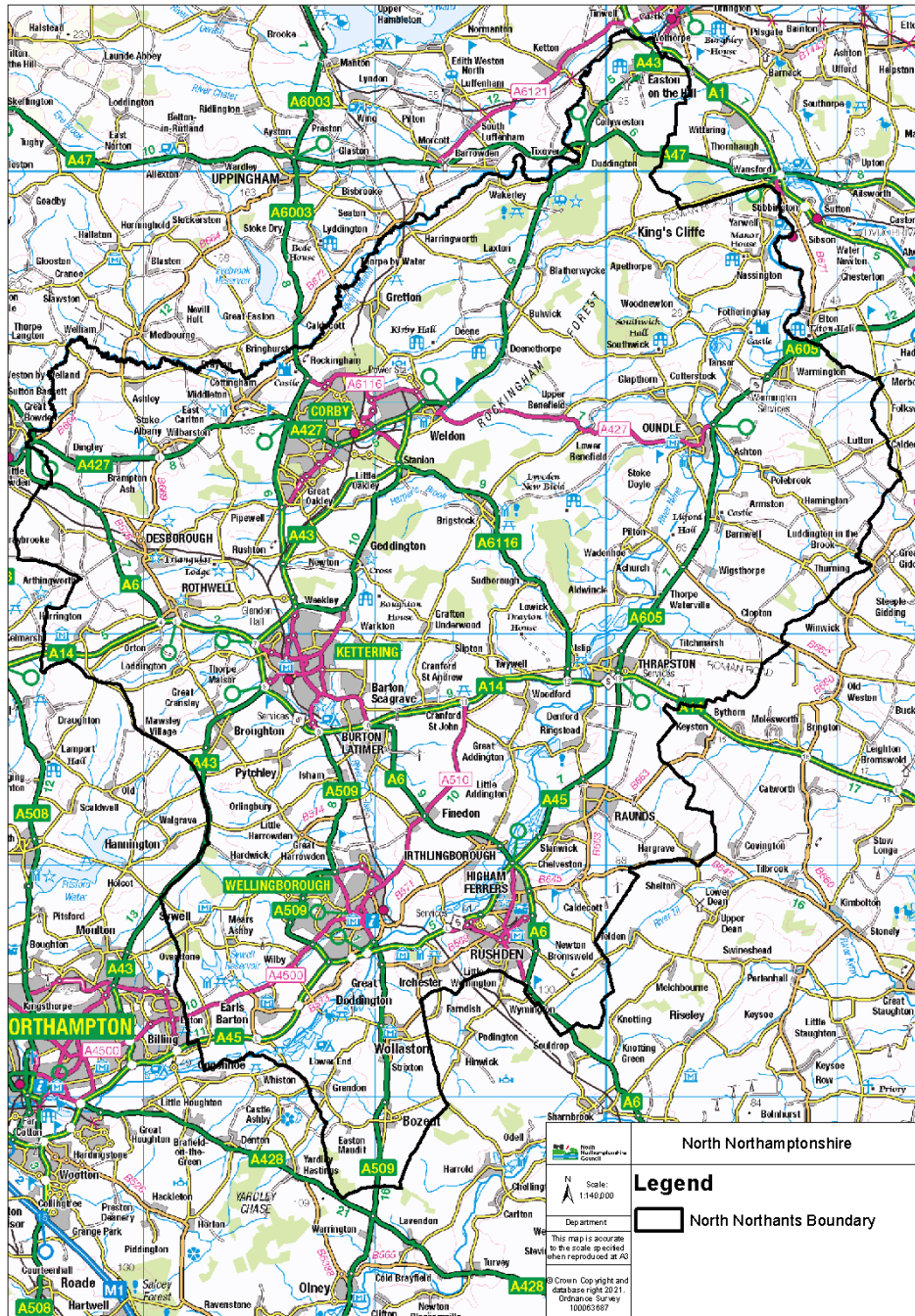
**North Northamptonshire Council
Statement of Principles
Gambling Act 2005**

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Part A

About North Northamptonshire



North Northamptonshire Council is a unitary council which came into existence on 1st April 2021 and is responsible for providing a range of public services to residents and businesses in the areas of Corby, East Northamptonshire, Kettering and Wellingborough.

North Northamptonshire is characterised by market towns, villages and countryside. Both the River Nene and the River Welland pass through the area. The area is

crossed by a number of major roads including the A1, A14, A43 and A45 and a main north/south rail link direct into St Pancras, providing a transport network with access to all parts of the country and beyond.

In 2018 the population of the area was approximately 345,000. It has increased by 30% in the last 30 years and is expected to grow to almost 400,000 by 2041.

1. The Licensing Objectives

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

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

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

1.3 This licensing authority is aware that, as per Section 153, 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
- 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

2. Introduction

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

2.2 The Council consulted widely upon this statement before finalising and publishing it. A list of Northamptonshire local authorities and their partners is provided in Annex 1. A list of the persons/organisations that we consulted is provided in Annex 2.

- 2.3 The Gambling Act requires that the following parties are consulted by licensing authorities:
- The Chief Officer of Police;
 - One or more persons who appear to the authority to represent the interests of persons carrying on gambling businesses in the authority's area; and
 - One or more persons who appear to the authority to represent the interests of persons who are likely to be affected by the exercise of the authority's functions under the Gambling Act 2005.

- 2.4 Our consultation took place between 'date to be confirmed' and 'date to be confirmed'.

The full list of comments made, and consideration given is available by request from the relevant contacts detailed in Annex 1.

- 2.5 The policy was approved at a meeting of the Full Council on 'date to be confirmed' and was subsequently published on our website.

- 2.6 Should you have any comments about this policy statement, please send them by email to licensingunit.ENC@northnorthants.gov.uk

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

3. Declaration

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

4. Responsible Authorities

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

- The need for the body to be responsible for an area covering the whole of the licensing authority's area; and
- The need for the body to be answerable to democratically elected persons, rather than any particular vested interest group.

- 4.2 This authority designates the Northamptonshire Safeguarding Children

Partnership for this purpose.

- 4.3 The contact details of all the Responsible Authorities under the Gambling Act 2005 are available via the Council's website, please see Annex 1.

5. Interested Parties

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

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

- Lives sufficiently close to the premises to be likely to be affected by the authorised activities,
- Has business interests that might be affected by the authorised activities, or
- Represents persons who satisfy paragraph (a) or (b)”

- 5.2 The licensing authority is required by regulations to state the principles it will apply in exercising its powers under the Gambling Act 2005 to determine whether a person is an interested party. The principles are as follows.

- 5.3 Each case will be decided upon its merits. This authority will not apply a rigid rule to its decision making. It will consider the examples of considerations provided in the Gambling Commission's Guidance to Licensing Authorities. It will also consider the Gambling Commission's Guidance that "has business interests" should be given the widest possible interpretation and include partnerships, charities, faith groups and medical practices.

- 5.4 Interested parties can be persons who are democratically elected such as councillors and MPs. No specific evidence of being asked to represent an interested person will be required as long as the councillor/MP represents the ward likely to be affected. Likewise, parish councils likely to be affected will be considered to be interested parties. Other than these however, this authority will generally require written evidence that a person/body (e.g. an advocate/relative) 'represents' someone who either lives sufficiently close to the premises to be likely to be affected by the authorised activities and/or has business interests that might be affected by the authorised activities. A letter from one of these persons, requesting the representation is sufficient.

- 5.5 If individuals wish to approach councillors to ask them to represent their views then care should be taken that the councillors are not part of the Licensing Sub-Committee dealing with the licence application. If there are any doubts, then please contact the relevant licensing team as specified in Annex 1.

6. Exchange of Information

- 6.1 Licensing authorities are required to include in their statements the principles to be applied by the authority in exercising the functions under sections 29 and 30 of the Act 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.
- 6.2 The principle that this licensing authority applies is that it will act in accordance with the provisions of the Gambling Act 2005 in its exchange of information which includes the provision that the Data Protection Act 1998 will not be contravened. The licensing authority will also have regard to any Guidance issued by the Gambling Commission on this matter, as well as any relevant regulations issued by the Secretary of State under the powers provided in the Gambling Act 2005.
- 6.3 Should any protocols be established as regards information exchange with other bodies then they will be made available.

7. Enforcement

- 7.1 Licensing authorities are required by regulation under the Gambling Act 2005 to state the principles to be applied by the authority in exercising the functions under Part 15 of the Act with respect to the inspection of premises; and the powers under section 346 of the Act to institute criminal proceedings in respect of the offences specified.
- 7.2 This licensing authority's principles are that it will be guided by the Gambling Commission's Guidance to Licensing Authorities and will endeavour to be:
- **Proportionate:** regulators should only intervene when necessary: remedies should be appropriate to the risk posed, and costs identified and minimised;
 - **Accountable:** regulators must be able to justify decisions, and be subject to public scrutiny;
 - **Consistent:** rules and standards must be joined up and implemented fairly;
 - **Transparent:** regulators should be open, and keep regulations simple and user friendly; and
 - **Targeted:** regulation should be focused on the problem and minimise side effects.
- 7.3 This licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.
- 7.4 This licensing authority has adopted and implemented a risk-based inspection programme, based on:

- the licensing objectives
- relevant codes of practice
- guidance issued by the Gambling Commission
- the principles set out in this statement of principles.

7.5 This may include test purchasing activities to measure the compliance of licensed operators with aspects of the Gambling Act. When undertaking test purchasing activities, this licensing authority will undertake to liaise with the Gambling Commission, the Primary Authority (if applicable) and the operator to determine what other, if any, test purchasing schemes may already be in place. Irrespective of the actions of an operator on their overall estate, test purchasing may be deemed to be an appropriate course of action.

7.6 The main enforcement and compliance role for this licensing authority in terms of the Gambling Act 2005 is to ensure compliance with the premises licences and other permissions which it authorises. The Gambling Commission is the enforcement body for the operating and personal licences. It is also worth noting that concerns about manufacture, supply or repair of gaming machines are not dealt with by the licensing authority but should be notified to the Gambling Commission.

7.7 This licensing authority also keeps itself informed of developments as regards the work of the Department for Business, Energy & Industrial Strategy in its consideration of the regulatory functions of local authorities.

7.8 Bearing in mind the principle of transparency, this licensing authority's enforcement/compliance protocols/written agreements are available upon request to the licensing team (see Annex 1 for relevant contact details).

8. Licensing authority functions

8.1 Licensing authorities are required under the Act to:

- be responsible for the licensing of premises where gambling activities are to take place by issuing *Premises Licences*
- issue Provisional Statements
- regulate *members' clubs* and *miners' welfare institutes* who wish to undertake certain gaming activities via issuing Club Gaming Permits and/or Club Machine Permits
- issue Club Machine Permits to Commercial Clubs
- grant permits for the use of certain lower stake gaming machines at *unlicensed Family Entertainment Centres*
- receive notifications from alcohol licensed premises (under the Licensing Act 2003) for the use of two or fewer gaming machines
- issue *Licensed Premises Gaming Machine Permits* for premises licensed to sell/supply alcohol for consumption on the licensed premises, under the Licensing Act 2003, where there are more than two machines

- register *small society lotteries* below prescribed thresholds
- issue Prize Gaming Permits
- receive and Endorse *Temporary Use Notices*
- receive Occasional Use Notices
- provide information to the Gambling Commission regarding details of licences issued (see section above on 'information exchange')
- maintain registers of the permits and licences that are issued under these functions

8.2 It should be noted that licensing authorities are not be involved in licensing remote gambling as this is regulated by the Gambling Commission via operating licences.

Part B: Premises Licences: Consideration Of Applications

1. General Principles

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

(i) Decision-making

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

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

1.3 It is appreciated that as per the Gambling Commission's Guidance to Licensing Authorities "moral or ethical objections to gambling are not a valid reason to reject applications for premises licences" (with the exception of the casino resolution powers).

1.4 This licensing authority also notes Gambling Commission guidance on ensuring that betting is the primary activity of a licensed premises. Gaming machines may be made available for use in licensed betting premises only at times when there are also sufficient facilities for betting available. Operators will need to demonstrate that betting will continue to be the primary activity of the premises when seeking variations to licenses.

1.5 In making this determination, this licensing authority will have regard to the six indicators of betting as a primary gambling activity:

- the offer of established core products (including live event pictures and bet range)
- the provision of information on products and events
- the promotion of gambling opportunities and products
- the actual use made of betting facilities
- the size of premises
- the delivery of betting facilities

(ii) Definition of "premises"

1.6 In the Act, "premises" is defined as including "any place". Section 152

therefore prevents more than one premises licence applying to any place. But a single building could be subject to more than one premises licence, provided they are for different parts of the building and the different parts of the building can be reasonably regarded as being different premises. This approach has been taken to allow large, multiple unit premises such as a pleasure park, pier, track or shopping mall to obtain discrete premises licences, where appropriate safeguards are in place. However, licensing authorities should pay particular attention if there are issues about sub-divisions of a single building or plot and should ensure that mandatory conditions relating to access between premises are observed.

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

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

1.8 The Guidance also gives a list of factors which the licensing authority should be aware of, which may include whether:

- the premises have a separate registration for business rates;
- the premises' neighbouring premises are owned by the same person or someone else;
- the premises can be accessed from the street or a public passageway;
- the premises can only be accessed from any other gambling premises;

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

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

Casinos

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

Adult Gaming Centre

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

Betting Shops

- Access must be from a street or from another premises with a betting premises licence;
- No direct access from a betting shop to another premises used for the retail sale of merchandise or services. In effect there cannot be an entrance to a betting shop from a shop of any kind and you could not have a betting shop at the back of a café – the whole area would have to be licensed.

Tracks

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

Bingo Premises

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

Family Entertainment Centre

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

1.10 The Gambling Commission's Guidance to Licensing Authorities contains further guidance on this issue, which this authority will also take into account in its decision-making.

(iii) Premises “ready for gambling”

- 1.11 The Guidance states that a licence to use premises for gambling should only be issued in relation to premises that the licensing authority can be satisfied are going to be ready to be used for gambling in the reasonably near future, consistent with the scale of building or alterations required before the premises are brought into use.
- 1.12 If the construction of a premises is not yet complete, or if they need alteration, or if the applicant does not yet have a right to occupy them, then an application for a provisional statement should be made instead.
- 1.13 In deciding whether a premises licence can be granted where there are outstanding construction or alteration works at a premises, this authority will determine applications on their merits, applying a two-stage consideration process:
- first, whether the premises ought to be permitted to be used for gambling;
 - second, whether appropriate conditions can be put in place to cater for the situation that the premises are not yet in the state in which they ought to be, before gambling takes place.
- 1.14 Applicants should note that this authority is entitled to decide that it is appropriate to grant a licence subject to conditions, but it is not obliged to grant such a licence.
- 1.15 More detailed examples of the circumstances in which such a licence may be granted can be found in the Guidance.

(iv) Location

- 1.16 This licensing authority is aware that demand issues cannot be considered with regard to the location of premises but that considerations in terms of the licensing objectives are relevant to its decision-making. 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. Should any specific policy be decided upon as regards areas where gambling premises should not be located, this statement will be updated. It should be noted that any such policy does not preclude any application being made and each application will be decided on its merits, with the onus upon the applicant showing how potential concerns can be overcome.

(v) Planning:

- 1.17 This authority will not take into account irrelevant matters as per the Gambling Commission guidance.

(vi) Duplication with other regulatory regimes

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

Licensing Objectives

- 1.20 Premises licences granted must be reasonably consistent with the licensing objectives. With regard to these objectives, this licensing authority has considered the Gambling Commission's Guidance to Licensing Authorities and some comments are made below.
- 1.21 **Preventing gambling from being a source of crime or disorder, being associated with crime or disorder or being used to support crime** - This licensing authority is aware that the Gambling Commission takes a leading role in preventing gambling from being a source of crime. The Gambling Commission's Guidance does however envisage that licensing authorities should pay attention to the proposed location of gambling premises in terms of this licensing objective. Thus, where an area has known high levels of organised crime this authority will consider carefully whether gambling premises are suitable to be located there and whether conditions may be suitable such as the provision of door supervisors. This licensing authority is aware of the distinction between disorder and nuisance and will consider factors (for example whether police assistance was required and how threatening the behaviour was to those who could see it) so as to make that distinction.
- 1.22 **Ensuring that gambling is conducted in a fair and open way** - This licensing authority has noted that the Gambling Commission states that it generally does not expect licensing authorities to be concerned with ensuring that gambling is conducted in a fair and open way as this will be addressed via operating and personal licences. There is however, more of a role with regard to tracks which is explained in more detail in the 'tracks' section of this document.
- 1.23 **Protecting children and other vulnerable persons from being harmed or exploited by gambling** - There is significant potential impact of gambling on wider health and wellbeing. This is a hugely important context to the local

gambling licensing process, which should be taken into consideration as far as the licensing legislation allows, in order to contribute to community wellbeing. It is specifically relevant to this objective. This licensing authority has noted the Gambling Commission's Guidance that this objective means preventing children from taking part in gambling (as well as restriction of advertising so that gambling products are not aimed at or are, particularly attractive to children). The licensing authority will therefore consider, as suggested in the Gambling Commission's Guidance, whether specific measures are required at particular premises, with regard to this licensing objective. Appropriate measures may include supervision of entrances / machines, segregation of areas etc.

- 1.24 This licensing authority is also aware of the Gambling Commission Codes of Practice as regards this licensing objective, in relation to specific premises.

Conditions

- 1.25 Any conditions attached to licences will be proportionate and will be:
- relevant to the need to make the proposed building suitable as a gambling facility;
 - directly related to the premises and the type of licence applied for;
 - fairly and reasonably related to the scale and type of premises; and
 - reasonable in all other respects.
- 1.26 Decisions upon individual conditions will be made on a case by case basis, although there will be a number of measures this licensing authority will consider utilising should there be a perceived need, such as the use of supervisors, appropriate signage for adult only areas etc. There are specific comments made in this regard under some of the licence types below. This licensing authority will also expect the licence applicant to offer his/her own suggestions as to a way in which the licensing objectives can be met effectively.
- 1.27 This licensing authority will also consider specific measures which may be required for buildings which are subject to multiple premises licences. Such measures may include the supervision of entrances; segregation of gambling from non-gambling areas frequented by children; and the supervision of gaming machines in non-adult gambling specific premises in order to pursue the licensing objectives. These matters are in accordance with the Gambling Commission's Guidance.
- 1.28 This authority will also ensure that where category C or above machines are on offer in premises to which children are admitted:
- all such machines are located in an area of the premises which is separated from the remainder of the premises by a physical barrier which is effective to prevent access other than through a designated entrance;

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

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

1.29 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will 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.

1.30 It is noted that there are conditions which the licensing authority cannot attach to premises licences which are:

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

Door Supervisors

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

1.32 Where it is decided that supervision of entrances/machines is appropriate for particular cases, a consideration of whether these need to be SIA licensed or not will be necessary. It will not be automatically assumed that they need to be licensed, as the statutory requirements for different types of premises vary.

2. Adult Gaming Centres

- 2.1 This licensing authority will specifically have regard to the need to protect children and vulnerable persons from harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to, for example, ensure that under 18 year olds do not have access to the premises.
- 2.2 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.

3. (Licensed) Family Entertainment Centres

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

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

4. Casinos

- 4.1 [Insert detail of casino resolution]

5. Bingo premises

- 5.1 This licensing authority will satisfy itself that bingo can be played in any bingo premises for which they issue a premises licence. This will be a relevant consideration where the operator of an existing bingo premises applies to vary their licence to exclude an area of the existing premises from its ambit and then applies for a new premises licence, or multiple licences, for that or those excluded areas.
- 5.2 This authority also notes the Guidance regarding the unusual circumstances in which the splitting of pre-existing premises into two adjacent premises might be permitted.

6. Betting premises

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

7. Tracks

- 7.1 This licensing authority is aware that tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track. As per the Gambling Commission's Guidance, this licensing authority will especially consider the impact upon the third licensing objective (i.e. the protection of children and vulnerable persons from being harmed or exploited by gambling) and the need to ensure that entrances to each type of premises are distinct and that children are excluded from gambling areas where they are not permitted to enter.

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

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

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

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

7.4 *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.

7.5 *Betting machines* - This licensing authority will, as per the Gambling Commission's Guidance, take into account the size of the premises and the ability of staff to monitor the use of the machines by children and young persons (it is an offence for those under 18 to bet) or by vulnerable people, when considering the number/nature/circumstances of betting machines an operator proposes to offer.

Applications and plans

7.6 The Gambling Act (s51) requires applicants to submit plans of the premises with their application, in order to ensure that the licensing authority has the necessary information to make an informed judgement about whether the premises are fit for gambling. The plan will also be used for the licensing authority to plan future premises inspection activity.

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

- 7.8 Some tracks may be situated on agricultural land where the perimeter is not defined by virtue of an outer wall or fence, such as point-to-point racetracks. In such instances, where an entry fee is levied, track premises licence holders may erect temporary structures to restrict access to premises.
- 7.9 In the rare cases where the outer perimeter cannot be defined, it is likely that the track in question will not be specifically designed for the frequent holding of sporting events or races. In such cases betting facilities may be better provided through occasional use notices where the boundary premises do not need to be defined.
- 7.10 This authority appreciates that it is sometimes difficult to define the precise location of betting areas on tracks. The precise location of where betting facilities are provided is not required to be shown on track plans, both by virtue of the fact that betting is permitted anywhere on the premises and because of the difficulties associated with pinpointing exact locations for some types of track. Applicants should provide sufficient information that this authority can satisfy itself that the plan indicates the main areas where betting might take place. For racecourses in particular, any betting areas subject to the “five times rule” (commonly known as betting rings) must be indicated on the plan.

8. Travelling fairs

- 8.1 This licensing authority is responsible for deciding whether, where category D machines and/or equal chance prize gaming without a permit is to be made available for use at travelling fairs, the statutory requirement that the facilities for gambling amount to no more than an ancillary amusement at the fair is met.
- 8.2 The licensing authority will also consider whether the applicant falls within the statutory definition of a travelling fair.
- 8.3 It is noted that the 27-day statutory maximum for the land being used as a fair applies on a per calendar year basis, and that it applies to the piece of land on which the fairs are held, regardless of whether it is the same or different travelling fairs occupying the land. This licensing authority will work with its neighbouring authorities to ensure that land which crosses our boundaries is monitored so that the statutory limits are not exceeded.

9. Provisional statements

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

- 9.2 S204 of the Gambling Act provides for a person to make an application to the licensing authority for a provisional statement in respect of premises that he or she:
- expects to be constructed;
 - expects to be altered; or
 - expects to acquire a right to occupy.
- 9.3 The process for considering an application for a provisional statement is the same as that for a premises licence application. The applicant is obliged to give notice of the application in the same way as applying for a premises licence. Responsible authorities and interested parties may make representations and there are rights of appeal.
- 9.4 In contrast to the premises licence application, the applicant does not have to hold or have applied for an operating licence from the Gambling Commission (except in the case of a track) and they do not have to have a right to occupy the premises in respect of which their provisional application is made.
- 9.5 The holder of a provisional statement may then apply for a premises licence once the premises are constructed, altered or acquired. The licensing authority will be constrained in the matters it can consider when determining the premises licence application, and in terms of representations about premises licence applications that follow the grant of a provisional statement, no further representations from relevant authorities or interested parties can be taken into account unless:
- they concern matters which could not have been addressed at the provisional statement stage, or
 - they reflect a change in the applicant's circumstances.
- 9.6 In addition, the authority may refuse the premises licence (or grant it on terms different to those attached to the provisional statement) only by reference to matters:
- which could not have been raised by objectors at the provisional statement stage;
 - which in the authority's opinion reflect a change in the operator's circumstances; or
 - where the premises has not been constructed in accordance with the plan submitted with the application. This must be a substantial change to the plan and this licensing authority notes that it can discuss any concerns it has with the applicant before making a decision.

10. Reviews

- 10.1 Requests for a review of a premises licence can be made by interested parties

or responsible authorities; however, it is for the licensing authority to decide whether the review is to be carried-out. This will be on the basis of whether the request for the review is relevant to the matters listed below:

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

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

10.3 The licensing authority can also initiate a review of a particular premises licence, or a particular class of premises licence on the basis of any reason which it thinks is appropriate.

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

10.5 The licensing authority must carry out the review as soon as possible after the 28 day period for making representations has passed.

10.6 The purpose of the review will be to determine whether the licensing authority should take any action in relation to the licence. If action is justified, the options open to the licensing authority are to:

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

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

10.8 In particular, the licensing authority may also initiate a review of a premises licence on the grounds that a premises licence holder has not provided

facilities for gambling at the premises. This is to prevent people from applying for licences in a speculative manner without intending to use them.

10.9 Once the review has been completed, the licensing authority must, as soon as possible, notify its decision to:

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

11. Local Risk Assessments

11.1 The licensing authority would recommend that the following matters are considered by operators when making their risk assessment:

- the location of the premises to services for children such as schools, playgrounds, leisure/community centres and other areas where children will gather;
- the vicinity of the premises to gambling or addiction support or treatment centres where children or vulnerable groups may be present;
- range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, service tills, refreshment and entertainment type facilities;
- the demographics of the area in relation to vulnerable groups;;
- whether the premises is in an area subject to high levels of crime and/or disorder;
- local risk assessments should show how vulnerable people, including people with gambling dependencies are protected including the use of Information held by the licensee regarding self-exclusions and incidences of underage gambling;
- known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.

This list is not exhaustive and other factors not in this list that are identified must be taken into consideration.

11.2 The Licensing Authority expects a current copy of the Local Risk Assessment to be kept at the licensed premises.

Part C: Permits / Temporary & Occasional Use Notices

1. Unlicensed family entertainment centre gaming machine permits (Statement of Principles on Permits - Schedule 10 paragraph 7)

- 1.1 Where a premises does not hold a premises licence but wishes to provide gaming machines, it may apply to the licensing authority for this permit. It should be noted that the applicant must show that the premises will be wholly or mainly used for making gaming machines available for use (Section 238).
- 1.2 The Gambling Act 2005 states that a licensing authority may prepare a *statement of principles* that they propose to consider in determining the suitability of an applicant for a permit and in preparing this statement, and/or considering applications, it need not (but may) have regard to the licensing objectives and shall have regard to any relevant guidance issued by the Commission.

It should be noted that a licensing authority cannot attach conditions to this type of permit.

Statement of Principles

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

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

Automatic entitlement: 2 machines

- 2.1 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 and pay the prescribed fee.
- 2.2 The licensing authority can remove the automatic authorisation in respect of any particular premises if:

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

Permit: 3 or more machines

- 2.3 If a premises wishes to have more than 2 machines, then it needs to apply for a permit and the licensing authority must consider that application based upon the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Gambling Act 2005, and “*such matters as they think relevant.*”
- 2.4 This licensing authority 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 harm or being exploited by gambling and will expect the applicant to satisfy the authority that there will be sufficient measures to ensure that under 18 year olds do not have access to the adult only gaming machines. Measures which will satisfy the authority that there will be no access may include the adult machines being in sight of the bar, or in the sight of staff who will monitor that the machines are not being used by those under 18. Notices and signage may also help. As regards the protection of vulnerable persons, applicants may wish to consider the provision of information leaflets/helpline numbers for organisations such as GamCare.
- 2.5 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.
- 2.6 It should be noted that the licensing authority can decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. Conditions (other than these) cannot be attached.
- 2.7 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.

3. Prize gaming permits

- 3.1 The Gambling Act 2005 states that a licensing authority may “prepare a statement of principles that they propose to apply in exercising their functions under this Schedule” which “may, in particular, specify matters that the licensing authority proposes to consider in determining the suitability of the applicant for a permit”.
- 3.2 This Licensing Authority has not prepared a statement of principles. Should it decide to do so it will include details in a revised version of the policy statement.
- 3.3 In making its decision on an application for this permit the licensing authority does not need to (but may) have regard to the licensing objectives but must have regard to any Gambling Commission guidance (Gambling Act 2005, Schedule 14 paragraph 8(3)).
- 3.4 It should be noted that there are conditions in the Gambling Act 2005 by which the permit holder must comply, but that the licensing authority cannot attach conditions. The conditions in the Act are:
- the limits on participation fees, as set out in regulations, must be complied with;
 - all chances to participate in the gaming must be allocated on the premises on which the gaming is taking place and on one day; the game must be played and completed on the day the chances are allocated; and the result of the game must be made public in the premises on the day that it is played;
 - the prize for which the game is played must not exceed the amount set out in regulations (if a money prize), or the prescribed value (if non-monetary prize); and
 - participation in the gaming must not entitle the player to take part in any other gambling.

4. Club gaming and Club Machines Permits

- 4.1 Members clubs and miners’ welfare institutes (but not commercial clubs) may apply for a club gaming permit. The permit will enable the premises to provide gaming machines (3 machines of categories B, C or D), equal chance gaming and games of chance as set-out in forthcoming regulations.
- 4.2 Members clubs and miner’s welfare institutes – and also commercial clubs – may apply for a Club Machine Permit. A Club Machine permit will enable the premises to provide gaming machines (3 machines of categories B, C or D). NB commercial clubs may not site category B3A gaming machines offering lottery games in their club.
- 4.3 The club must be conducted ‘wholly or mainly’ for purposes other than gaming, unless the gaming is permitted by separate regulations. The

Secretary of State has made regulations and these cover bridge and whist clubs.

4.4 Licensing authorities may only refuse an application on the grounds that:

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

4.5 There is also a 'fast-track' procedure available under the Act for premises which hold a club premises certificate under the Licensing Act 2003 (Schedule 12 paragraph 10). Commercial clubs cannot hold club premises certificates under the Licensing Act 2003 and so cannot use the fast-track procedure.

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

5. Temporary use notices

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

5.2 The licensing authority can only grant a temporary use notice to a person or company holding a relevant operating licence, i.e. a non-remote casino operating licence.

5.3 The Secretary of State has the power to determine what form of gambling can be authorised by temporary use notices, and at the time of writing this Statement the relevant regulations (SI no 3157: The Gambling Act 2005 (Temporary Use Notices) Regulations 2007) state that temporary use notices can only be used to permit the provision of facilities or equal chance gaming, where the gaming is intended to produce a single winner, which in practice means poker tournaments.

5.4 There are a number of statutory limits as regards temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in 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.

- 5.5 This licensing authority expects to object to notices where it appears that their effect would be to permit regular gambling in a place that could be described as one set of premises, as recommended in the Gambling Commission's Guidance to Licensing Authorities.

6. Occasional use notices (Ouns)

- 6.1 The licensing authority has very little discretion as regards these notices aside from ensuring that the statutory limit of 8 days in a calendar year is not exceeded. This licensing authority will though, consider the definition of a 'track' and whether the applicant is permitted to avail him/herself of the notice. This licensing authority will also ensure that no more than 8 Ouns are issued in one calendar year in respect of any venue.

7. Small society lotteries

- 7.1 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.
- 7.2 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.
- 7.3 Charities and community groups should contact the relevant licensing authority using the contact details in Annex 1.

Part D: Annexes

Annex 1: List of Local Authorities and other Partners

North Northamptonshire Council

Registered Office
Sheerness House
Meadow Road
KETTERING
NN14 6TL
Tel. 0300 126 300
www.northnorthants.gov.uk

West Northamptonshire Council

The Guildhall
St Giles' Square
Northampton
NN1 1DE
Tel 0300 126 7000
www.westnorthants.gov.uk

H M Revenue & Customs

<https://www.gov.uk/contact-hmrc>
www.hmrc.gov.uk

Northamptonshire Fire & Rescue Service

Service Headquarters
Darby House
Darby Close
Park Farm Industrial Estate
Wellingborough
NN8 6GS
enquiries@northantsfire.gov.uk
<https://www.northantsfire.gov.uk/contact-2/>

Northamptonshire Police

Wootton Hall
Northampton
NN4 0JQ
Tel 101 or 03000 111 222 outside of county.
mail@northants.police.uk

Annex 2: List of Consultees on the Statement of Principles

Chief Constable Northamptonshire Police Wootton Hall Northampton NN4 0JQ	British Beer & Pub Association Ground Floor 61 Queen Street London EC4R 1EB	Association of British Bookmakers Ltd Ground Floor Warwick House 25 Buckingham Palace Road London SW1W 0PP
The Lotteries Council 66, Lincoln's Inn Fields, London, WC2A 3LH	Bingo Association Lexham House 75 High Street North Dunstable Bedfordshire LU6 1JF	National Casino Forum Carlyle House 235 – 237 Vauxhall Bridge Road London SW1V 1EJ
Trading Standards Service Deene House New Post Office Square Corby NN17 1GD	Northamptonshire PCC East House, Force Headquarters, Wootton Hall, Northampton, NN4 0JQ	Bacta 29-30 Ely Place London. EC1N 6TD
GambleAware® Pennine Place 2a Charing Cross Rd London WC2H 0HF	GamCare 1st Floor 91-94 Saffron Hill London EC1N 8QP	Public Health Team North Northamptonshire Council One Angel Square Angel Street Northampton NN1 1ED
Northamptonshire Safeguarding Adults Board Business Office One Angel Square Angel Street Northampton NN1 1ED	Northamptonshire Children's Services Trust Limited One Angel Square Angel Street Northampton NN1 1ED	The Casino Operators Association 86 Jermyn Street London SW1Y 6JD UK
HM Revenue and Customs, Excise Processing Teams, Gambling Duties, BX9 1GL	Gamblers Anonymous The Wellness Centre, 45 Montrose Avenue Intake Doncaster DN2 6PL	Northamptonshire Police (Licensing), Wellingborough Police Station, Midland Road, Wellingborough NN8 1HF
Northamptonshire Fire & Rescue Service Service Headquarters Darby House Darby Close Park Farm Industrial Estate Wellingborough NN8 6GS	All Town Councils in North Northamptonshire	All gambling premises in North Northamptonshire

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Ref	Respondent	Comments	Appraisal	Response
1	Thrapston Town Council	<p>Section 10 – ‘The Licensing Authority shall, as default, post all relevant elements of the application online, including but not limited to red line plans, application form and relevant supplementary documents’</p> <p>Our Committee believe this is standard in the majority of authorities.</p>	Comment noted	There are GDPR and technical issues which prevent this. No action.
2	Wellingborough Town Council	Thank you for circulating the consultation on the Gambling Principles Draft Policy. The Town Council would like to emphasize the need for effective control of gambling machines and endorse 6.1, 7.1 and 7.2 of the policy which controls the use of betting machines and gambling by children, young persons and vulnerable people.	Comment noted	No action.
3	Councillor Anne Lee	<p>Comment: I propose to ban fairs from giving goldfish as prizes. That is within our power in our licensing policy, unless I am mistaken.</p> <p>I have no other comment on this draft policy.</p>	Comment noted	This matter does not fall within the remit of this policy. Councillor Lee has been given advice on the relevant legislation and local controls. No further action.

LICENSING AND APPEALS COMMITTEE 22 November 2021

Report Title	Mobile Homes Fees and Assessment Policy
Report Author	Iain Smith, Assistant Director - Regulatory Services

List of Appendices

Appendix A – Mobile Homes Fees and Assessment Policy

1. Purpose of Report

- 1.1 This report is concerned with the introduction of a policy for the licensing of mobile home sites, the setting of fees and the conduct of fit and proper person assessments for licence holders. The Policy has been drafted to replace any pre-existing provisions or policies in the predecessor Councils with a view to ensuring that there is a clear policy adopted which reflects the aspirations of North Northamptonshire Council to be a good place to live, work and do business.

2. Executive Summary

- 2.1 The Council is required to adopt a policy in relation to fees associated with the licensing of mobile home sites, including the new requirement for a Fit and Proper Person Assessment. The policy will, if adopted, apply to managers and or owners of caravan and mobile home sites, in the North Northamptonshire area.
- 2.2 The ability to charge fees does not apply to all sites licensable under the amended Act but only to those that are “relevant protected sites” (RPS). A RPS is one covered by the provisions of the amended Act other than where the licence:
- is granted for holiday use only
 - is subject to conditions that prohibit the use of caravans for human habitation during certain times of the year
- 2.3 In addition, a RPS where occupation is permitted all year round will not be covered by the provisions when the caravan is authorised to be occupied by:

- the occupier of the site
- persons employed by the occupier who do not occupy the caravan under an agreement made under section 1 (1) of the Mobile Homes Act 1983.

2.4 Local authority owned sites are also not covered by these provisions.

3. Recommendations

3.1 It is recommended that the Licensing and Appeals Committee:

- a) Adopt the proposed Mobile Homes Fees and Assessment Policy, as set out at Appendix A.

Reasons for recommendation

3.2 The adoption of this policy will set the regulatory framework for the management of the licensing process as the Council fulfils its statutory duties under the Mobile Homes Act 2013 and The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020.

3.3 The Executive have been asked to approve the fee setting structure for charging an application fee for a mobile homes licence and for a site owner to be assessed under a Fit and Proper Person Assessment, in addition to being included on a Register.

4. Report Background

4.1 Licensing regime

4.1.1 The Caravan Sites and Control of Development Act 1960 (“the amended Act”) as further amended by the Mobile Homes Act 2013, requires a local authority proposing to charge a fee for a caravan / mobile home site licence, covered by the amended Act, to prepare and publish a fee policy.

4.1.2 Any fees charged must fairly cover the costs (or part of the costs) incurred by a local authority under its functions in Part 1 of the amended Act. It cannot however recover the costs of enforcement action. The fees must be reasonable and transparent and whilst different fees can apply to different cases, there must be consistency in the fee structure and its application. Fees can only be charged for cost recovery and not for profit.

4.1.3 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (“the Fit and Proper Person Regulations”) introduce a new fit and proper person assessment for the owners and or operators of residential mobile home sites, to improve the standards of park home site management.

4.1.4 All mobile home site licence holders, except those that are ‘non-commercial’ family occupied sites must apply to the Council and be assessed as a ‘Fit and Proper Person’ to operate a licenced mobile home site. Councils may charge

a fee for processing applications to enable them to recover the costs of this activity.

4.1.5 The policy was taken to the Executive for approval on 18 November, for those aspects that relate to fee setting.

4.2 Calculation of fees generally

4.2.1 The fees charged by a local authority are calculated to recover from the licence holder the costs of all administrative tasks, report writing, meetings, inspections, consultations and advice given in relation to the licence application. The Licensing Team has determined a standard rate for administering licence processes and the current fees are published with the Fees and Charges on the Council's website. Where the fee includes a technical officer visit or input this is also charged at a standard rate per hour.

4.2.2 The sites covered by the fee policy vary considerably in size from very small sites with less than 10 pitches to large sites with more than 100 pitches. Fees for a licence application or annual inspection visit reflect the amount of work required proportionate to the number of units on the site and have been banded accordingly. A single fee is proposed for licence transfers, amendments or the deposit of site rules as the work required will be similar regardless of the site size.

4.3 Fit and Proper Person application fees

4.3.1 The Fit and Proper Person Regulations allow local authorities to prepare to receive applications from site owners by 1 July 2021. From that date, and by 1 October 2021, all site owners must have submitted an application to be assessed as fit and proper persons.

4.2.3 The Fit and Proper Person Assessment must include consideration of the applicant's:

- a) legal interest in the site; and
- b) conduct, including:
 - i) criminal record;
 - j) financial arrangements;
 - k) management arrangements.

4.2.4 The application for a licence may be approved; approved with conditions attached; or refused. Applicants will have a right of appeal to the First Tier Tribunal within 28 days.

5 Issues and Choices

5.1 The Council is required to have a policy on the fees and requirements of mobile home licensing in place and published on the website in order to detail administration and enforcement of these sites. The policy provides an overview of the Council's approach to this and how and when action including any potential enforcement action, will be taken.

6 Implications (including financial implications)

6.1 Resources and Financial

- 6.1.1 The introduction of Fit and Proper Person Assessment fees will result in some additional income to Regulatory Services in addition to the income from the annual licence fee of each site. However, this additional income will only cover the additional work required to undertake this new statutory assessment.
- 6.1.2 Officers currently in place within Environmental Health teams are trained and equipped to carry out such assessments and the team can accommodate the additional assessment and inspection expectations within the current resource available. Accordingly, no additional resources or finances are required.

6.2 Legal

- 6.2.1 The Council must determine its fees regime on a cost recovery basis in accordance with the terms of the Act and the Provision of Services Regulations 2009, which implement the EU Services Directive. It is also bound to follow the guidance issued by the MHCLG for the setting of fees.
- 6.2.2 The legal basis for the powers referred to in this report are in the legislation listed in both this report and the policy.

6.3 Risk

- 6.3.1 There are no significant risks to note arising from the proposed recommendations in this report – rather, the risk to the Council materialises if the Council does not adopt a policy in compliance with its statutory duties in respect of the licensing of mobile home sites.
- 6.3.2 Where a site owner or their manager fails the Fit and Proper Person Assessment and they are unable to identify and appoint a suitable alternative manager, the Council could appoint a person to manage the site, with the consent of the site owner. The reasonable costs of this action can be recovered from the site.
- 6.3.3 The implementation of this policy provides the Council with the opportunity to ensure that Mobile Homes across the District are managed to consistent and acceptable standards and to monitor this on an on-going basis.

6.4 Consultation

- 6.4.1 Internal Officer consultation has taken place to inform the drafting of this policy. There is no legal requirement upon the Council to undertake formal consultation in respect of the introduction of these fees and in any event the statutory timetable for implementation does not allow for meaningful consultation. However, if adopted, the Council will monitor the impact of the policy to inform future reviews of the same. Further, the actual costs of

applying the policy will be monitored to ensure that accurate and up to date information is available to inform the next review of fees and charges is next reviewed.

6.5 Consideration by Scrutiny

The imposition of fees in relation to mobile home sites does not meet the financial threshold for a Key Decision, and although the fee regime will apply in all wards, it is not considered to be so significant as to amount to a Key Decision as defined within the Council's Constitution. Accordingly, it is not anticipated that the decision will be eligible to be called in by Scrutiny.

6.6 Climate Impact

It is considered that the implementation of this policy will result in no adverse sustainability or climate change impacts.

6.7 Community Impact

It is considered that there are no community impacts associated with this report.

7 Background Papers

'Fit and Proper Person Test Guide for Local Authorities on Setting Fees' issued by the Ministry of Housing, Communities and Local Government (2021) (currently only draft version available).

The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 Statutory Instrument 2020 No. 1034



North
Northamptonshire
Council

Mobile Homes Fee and Assessment Policy

June 2021

www.northnorthants.gov.uk

Document Version Control

****Complete this section, making sure to include the following information**:**

Author:

Type of document:

Version Number:

Document File Name:

Issue date:

Approval date and by who (CMT / committee):

Document held by (name/section):

For internal publication only or external also?:

Document stored on Council website or Intranet?:

Next review date:

Change History

Issue	Date	Comments

NB: Draft versions 0.1 - final published versions 1.0

Consultees

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1.0 Introduction

- 1.1 This policy has been produced in accordance with the requirements of the Caravan Sites and Control of Development Act 1960 (the amended Act) as further amended by the Mobile Homes Act 2013. The amended Act requires that where a local authority proposes to charge a fee for a caravan/mobile home site licence, covered by the amended Act it shall prepare and publish a fee policy.
- 1.2 When producing the policy, the authority:
- may fix different fees in different cases
 - may determine that no fee is required in some cases
 - must act in accordance with the policy
- 1.3 Any fees charged must fairly cover the costs (or part of the costs) incurred by a local authority under its functions in Part 1 of the amended Act other than the costs of enforcement action. The fees must be reasonable and transparent and whilst different fees can apply to different cases there must be consistency in the fee structure and its application. Fees can only be charged for cost recovery and not for profit.

2.0 Scope

- 2.1 This policy sets out the considerations in relation to the setting of fees and the processing of applications for the Fit and Proper Person Assessment, for the owners and managers of residential mobile home sites, in North Northants.
- 2.2 The ability to charge fees does not apply to all sites licensable under the Act but only to those that are “relevant protected sites” (RPS). An RPS is one covered by the provisions of the amended Act other than where the licence:
- is granted for holiday use only
 - is subject to conditions that prohibit the use of caravans for human habitation during certain times of the year
- 2.3 In addition, a RPS where occupation is permitted all year round will not be covered by the provisions when the caravan is authorised to be occupied by:
- the occupier of the site
 - persons employed by the occupier who do not occupy the caravan under an agreement made under section 1 (1) of the Mobile Homes Act 1983.
- 2.4 Local authority owned sites are also not covered by these provisions.

3.0 Policy outcomes

- 3.1 The policy aims to clearly set out licensing fees and associated fees for the application for a caravan/mobile home site licence, to ensure transparency for both site owners and occupiers.

4.0 Mobile Homes Licensing Fees

4.1 Fee Structure

- 4.1.1 The government has published a guide⁽¹⁾ on the setting of fees but has made it clear that the setting of fees is a decision for local authorities.
- 4.1.2 Fees can include the costs of all administrative tasks, report writing, meetings, inspections, consultations and advice given. The Licensing Team has determined a standard rate for administering licence processes. Where the fee includes a technical officer visit or input this is also charged at a standard rate per hour.
- 4.1.3 The sites covered by the fee policy vary considerably in size from very small, with less than 10 pitches to others with over a 100 pitches. Where the fee is for a licence application or annual inspection visit, the amount of work required will be proportionate to the number of units on the site and the fees have been banded accordingly. For licence transfers, amendments, or the deposit of site rules the work will be similar regardless of the site size and a single fee will be set.

4.2 Review of Fee Structure

- 4.2.1 Administration and officer costs are reviewed annually and any surpluses or deficits used in setting subsequent years fees.

4.3 Payment of Fees

- 4.3.1 An application for a new site licence, licence amendments, transfer or submission of site rules must be accompanied by the relevant licence fee. Where the application is not approved there will be no refund of the fee.
- 4.3.2 Where an annual inspection fee is payable, an invoice will be sent to the licence holder in April of each year and payments are due within 28 days.
- 4.3.3 Where payment is overdue, an application may be made to the First Tier Tribunal, Residential Property, (RPT) for an order for the payment of the fees. If this is not complied with within 3 months, an order to revoke the site licence may be applied for.
- 4.3.4 An operator has the right to apply to the RPT if they disagree with the licence fee being charged.
- 4.3.5 Where a licence is granted during the year the annual fee payable for that year will be calculated pro rata on the number of whole months remaining in the year from the date of issue.
- 4.3.6 In the first year the annual fee will be due within 28 days of the receipt of the invoice by the licence holder.

4.3 Fees Schedule

All fees are reviewed annually and set with effect from 1 April each year. Current fees may be found in the authority's fees and charges as published on the North Northamptonshire website.

Fees for applications and licences are administered by the Licensing Team.

4.4 Licence application fees - a one off payment determined by the number of licensed pitches on the site.

4.5 Transfer/ amendment fees - payable to administer a change in the site ownership or site licence conditions as requested by the licence holder.

4.6 Annual site licence fee - payable to cover the costs of annual inspection, determined by number of licensed pitches on the site.

* Sites with 1-5 pitches have been exempted from annual charges as they are low risk and tend to be family run sites which are not run as a business and would not normally be visited annually. They would still be inspected in the case of a complaint and the policy will be reviewed in the future if there is evidence of problems at such sites.

4.7 Fees for depositing site rules

While site licence conditions are imposed by the licensing authority, site rules are made by the site operator. Their purpose is to ensure acceptable estate management standards are maintained and to promote community cohesion among residents. The 2013 Act requires that any site rules now have to be deposited with the local authority which must keep an up to date register and publish this online. A fee can be levied for depositing the site rules for the first time, to vary or delete them and is the same in each case.

5.0 Fit and Proper Person Assessment (FPPA)

5.1 The Mobile Homes (Requirement for Manager of Site to be Fit and Proper Person) (England) Regulations 2020 (hereafter 'the regulations') introduce a fit and proper person test for mobile home site owners or the person appointed to manage the site. The purpose of the fit and proper person test is to improve the standards of park home site management.

5.2 The Regulations were made on 23 September 2020 and allow local authorities to prepare to receive applications from site owners by 1 July 2021. From that date and by 1 October 2021, all site owners must have submitted an application. to be assessed as fit and proper persons.

5.3 The Licensing Team on behalf of North Northamptonshire will charge a fee for the FPPA and also an annual fee to cover the cost of monitoring the scheme or conditions attached to the register.

5.4 There are exemptions from the requirement for the owner of a site to apply for a FPPA:

- A site that is only occupied by members of the same family
- A site that is not being run as a commercial residential site
- A site occupied by and managed by the council

- 5.5 In setting its fees policy and the fees to be charged, the Council has had regard to the Regulations, and the relevant guidance, the 'Fit and Proper Person Test Guide for Local Authorities on Setting Fees' issued by the Department for Communities and Local Government (2021).
- 5.6 In determining those fees, the Council has considered all administrative costs incurred in the FPPA process, including consultations, meetings, scrutiny of the information provided on application for the assessment and providing informal, pre-application advice.
- 5.7 The regulations permit the Council to charge the following fee to cover its costs:
- Fit and Proper Person application fee - to cover the cost of assessing applications to be included on the fit and proper register.
- 5.8 Many applications will be straightforward and will be able to be processed quickly with straightforward enquiries. Others may involve complicated issues which require extensive resources to investigate. The Council will charge a flat rate fee for consideration of all applications, based on the average complexity of a case.

6.0 Matters to be Considered in the Fit and Proper Person Assessment

- 6.1 When considering whether a person is 'fit and proper' the Council must have regard to the suitability of the person concerned ('the relevant person'). Schedule 3 paragraphs 2 to 4 of the Regulations make reference to those matters that must be considered by the local authority as part of any application. These relate to whether the relevant person is able to secure the proper management of the site and includes, but is not limited to:
- a) compliance with the site licence;
 - b) the long-term maintenance of the site;
 - c) whether the relevant person has sufficient level of competence to manage the site;
 - d) the management structure and funding arrangements for the site or proposed management structure and funding arrangements.

Other matters to be considered are whether the relevant person has:

- e) committed any offence involving fraud or other dishonesty, violence, arson or drugs or listed in Schedule 3 to the Sexual Offences Act 2003 (offences attracting notification requirements);
- f) has contravened any provision of the law relating to housing, caravan sites, mobile homes, public health, planning or environmental health or of landlord and tenant law;

- g) has contravened any provision of the Equality Act 2010 in, or in connection with, the carrying on of any business;
- h) has harassed any person in, or in connection with, the carrying on of any business;
- i) is, or has been within the past 10 years, personally insolvent;
- j) is, or has been within the last 10 years, disqualified from acting as a company director;
- k) whether the relevant person has the right to work within the United Kingdom;
- l) whether any other local authority has rejected an application for the responsible person to be included in a register;

6.2 The Council may also have regard to the conduct of any person associated or formerly associated with the relevant person (whether on a personal, work or other basis) if it appears to the authority that that person's conduct is relevant to the question of whether the relevant person is a fit and proper person to manage the site.

7.0 Application for FPPA

7.1 Once an application has been received the local authority may:

- a) grant the application unconditionally;
- b) grant the application subject to conditions;
- c) reject the application.

Decision

7.2 As soon as is reasonably practicable after a full and complete application is received (including the relevant fee) the Council must make a decision on the application and either.

- a) where the decision is to grant the application unconditionally and to include the relevant person on the register for 5 years, serve a final decision notice on the applicant or.
- b) otherwise serve a preliminary decision notice on the applicant.

7.3 Appeals

Any preliminary decision notice will be in accordance with the Regulations and will provide the applicant with 28 days, beginning with the day after the day on which the notice was served, to make written representations to the authority.

Once written representations have been received the authority may then make a final decision which may include approving an application subject to specific conditions.

Where the authority may seek to remove a relevant person from the register or to impose further conditions a notice of proposed action will be issued in accordance with the Regulations. Again, any relevant person may make written representations within 28 days of such a notice being issued.

The local authority may withdraw or amend:

- a) a preliminary decision notice before service of the final decision notice.
- b) a final decision notice before the decision to which it relates takes effect or;
- c) a notice of proposed action before the proposed action is taken

A person on whom a final decision notice is served may appeal to a First-tier Tribunal (FTT) against:

- a) any decision to include the relevant person on the register for an effective period of less than 5 years;
- b) any decision to include the relevant person on the register subject to conditions and;
- c) any decision to reject the application.

A person on whom a notice of action is served may appeal to the FTT against:

- a) any decision to remove the relevant person from the register;
- b) any decision to impose a condition on the inclusion of the relevant person in the register and;
- c) any decision to vary a condition.

No compensation may be claimed for loss suffered, pending the outcome of the appeal, in consequence of the local authority making a final decision or taking action relevant to Regulation 8(1)(a), (b) or (c).

8. Offences

- 8.1 Where a site owner is in breach of a condition of a site licence North Northants Council can serve a compliance notice, which sets out the steps required in order for the breach to be remedied under our Enforcement Policy. In the case of an emergency, or where a site owner has been convicted for failing to take the steps required by the compliance notice, the authority has powers to enter the site and do the works.
- 8.2. Authorities can recover their costs (separately from licence fees) for taking enforcement action, including the preparation of notices and charge for works they carry out in default or in an emergency. These powers include a power to force a sale, to recover their costs and charges if the site owner fails to pay when required to do so.

- 8.3. Failure to take the action required under a compliance notice, within the timescale required, is a criminal offence and on conviction a site owner will face a fine which will not be limited to a maximum amount.
- 8.4. Fines for operating a site without a licence will also not be limited to a maximum amount. Where a licensing offence is committed by a company, its directors, secretary, or other officers, they are liable to be fined as well as the company, if it is held that the offence was committed with their consent or connivance, or it occurred because of their negligence.
- 8.5. Site owners are able to appeal to the First Tier Tribunal (Property Chamber) against licensing decisions, including compliance notices and certain charges relating to enforcement action. It is an offence under section 1 of the 1960 Act for anyone to own and run a park home site on their land without holding a licence. Thus, if a person purchased a site and a licence was subsequently refused that person could be prosecuted and face an unlimited fine 4 on conviction. In the meantime, the licence granted to the previous owner would continue in force. This is because (subject only to such restrictions relating to planning permission) a licence continues in perpetuity until it is transferred or revoked by a court or tribunal (in certain circumstances only). The licence holder remains liable for any obligations and liabilities arising out of the licence or any enforcement action.
- 8.6. It is an offence for a site owner to (a) cause or permit land to be operated as a park home site unless they or the person appointed to manage the site is a fit and proper person to manage the site; (b) provide false or misleading information or fail to provide information in an application; (c) fail to comply with a requirement set as a condition of the local authority's decision to include a person on the register. If convicted for a breach of the fit and proper person requirement, the site owner will face a level 5 fine (unlimited).

References

1. The Mobile Homes Act 2013 – A Guide for Local Authorities on setting site licensing fees. Department for Communities and Local Government.

Glossary of terms

Use this section to give definitions to any words that require explanation – especially if this is a public document. If you can't avoid jargon or technical terms, this is the place to explain them.

Term	Definition

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