

**To:**  
**All members of the**  
**Licensing Committee**

*Please reply to:*  
Contact: Gillian Scott  
Service: Committee Services  
Direct line: 01784 446240  
E-mail: [g.scott@spelthorne.gov.uk](mailto:g.scott@spelthorne.gov.uk)  
Date: 30 November 2018

### Supplementary Agenda

#### **Licensing Committee - Wednesday, 5 December 2018**

Dear Councillor

I enclose the following items which were marked 'to follow' on the agenda for the Licensing Committee meeting to be held on Wednesday, 5 December 2018:

- |           |   |                 |
|-----------|---|-----------------|
| <b>4.</b> | <b>Gambling Act Policy - Key Decision</b>   | <b>3 - 58</b>   |
|           | To consider the responses to consultation on the draft Statement of Gambling Policy 2019-2022, which closes on 29 November 2018, and make a recommendation to Council.  |                 |
|           |   |                 |
| <b>5.</b> | <b>Licensing Act Policy - Key Decision</b>  | <b>59 - 102</b> |
|           | To consider the responses to consultation on the draft Statement of Licensing Policy 2019-2024, which closes on 29 November 2018, and make a recommendation to Council. |                 |

Yours sincerely

Gillian Scott  
Corporate Governance

**Spelthorne Borough Council, Council Offices, Knowle Green**

**Staines-upon-Thames TW18 1XB**

[www.spelthorne.gov.uk](http://www.spelthorne.gov.uk) [customer.services@spelthorne.gov.uk](mailto:customer.services@spelthorne.gov.uk) telephone 01784 451499

To the members of the Licensing Committee

Councillors:

R.W. Sider BEM (Chairman)  
R.O. Barratt (Vice-Chairman)  
M.M. Attewell  
S.J. Burkmar  
S.M. Doran

S.A. Dunn  
Q.R. Edgington  
T.J.M. Evans  
N.J. Gething  
A.T. Jones

J.G. Kavanagh  
M.J. Madams  
A.J. Mitchell  
A. Sapunovas

# Licensing Committee

05 December 2018



<b>Title</b>	Statement of Gambling Policy 2019 – 2022 – Key Decision		
<b>Purpose of the report</b>	To make a recommendation to Council on a Key Decision		
<b>Report Author</b>	Rob Thomas		
<b>Cabinet Member</b>	Councillor Daxa Patel	<b>Confidential</b>	No
<b>Corporate Priority</b>	Clean and Safe Environment		
<b>Recommendations</b>	<b>Licensing Committee is asked to consider consultation responses and recommend a revised Statement of Gambling Policy 2019 – 2022 to Council for adoption.</b>		
<b>Reason for Recommendation</b>	<b>Statutory requirement under the Gambling Act 2005.</b>		

## 1. Key issues

- 1.1 Spelthorne must review its Statement of Gambling Policy at least every three years. The current policy will therefore need to be revised this year, and the revised version must be published by 3 January 2019 to be brought into effect by 31 January 2019.
- 1.2 The Licensing Committee agreed a draft revised policy for consultation on 31 October 2018. Consultation took place between 1 November 2018 and 29 November 2018 with stakeholders such as Surrey Police, gambling businesses and other organisations affected by gambling activities. There is discretion to consult more widely and the list of organisations and groups that have been consulted are contained in Annex 2 of the draft policy.
- 1.3 During the consultation period, three responses were received from:-
  - Gamcare
  - the Racecourse Association, RCA
  - the Association of British Bookmakers, ABB

These responses are attached as **Appendices A, B and C** respectively, with officer comments noted on them.

## 2. Options analysis and proposal

- 2.1 The preferred option is for Licensing Committee to recommend the policy to Council for adoption - subject to minor changes as suggested by officers in comments noted on the appendices - in accordance with the timetable set out in this report.

- 2.2 There is an option for Licensing Committee to amend the policy. However if the Committee decides on the latter course of action this may cause a delay in implementation of the policy beyond the required time limit.
- 2.3 Licensing Committee is asked to recommend approval of the revised Statement of Gambling Policy 2019 – 2022 to Council
- 3. Financial implications.**
- 3.1 The costs of revising the policy and the consultation exercise will be met within existing budgets.
- 4. Other considerations**
- 4.1 In revising the policy and conducting the required consultation the Council will meet the requirements of the 2005 Act.
- 5. Timetable for implementation**
- 5.1 The proposed timetable is as follows:
- Report to Licensing Committee on 5 December 2018 to seek a recommendation to adopt a final proposed policy.
  - Recommendation to Council on 13 December 2018 to adopt the final proposed policy.
  - Publish updated policy and add to Spelthorne's website by 3 January 2019 to take effect from 31 January 2019.

**Background papers: There are none**

**Appendices:**

**Appendix A** response from Gamcare, received 2 November 2018.

**Appendix B** response from the Racecourse Association (RCA), received on 6 November 2018.

**Appendix C** response from the Association of British Bookmakers (ABB), received on 30 November 2018.

Hello,

Thank you for your email, we appreciate your interest in our work.

While we do not have the resources available to allow us to personally respond to each Local Authority which contacts us regarding their refreshed Statement of Principles, we have compiled a list of the issues or factors which we think it would be helpful to consider below, more information is available via the Gambling Commission.

The function of the Statement is to reflect locally specific gambling concerns and to reflect the Council's wider strategic objectives. The active use of the Statement is one means by which you can make clear your expectations of gambling operators who have premises in your area. This allows operators to respond to locally specific requirements and adjust their own policies and procedures as required.

- A helpful first step is to develop a risk map of your local area so that you are aware of both potential and actual risks around gambling venues. A useful explanation of area-based risk-mapping has been developed with Westminster and Manchester City Councils, which gives some guidance on those who may be most vulnerable or at-risk of gambling-related harm. For more information please see [www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/](http://www.geofutures.com/research-2/gambling-related-harm-how-local-space-shapes-our-understanding-of-risk/)
- Consider that proposals for new gambling premises which are near hostels or other accommodation or centres catering for vulnerable people, including those with learning difficulties, and those with gambling / alcohol / drug abuse problems, as likely to adversely affect the licensing objectives set out by the Gambling Commission. This is also relevant regarding the proximity to schools, colleges and universities.
- A detailed local risk assessment at each gambling venue – pertinent to the environment immediately surrounding the premises as well as the wider local area – is a good way to gauge whether the operator and staff teams are fully aware of the challenges present in the local area and can help reassure the Local Licensing Authority that appropriate mitigations are in place.
- Does the operator have a specific training programme for staff to ensure that they are able to identify children and other vulnerable people, and take appropriate action to ensure they are not able to access the premises or are supported appropriately?
- Does the operator ensure that there is an adequate number of staff and managers are on the premises at key points throughout the day? This may be particularly relevant for premises situated nearby schools / colleges / universities, and/or pubs, bars and clubs.
- Consider whether the layout, lighting and fitting out of the premises have been designed so as not to attract children and other vulnerable persons who might be harmed or exploited by gambling.
- Consider whether any promotional material associated with the premises could encourage the use of the premises by children or young people if they are not legally allowed to do so.

We would suggest that the Local Licensing Authority primarily consider applications from GamCare Certified operators. GamCare Certification is a voluntary process comprising an independent audit assessment of an operator's player protection measures and social responsibility standards, policy and practice. Standards are measured in accordance with the GamCare Player Protection Code of Practice. If you would like more information on how our audit can support Local Licensing Authorities, please contact [mike.kenward@gamcare.org.uk](mailto:mike.kenward@gamcare.org.uk)

For more information on GamCare training and other services available to local authorities, as well as recommended training for gambling operators, please see the attached brochures.

If there is anything else we can assist with please do let us know.

Kind regards,  
Catherine

**Catherine Sweet**  
**Head of Marketing and Communications**  
T: 020 7801 7028  
E: [catherine.sweet@gamcare.org.uk](mailto:catherine.sweet@gamcare.org.uk)

**Commented [TR1]:** It's the Licensing dept's intention to update the Local Area Profile in due course, & I think it might make sense to include these details on that when we do.

**Commented [TR2]:** This has been acknowledged within the body of the policy, the Council will give due consideration to this when considering apps for new premises.

**Commented [TR3]:** The Council has already included this requirement within the policy.

**Commented [TR4]:** Already included.

**Commented [TR5]:** This would form part of the operator's risk assessment.

**Commented [TR6]:** Already included in specification for site plan.

**Commented [TR7]:** We're looking at the premises itself. Difficult to moderate promotional materials, though we can certainly keep an eye on this & flag anything we deem inappropriate (I would add that we've never had an issue with this, & generally find operators want to make every effort to conduct themselves responsibly because there is too much at stake if they don't).

**Commented [TR8]:** We can't give preference to anyone on this basis, but can certainly acknowledge it as a positive measure when considering applications.

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02/11/2018

Rob Thomas  
Principal Licensing Officer  
Spelthorne Borough Council  
Council Offices  
Knowle Green  
Staines-upon-Thames  
TW18 1XB



Dear Rob

**Revision of Statement of Gambling Licensing Policy - Consultation**

I am writing on behalf of the Racecourse Association, the trade association for horse racecourses in Great Britain. We have reviewed the revision of statement of gambling licensing policy for Doncaster City Council, to which we would like the opportunity to respond on behalf of our members.

**Supervision of Entrances (Paragraphs 1.1.2)** – The council is asked to be aware that racecourses already provide door supervisors under the Licensing Act 2003. We would request that the document recognise that there should be no duplication of the regulatory requirements and that racecourses should not have to provide additional door supervisors.

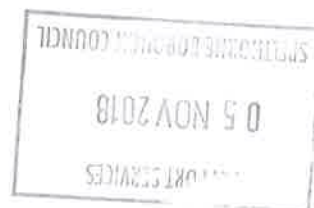
**Risk Assessment (Paragraphs 9.1)** – The Council is asked to be aware that racecourse is not obliged to conduct a risk assessment, that is the responsibility of the operator on the track. We would request that this is specified in the in final document.

Should you wish to discuss the comments raised any further please contact me on 01344 873536.

Kind Regards

*Matthew Taylor*

The Racecourse Association Ltd



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## Officer comments

### Supervision of entrances (Paragraphs 1.1.2)

The mandatory conditions attached to premises licences reads as follows: -

#### **Mandatory Condition: door supervision**

1. Where a premises licence includes a condition that at specified times one or more individuals must be at the premises to carry out a security activity, each such individual must be licensed by the Security Industry Authority.
2. But nothing in subsection 1. requires such a condition to be imposed-
  - a) In respect of premises within paragraph 8(3)(a) of Schedule 2 to the Private Security Industry Act 2001 (c12) (premises with premises licences authorising plays or films), or
  - b) In respect of premises in relation to –
    - I. Any occasion mentioned in paragraph 8(3)(b) or (c) of that Schedule (premises being used exclusively by club with club premises certificate, under a temporary event notice authorising films or under a gaming licence, or
    - II. Any occasion within paragraph 8(3)(d) of that Schedule (occasions prescribed by regulations under that Act.

For the purposes of this section, “security activity” means an activity to which paragraph 2(1)(a) of that Schedule applies, and paragraph 8(5) of that Schedule (interpretation of references to and occasion) applies as it applies in relation to paragraph 8 of that Schedule

There is therefore no mandatory requirement for racecourses to provide door supervisors under the Licensing Act 2003.

However I think it's fair to cross-reference licences on a case-by-case basis to ensure there is no duplication. We can add wording to this effect.

### Risk Assessment (Paragraphs 9.1)

There are numerous use of the word ‘operator’ in this section, which I would have thought already addressed this. However, for clarity, we could simply substitute the words ‘new applicants’ for ‘operators’ at the top of page 16.

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GOSSCHALKS  
SOLICITORS

## Appendix C

BY EMAIL ONLY – URGENT  
SPELTHORNE BOROUGH COUNCIL  
LICENSING DEPARTMENT

Please ask for: Richard Taylor  
Direct Tel: 01482 590216  
Email: [rjt@gosschalks.co.uk](mailto:rjt@gosschalks.co.uk)  
Our ref: RJT / AW / 097505.00005  
#GS2296143  
Your ref:  
Date: 29<sup>th</sup> November 2018

Dear Sir/Madam,

### Re: Gambling Act 2005 Policy Statement Consultation

We act for the Association of British Bookmakers (ABB) and have received instructions to respond on behalf of our client to the current consultation on the Council's review of its gambling policy statement.

The Association of British Bookmakers (ABB) represents over 80% of the high street betting market. Its members include large national operators such as William Hill, Ladbrokes Coral and Paddy Power, as well as almost 100 smaller independent bookmakers.

Please see below for the ABB's response to the Council's current consultation on the draft gambling policy statement.

This response starts by setting out the ABB's approach in areas relevant to the local authority's regulation of betting shop premises, and its commitment to working with local authorities in partnership. The response finishes by highlighting matters within the policy statement which the ABB feels may need to be addressed.

Betting shops have been part of the British high street for over 50 years and ensuring a dialogue with the communities they serve is vital.

The ABB recognises the importance of the gambling policy statement in focusing on the local environment and welcomes the informed approach this will enable operators to take with regard, to the requirements for local area risk assessments.

Whilst it is important that the gambling policy statement fully reflects the local area, the ABB is also keen to ensure that the statutory requirements placed on operators and local authorities under the Gambling Act 2005 remain clear; this includes mandatory conditions (for instance, relating to Think 21 policies) and the aim to permit structure. Any duplication or obscuring of these would be detrimental to the gambling licensing regime. The ABB also believes it is important that

Queens Gardens, Hull, HU1 3DZ T 01482 324252 F 0870 600 5984  
E [info@gosschalks.co.uk](mailto:info@gosschalks.co.uk) W [www.gosschalks.co.uk](http://www.gosschalks.co.uk) DX 11902 – Hull

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the key protections already offered for communities, and clear process (including putting the public on notice) for objections to premises licence applications, continue to be recognised.

Any consideration of gambling licensing at the local level should also be considered within the wider context.

- the overall number of betting shops is in decline. The latest Gambling Commission industry statistics show that numbers as of March 2017 were 8,788 - a decline of 349 since March 2014, when there were 9,137 recorded.
- planning law changes introduced in April 2015 have increased the ability of licensing authorities to review applications for new premises, as all new betting shops must now apply for planning permission.
- successive prevalence surveys and health surveys tells us that problem gambling rates in the UK are stable (0.6%) and possibly falling.

#### **Working in partnership with local authorities**

The ABB is fully committed to ensuring constructive working relationships exist between betting operators and licensing authorities, and that where problems may arise that they can be dealt with in partnership. The exchange of clear information between councils and betting operators is a key part of this and the opportunity to respond to this consultation is welcomed.

#### **LGA – ABB Betting Partnership Framework**

In January 2015 the ABB signed a partnership agreement with the Local Government Association (LGA), developed over a period of months by a specially formed Betting Commission consisting of councillors and betting shop firms, which established a framework designed to encourage more joint working between councils and the industry.

Launching the document Cllr Tony Page, LGA Licensing spokesman, said it demonstrated the *"desire on both sides to increase joint-working in order to try and use existing powers to tackle local concerns, whatever they might be."*

The framework builds on earlier examples of joint working between councils and the industry, for example the Medway Responsible Gambling Partnership which was launched by Medway Council and the ABB in December 2014. The first of its kind in Britain, the voluntary agreement led the way in trialing multi-operator self-exclusion. Lessons learned from this trial paved the way for the national multi-operator self-exclusion scheme now in place across the country. By phoning a free phone number (0800 294 2060) a customer who is concerned they are developing a problem with their gambling can exclude themselves from betting shops close to where they live, work and socialise. The ABB is working with local authorities to help raise awareness of the scheme, which is widely promoted within betting shops.

The national scheme was first trialed in Glasgow in partnership with Glasgow City Council. Cllr Paul Rooney, Glasgow's City Treasurer and Chairman of a cross-party Sounding Board on gambling,

described the project as "*breaking new ground in terms of the industry sharing information, both between operators and, crucially, with their regulator.*"

#### **Primary Authority Partnerships in place between the ABB and local authorities**

All major operators, and the ABB on behalf of independent members, have also established Primary Authority Partnerships with local authorities. These partnerships help provide a consistent approach to regulation by local authorities, within the areas covered by the partnership; such as age-verification or health and safety. We believe this level of consistency is beneficial both for local authorities and for operators.

#### **Local area risk assessments**

Since April 2016, under new Gambling Commission LCCP provisions, operators have been required to complete local area risk assessments identifying any risks posed to the licensing objectives and how these would be mitigated. Licensees must take into account relevant matters identified in the licensing authority's statement of licensing policy, and any local area profile, in their risk assessment. These must be reviewed where there are significant local changes or changes to the premises, or when applying for a variation to or for a new premises licence.

The ABB fully supports the implementation of risk assessments which will take into account risks presented in the local area, such as exposure to vulnerable groups and crime. The requirements build on measures the industry has already introduced through the ABB Responsible Gambling Code to better identify problem gamblers and to encourage all customers to gamble responsibly.

This includes training for shop staff on how to intervene and direct problem gamblers to support services, as well as new rules on advertising including banning gaming machine advertising in shop windows, and the introduction of Player Awareness Systems which use technology to track account based gaming machine customers' player history data to allow earlier intervention with any customers whose data displays known 'markers of harm'.

#### **Best practice**

The ABB is committed to working pro-actively with local authorities to help drive the development of best practice with regard to local area risk assessments, both through responses to consultations such as this and directly with local authorities. Both the ABB and its members are open and willing to engage with any local authority with questions or concerns relating to the risk assessment process, and would encourage them to make contact.

Westminster Council is one local authority which entered into early dialogue with the industry, leading to the development of and consultation on draft guidance on the risk assessment process, which the ABB and our members contributed to. Most recently one operator, Coral, has been working closely with the Council ahead of it issuing its final version of the guidance, which we welcome.

The final guidance includes a recommended template for the local area risk assessment which we would point to as a good example of what should be expected to be covered in an operator's risk

assessment. It is not feasible for national operators to submit bespoke risk assessments to each of the c.350 local authorities they each deal with, and all operators have been working to ensure that their templates can meet the requirements set out by all individual local authorities.

The ABB would be concerned should any local authority seek to prescribe the form of an operator's risk assessment. This would not be in line with better regulation principles. Operators must remain free to shape their risk assessment in whichever way best meets their operational processes.

The ABB has also shared recommendations of best practice with its smaller independent members, who although they deal with fewer different local authorities, have less resource to devote to developing their approach to the new assessments. In this way we hope to encourage a consistent application of the new rules by operators which will benefit both them and local authorities.

#### **Concerns around increases in the regulatory burden on operators**

The ABB is concerned to ensure that any changes in the licensing regime at a local level are implemented in a proportionate manner. This would include if any local authority were to set out overly onerous requirements on operators to review their local risk assessments with unnecessary frequency, as this could be damaging. As set out in the LCCP a review should only be required in response to significant local or premises change. In the ABB's view this should be where evidence can be provided to demonstrate that the change could impact the premises' ability to operate consistently with the three licensing objectives.

Any increase in the regulatory burden would severely impact ABB members at a time when overall shop numbers are in decline, and operators are continuing to absorb the impacts of significant recent regulatory change. This includes the increase to 25% of Machine Games Duty, limits to staking over £50 on gaming machines, and planning use class changes which require all new betting shops in England to apply for planning permission.

#### **Employing additional licence conditions**

It should continue to be the case that additional conditions are only imposed in exceptional circumstances where there are clear reasons for doing so. There are already mandatory and default conditions attached to any premises licence which will ensure operation that is consistent with the licensing objectives. In the vast majority of cases, these will not need to be supplemented by additional conditions.

The LCCP require that premises operate an age verification policy. The industry operates a policy called "Think 21". This policy is successful in preventing under-age gambling. Independent test purchasing carried out by operators and the ABB, and submitted to the Gambling Commission, shows that ID challenge rates are consistently around 85%. The ABB has seen statements of principles requiring the operation of Challenge 25. Unless there is clear evidence of a need to deviate from the industry standard then conditions requiring an alternative age verification policy should not be imposed.

The ABB is concerned that the imposition of additional licensing conditions could become commonplace if there are no clear requirements in the revised licensing policy statement as to the need for evidence. If additional licence conditions are more commonly applied this would increase variation across licensing authorities and create uncertainty amongst operators as to licensing requirements, over complicating the licensing process both for operators and local authorities

#### Considerations specific to the Statement of Gambling Policy 2019 to 2022

On a number of occasions throughout the draft policy, there are references to the promotion of the licensing objectives. Whilst the promotion of the licensing objectives is a fundamental principle contained within Licensing Act 2003, under Gambling Act 2005, the licensing authority is required to “have regard” to the licensing objectives whilst applications or the operation of licensed premises are required to be “reasonably consistent” with the licensing objectives. The only body upon whom there is a duty to promote the licensing objectives is the Gambling Commission. In the circumstances, we respectfully submit that the references to the “promotion” of the licensing objectives be amended.

Commented [HG1]:

**Officer comment: Noted. Substitutions to be made.**

Paragraph 2.4 refers to the plans that must be submitted with applications for new or variations of premises licences. This section indicates that the plan should “normally” be to a scale of 1:100. The plan requirements are clearly prescribed within the Gambling Act 2005 (Premises Licences and Provisional Statements) Regulations 2007 at regulation 4. The prescribed plan requirements do not specify a scale but rather require that a “scale plan” be submitted. The Statement of Principles should not require more than is prescribed by the statutory instrument and therefore the reference to the 1:100 scale should be removed.

Commented [HG2]:

**Officer comment: Noted. 1/100 was brought across from the LA03 policy in error & will be removed.**

Paragraph 2.6 explains the requirements for operators to assess local risks to the licensing objectives and to have policies, procedures and control measures in place to mitigate those risks. Within this section there is a list of bullet points detailing matters that a risk assessment could include. This risk of bullet points needs to be amended to remove matters that are not relevant of any assessment of risk to the licensing objectives. For example, two of the bullet points refer to issues of nuisance, anti-social behaviour, street drinking, graffiti/tagging etc. These issues are not relevant considerations under the Gambling Act 2005. They are either issues of nuisance and are certainly not issues relating to gambling being a source of crime or disorder or being associated with crime or disorder or being used to support crime. In the circumstances these references should be removed.

Commented [HG3]:

**Officer comment: I think, in context, these were presumably included in the original policy as an indicator that there were numbers of children in the area – with a view to protecting them from harm. The behaviour in which they partake is incidental to the fact that they are in proximity. I would therefore respectfully reject the suggestion to remove them**

***altogether, though agree that some rewording might help to emphasise their intended meaning.***

***Also worth noting that these are only suggestions for measures the operator 'could' consider.***

Similarly, the reference to "gaming trends that may mirror days for financial payment such as pay days or benefit payments" should be removed as this is not relevant to any assessment of risk to the licensing objectives unless the licensing authority has pre-determined that persons in receipt of benefits are automatically vulnerable or more likely to commit crime as a result of gambling. We are certain that this pre-determination has not taken place.

On behalf of the ABB, we welcome the acknowledgement within paragraph 2.7 that conditions in addition to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licensing objectives in the circumstances of a particular case.

#### **Conclusion**

The ABB and its members are committed to working closely with both the Gambling Commission and local authorities to continually drive up standards in regulatory compliance in support of the three licensing objectives: to keep crime out of gambling, ensure that gambling is conducted in a fair and open way, and to protect the vulnerable.

Indeed, as set out, the ABB and its members already do this successfully in partnership with local authorities now. This includes through the ABB Responsible Gambling Code, which is mandatory for all members, and the Safe Bet Alliance (SBA), which sets voluntary standards across the industry to make shops safer for customers and staff.

We would encourage local authorities to engage with us as we continue to develop both these codes of practice, which are in direct support of the licensing objectives, as well as our processes around local area risk assessments.

Yours faithfully,



**GOSSCHALKS**





# **Gambling Act 2005**

## **Spelthorne Borough Council's Statement of Gambling Policy 2019 - 2022**

**Statement: \*\* \*\*\*\*\* 2018**

This Statement of Principles was approved by Spelthorne Borough Council on **\*\* \*\*\*\*\* 2018**

All references to the guidance refer to the 5th edition of the Gambling Commission's Guidance to Licensing Authorities, dated September 2015 and updated September 2016

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#### Annex 1 Local area profile (including mMap of Spelthorne)

#### ~~Annex 2~~ List of Consultees

#### Annex 3 Schedule of Responsible Authorities

#### Annex 4 Council’s scheme of delegations of functions

#### Annex 5 Glossary of terms

**Note: The greyed areas of this Policy highlight the principles which will be applied by the Council in exercising its powers as a Licensing Authority under the Gambling Act 2005.****General Statement of Principles**

Spelthorne Borough Council ('The Council') recognises the wide variety of premises which require a licence or a permit. These include casinos, betting shops, bingo halls, pubs, clubs and amusement arcades.

In carrying out its licensing functions the Council will have regard to any guidance issued by the Gambling Commission from time to time.

The Council will not seek to use the Act to resolve matters more readily dealt with under other legislation.

To ensure the licensing objectives are met the Council will establish a close working relationship with the police, the Gambling Commission and, where appropriate, other responsible authorities.

Where children and other vulnerable people are allowed access to premises where gambling takes place, the Council may take whatever steps are considered necessary to either limit access generally or by introducing measures to prevent under-age gambling.

The Council will not normally seek to limit the access of children to any premises unless it receives representations to that effect or it believes it is right to do so for the prevention of their physical, moral or psychological harm.

Applicants seeking premises licences are encouraged to propose any prohibitions or restrictions of their own in circumstances where it is felt that the presence of children would be undesirable or inappropriate.

**The overriding principle** is that each application and the circumstances prevailing at each premises will be considered on their own individual merits. The Council acknowledges that when exercising licensing functions under the 2005 Act, it should have regard to this Policy but that in rare cases, the promotion of the licensing objectives may lead it to make exceptions to policies or depart from the Guidance. The Guidance and this Policy cannot anticipate every possible scenario or set of circumstances that may arise and exceptions will be rare. If an exception is made, full reasons for doing so will be given. In deciding whether an exception to this Policy should be made, reasons for the specific principle will be considered as well as whether or not making an exception would undermine the objectives of this Policy.

## **1. Introduction**

### **1.1 The Gambling Act 2005**

#### **1.1.1 The Functions of Licensing Authorities**

The Gambling Act 2005 ('the Act') gives licensing authorities various regulatory

functions in relation to gambling.

Spelthorne Borough Council ('the Council') is a licensing authority for the purposes of the Act.

The main functions of licensing authorities are:

- Licensing premises for gambling activities
- Considering notices given for the temporary use of premises for gambling
- Granting permits for gaming and gaming machines in clubs and miners' welfare institutes (where appropriate)
- Regulating gaming and gaming machines in alcohol licensed premises
- Granting permits to family entertainment centres for the use of certain lower stake gaming machines
- Granting permits for prize gaming
- Considering occasional use notices for betting at tracks
- Registering small societies' lotteries

The Gambling Commission has responsibility for dealing with personal licences and operating licences

-For the avoidance of confusion, Councils do not have powers to deal with the following activities:

- Remote (online gambling)
- The National lottery
- Operating licences
- Personal functional licences
- Personal management licences
- Gambling software
- Football pools
- Gaming machine manufacturers
- Gaming machine suppliers

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### 1.1.2 The Licensing Objectives

In exercising their functions under the Act, 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
  - When considering applications, the Council will always take the location of the premises into account with regard to the crime and disorder objective. The Council will have particular regard to premises that are situated in areas that represent a higher risk of potential vulnerability to gambling-related harm.
  - The Council will not consider whether the applicant is suitable to apply for a premises licence because this issue will already have

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been addressed by the Gambling Commission before an operator's licence was issued. However, if issues arise during the application process or subsequently once a licence has been granted, this will be brought to the attention of the Commission.

- **Ensuring that gambling is conducted in a fair and open way**

- In general it is not expected that the Council will deal with issues of fairness and openness as this will usually be a matter for the Commission as the way gambling products are provided are subject to the conditions of the operating licence or personal licences. However, if there are suspicions that gambling is not being conducted in a fair and open way, the Council will bring this to the attention of the Commission.

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

- When considering application, the Council will always take the location of the premises into account with regard to the children and vulnerable persons licensing objective.

- In order to explain the Council's approach to this objective more clearly, it is necessary to separate it into 'children' and 'vulnerable people' respectively:

- Protecting children from being harmed or exploited by gambling means: preventing them from taking part; and restricting activities such as advertising so that its not aimed at or attractive to children.

In considering the operators risk assessment, the Council will assess the measure an operator has in place to mitigate risks to this objective. It will also decide whether specific measures are required at particular premises, such as:

- Supervision of entrances;
- supervisions of gaming machines; and
- the separation of certain areas within the premises.

- In seeking to protect vulnerable people from being harmed or exploited by gambling, the Council will not seek to prevent particular groups of adults from gambling or gaming in the same way it stops children doing so. However, it is concerned about the potential for vulnerable people to be harmed or exploited by gambling. The Council acknowledges the many serious issues which can result from problem gambling, potentially exacerbated by someone's vulnerability.

When dealing with gambling premises applications, the Council will pay attention to applications for premises near venues where, for example, Gamblers Anonymous groups (or similar) meet, residential homes and hospitals. In considering the above, the Council will based its decision on whether the proximity of the

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premises to the vulnerable group is likely to present a risk to this licensing objective. Where relevant evidence is available, the Council may consider the likelihood of vulnerable people using the premises, whether they have other reason to be in the proximity of not.

When determining an application where this issue is raised, we will also take into account the operator's risk assessment and determine the controls that are (or will be) in place to protect vulnerable people and promote the licensing objectives at the premises. Depending on the circumstances, the Council may have particular regard to:

- the size of the premises
- staffing levels at the premises
- procedures in place to identify a vulnerable person and to stop a vulnerable person from gambling
- the location and type of gaming machine on the premises
- arrangements in place to supervise the gaming machines

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## **1.2 Spelthorne Borough – Local Area Profile**

~~Spelthorne Borough Council lies fifteen miles west of central London and sits in the far north-west corner of Surrey, bounded by a long meander of the Thames and close to the boundary of Berkshire. The Borough is also bordered by the London Boroughs of Hillingdon, Hounslow and Richmond. The Borough, covering twenty square miles, is at the inner edge of the Metropolitan Green Belt, with 45% being urban and the remainder protected as Green Belt. Spelthorne's resident population was 95,600 by the end of 2011, based on the 2011 census. The main centres of population are the towns of Staines-upon-Thames, Ashford, Sunbury-on-Thames, Shepperton and Stanwell.~~

~~Commercially, the area is one of the most active in Surrey. The local economy includes manufacturing and service industries, research, agriculture, the professions and many administration sites. In fact 20% of all commercial or industrial property in the county is located in the Borough, including the headquarters of national and international companies such as BP. Shepperton Film Studios and Kempton Park Racecourse are also located within the Borough. Heathrow, the busiest international airport in the world, lies on the Borough's northern edge and inevitably has a major impact on the area both economically (13% of Spelthorne's economically active population work there) as well as environmentally.~~

~~Transport links in the area are mainly good but traffic can get very congested. The busiest section of the M25 passes through the western part of the Borough while the M3 commences in the south of Spelthorne at Sunbury Cross. Bus and rail links to London are good, but poor to the rest of Surrey.~~

~~There are 20 betting shops, one adult amusement arcade located in Staines-upon-Thames, the Borough's principle town. There are 42 pubs in the Borough, most of which have gaming machines, and 23 Private Members' clubs. There are no bingo premises or casinos.~~

While relative to the county of Surrey as a whole, the Borough is marginally less affluent. However in national terms it is more affluent. According to a Local Economic Assessment conducted in 2013, unemployment levels in Spelthorne are very low at 0.9% (February 2015), although skill levels and consequently incomes are below average for the wider area.

Politically, the Spelthorne constituency has a strong Conservative majority, with 35 Conservative councillors returned in the 2015 borough elections, with three Liberal Democrat councillors and one Labour councillor.

The Campaign for Fairer Gambling commissioned a study into money lost on Category B2 Gaming Machines commonly referred to as Fixed Odds Betting Terminals (FOBTs). These are the high stake machines found in many betting shops. The report analysed the economic impact of FOBTs. The study appears to show that in the year 2013 to 2014, gamblers in Spelthorne lost more money on these machines (£3.3m) than other boroughs in Surrey. However, to put this into a wider context, the same survey shows losses in the neighbouring boroughs of Windsor and Maidenhead of £3.6m, Slough £5.4m, Richmond £5.9m and Hounslow £14.8m. These statistics are provided to assist applicants in completing risk assessments.

Each application will be determined on its individual merits. Spelthorne's local area profile is an assessment of the local environment and identifies the key characteristics of the Borough. It is intended that the local area profile will provide the Council's staff, operators and public with a better understanding and awareness of the gambling-related risks in the Borough. In this context, risk includes actual and potential risk and also takes into account any future or emerging risks.

It is accepted that the local environment can change and we must therefore retain the ability to review and quickly update the local area profile so that we remain aware of the current and emerging risks. For this reason, and in accordance with National Guidance issued by the Gambling Commission, we have not included our local area profile within the body of this Policy and it has instead been attached at **Annex 1**. This will allow us to update factual information within the local area profile and to quickly assess new or emerging risks from which to inform our decisions without the need for full consultation.

A Map of Spelthorne Borough is at **Annex 1**

### 1.3 Consultation

This statement of policy has been prepared in consultation with the following persons / bodies:

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

A full list of consultees is attached as Annex 2.

~~The~~ This statement of policy replaces our previous Policy (published on 9 December 2015) and will remain in force for no more than three years, but may be reviewed at any time.

#### 1.4 Declaration

This statement of policy has been prepared with due regard to the licensing objectives, the guidance to licensing authorities issued by the Gambling Commission and with due weight attached to any responses received from those consulted.

#### 1.5 Responsible Authorities

These are generally public bodies that must be notified of all Gambling Act Premises Licence applications and who are entitled to make representations to the Council if they are relevant to the licensing objectives.

In the context of Spelthorne Borough Council's statement of Policy, Section 157 of the Act defines those authorities as:-

- The Gambling Commission
- The Police
- The Fire Service
- The local planning authority
- Environmental health
- ~~Child Protection Committee~~ Surrey County Council's Children Services (see Section 1.5.1)
- HM Revenue and Customs
- A licensing authority in whose area the premises is situated
- Any other person prescribed in regulations by the Secretary of State

Any concerns expressed by a responsible authority in relation to their own functions cannot be taken into account unless they are relevant to the application itself and the licensing objectives. In this regard the Council will not generally take into account representations which are deemed to be irrelevant, i.e.:

- there are too many gambling premises in the locality
- the premises are likely to be a fire risk
- the location of the premises is likely to lead to traffic congestion
- the premises will cause crowds to congregate in one area causing noise and nuisance
- The location is unsuitable because it is in a conservation area
- Planning permission or building regulations approval has not been obtained
- There are moral objections

Each representation will, however, be considered on its own individual merits.

The contact details of all the Responsible Authorities under the Act are contained in Annex 3 of this policy



The Regulatory Reform (Fire Safety) Order 2005 will apply when Gambling premises buildings are occupied. These regulations require the responsible person to carry out a suitable and sufficient fire risk assessment and to act on its findings. The assessment must be reviewed regularly and if any changes are proposed to the licensed premises.

### 1.5.1 Protection of children

In exercising the Council's 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 following principles have been applied:

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

Having regard to the above principles [and part 6 of the Guidance](#), the Council designates the **Surrey County Council Children's Service** for this purpose.

### 1.6 Interested parties

Interested parties can make representations about licence applications, or apply for a review of an existing licence. The Act defines interested parties as persons who, in the opinion of the licensing authority:

- a) live sufficiently close to the premises to be likely to be affected by the authorised activities;
- b) have business interests that might be affected by the authorised activities; or
- c) represent persons who satisfy paragraph (a) or (b) \*

Whether or not a person is an interested party is a decision that will be taken by the Council on a case-by-case basis. However, the following factors will be taken into account:

- the size of the premises;
- the nature of the premises;
- the distance of the premises from the location of the person making the representation
- the potential impact of the premises (number of customers, routes likely to be taken by those visiting the establishment);
- the nature of the complainant. This is not the personal characteristics of the complainant but the interests of the complainant which may be relevant to the distance from the premises. For example, it could be reasonable for an authority to conclude that "sufficiently close to be likely to be affected" could have a different meaning for (a) a private resident; (b) a residential school for children with truanting problems; and (c) residential hostel for vulnerable adults; the 'catchment' area of the premises (i.e. how far people travel to visit); and whether the person making the representation has business interests in that catchment area, that might be affected.

This list is not exhaustive and other factors may be taken into consideration in an individual case.

\*The Council considers the following bodies/ associations to fall within the category of those who represent persons living close to premises, or having business interests that might be affected by the authorised activities:-

- trade associations;
- trade unions;
- residents' and tenants' associations;
- ward/ county councillors
- MPs

This list is not exhaustive and the Council may consider other bodies/ associations & persons to fall within the category in the circumstances of an individual case. The Council may require written evidence that the person/ association/ body represents an interested party.

1.7 Exchange of Information

The Council regards the lawful and correct treatment of information as very important to the successful and efficient performance of the Council's functions, and to maintaining confidence between the people/ bodies we deal with and ourselves. We ensure that our organisation treats information lawfully and correctly. Information provided to the Council in connection with the Gambling Act may not be held confidentially if, in order to fulfil its functions, the Council is under a duty to share it with, e.g.;

- the Gambling Commission, or,
- other public bodies.

The Gambling Commission can require the Council to provide specific information if it forms part of its licensing register or is held in connection with licensing functions under the 2005 Act. At present, the Commission requires submission of an annual return which is subsequently included in the Department for Communities and Local Government Single Data List. It is therefore intended that the Council will continue to provide the following details to the Commission at the end of each financial year:

- permits issued
- temporary use notices issued
- occasional use notices issued
- premises inspections conducted
- reasons for and outcomes of reviews

It is accepted that the Commission may change its requirements during the period of this Policy and we will therefore provide any other requested information in so far as we hold and are required to provide it.

In handling information it receives consideration will be given to guidance issued by the Gambling Commission or Information Commissioner and to the Council's policies in relation to data protection, and freedom of information and the General

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### Data Protection Regulations-

The Council may also exchange information with other persons or bodies listed below, for use in the exercise of functions under the 2005 Act:

- a constable or police force
- an enforcement officer
- a licensing authority
- HMRC
- the First Tier Tribunal
- the Secretary of State

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Any person wishing to obtain further information about their rights under the Data Protection Act 1998, ~~or the~~ Freedom of Information Act 2000 or the General Data Protection Regulations may view the Council's policies at [www.spelthorne.gov.uk](http://www.spelthorne.gov.uk).

## **1.8 Enforcement**

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. 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.

In accordance with the Gambling Commission's Guidance to licensing authorities, this licensing authority will endeavour to avoid duplication with other regulatory regimes so far as possible.

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, in particular at Part 36
- The principles set out in this statement of licensing principles

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 issues that the Council's Officers may cover during their visits will include:

- details of training policies and training undertaken by staff
- records of refusals to serve /admit on age grounds (subject to the terms of any primary authority agreements)
- records of any relevant incidents in or outside the premises, eg anti-social behaviour
- approach to managing self-exclusion and numbers of people currently self-excluded
- involvement/impact of any work in local schemes or partnership working with other local businesses
- reviewing paperwork relating to the purchase of games from licensed manufacturers 20 Gambling regulation Councillor handbook
- interviews with staff members
- confirming that appropriate signage is in place.

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-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.

This licensing authority shall have regard to the principles of "Better Regulation" as outlined by the Department for Business Innovation and Skills.

The council will take account of the Gambling Commission's guidance document issued in February 2015 (or any subsequent amendments) 'Approach to Test Purchasing' when considering making test purchases at gambling premises.

In dealing with test purchase failures, complaints from residents or neighbours and anti-social behaviour issues, the Council will have regard to its enforcement policy in its approach. This policy is available online.

## **2. Premises Licences**

### **2.1 Decision making - general**

In accordance with Section 153 of the Act, the Council shall 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

This means that we will aim to moderate the impact of gambling on the Borough for example by attaching conditions to licences, rather than aiming to prevent it altogether.

The Council will not have regard to the expected demand for the facilities which it is proposed to provide, nor the likelihood of the applicant obtaining planning permission or building regulations approval for the proposal.

Moral objections to gambling will not be considered by the Council, as they are not a valid reason for rejecting an application for a premises licence.

Each case will be considered on its individual merits. However, in order to assist applicants and objectors alike, this section sets out the general factors that will be taken into account by the Council when considering applications for premises licences.

## **2.2 Premises “ready for gambling”**

Gambling Commission 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.

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.

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

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

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

## **2.3 Location**

The location of premises may be relevant to the promotion of the licensing objectives. In particular, premises located in close proximity to the following may give rise to concern:

- schools
- vulnerable adult centres
- residential areas with a high concentration of children

Much will depend upon the type of gambling that it is proposed will be offered on the premises. The Council will, where appropriate, consider the location on a case-by-case basis. If the proposed location does pose a risk to the promotion of the licensing objectives, the applicant will be invited to show how they propose to overcome such concerns.

## **2.4 Plan**

The Council expects applications for premises licences to be accompanied by a plan of the premises to scale (normally 1/100). The plan of the premises should include:

- Outline of the boundary and internal and external walls
- Location of doors
- Location of escape routes if different
- Where more than one licence is being granted within a single building, details of the segregation of gambling and non-gambling area(s)
- Location of counter
- Locations of gaming machines
- Location of any public conveniences
- Location of fire extinguishers, fire doors, fire alarms

This information is of use to the Council, as it enables its Officers to evaluate whether an applicant is giving due regard to its responsibilities, and the key objectives as set out in this Policy. For example, negotiation may be required if it is clear from the plan that staff working behind the counter are not in a suitable position to identify whether customers using gaming machines are underage and / or vulnerable.

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## 2.5 Multiple licences/ layout of buildings

Where multiple licences are sought for a building (or a discrete part of a building used for other non-gambling purposes), specific issues will be considered by the Council before such application(s) can be granted. These include

- the ability of children to gain access to or observe gambling facilities (even accidentally) – entrances and exits from parts of a building covered by more than one premises licence should be separate and identifiable so that the separation of different premises is not compromised and that people (and in particular, children) do not drift into a gambling area;
- the compatibility of the two or more establishments; and
- the ability of the establishments to comply with the requirements of the Act.

Where the Council determines that multiple premises licences can be granted within a single building, it may require specific measurements to be included as conditions on the licences. Such measures may include:

- the supervision of entrances
- segregation of gambling from non-gambling areas, which may include the type and position of partitions and / or
- the supervision of the premises and gaming machines

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### Splitting of premises

“Premises” can include “any place” but the Council shall pay particular attention if there are issues about sub-divisions of a single building or plot. Revised guidance from the Gambling Commission includes the following advice: “The Commission does not consider that areas of the building that are artificially or temporarily separated, for example by moveable partitions, can properly be regarded as different premises”, and also that “the crux of the matter is whether the proposed premises are genuinely separate premises that merit their own licence with, for example, the machine entitlements that brings are not an artificially created part of what is readily identifiable as a single premises”.

In determining whether two premises are truly separate, factors that we are advised to consider are:

- Whether the premises have different postal addresses
- Whether the premises have separate registration for business rates
- Whether the premises are owned by the same company

In accordance with the Gambling Commission guidance, an overriding consideration will be whether, taken as a whole, the co-location of the licensed premises with other facilities has the effect of creating an arrangement that otherwise would, or should, be prohibited under the Act.

### **Appropriate Licence Environment**

The Guidance to Local Authorities and the Licence Conditions and Codes of Practice (LCCP) commencing May 2015, set out additional matters that the council should take into account when considering licence applications for premises licences.

Guidance section 19, LCCP condition 16 and code 9 prescribe restrictions on gambling activities on premises, previously known as primary gambling activity. The council will consider any application based on the provisions in these codes and guidance.

Where gambling facilities are provided at premises as a supplementary activity to the main purpose of the premises; e.g. motorway service areas and shopping malls, the council will expect the gambling area to be clearly defined to ensure that customers are fully aware that they are making a choice to enter into the gambling premises, and that the premises is adequately supervised at all times.

### **Licence Conditions and Codes of Practice**

Section 7 of the Gambling Commission Guidance to Local Authorities sets out considerations that an operator must make in order to protect children, ~~and~~ young people and vulnerable adults from accessing gambling premises.

The Licence Conditions and Codes of Practice (LCCP) issued in 2015 prescribe how operators must prevent children from using age restricted gaming or gambling activities, particularly where gaming machines are licensed.

In particular operators must ensure that;

- all staff are trained,
- that all customers are supervised when on gambling premises
- must have procedures for identifying customers who are at risk of gambling related harm.

The council will expect all operators to have policies and procedures in place as required by the LCCP codes on social responsibility to cover all aspects of the code, in particular staff training records and self-exclusion records

Further provisions with regard to self-exclusion and marketing are included in the social responsibility code. The council will take all conditions and codes into account when considering applications or performing enforcement activities.

## 2.6 Risk Assessments: Betting Premises

Such risk assessments are required from new applicants, and from existing premises licensees:-

- seeking to vary a licence.
- to take account of significant changes in local circumstances, including those identified in a licensing authority's statement of policy; or
- when there are significant changes at a licensee's premises that may affect their mitigation of local risks.

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-The ~~code~~ LCCP requires all operators of Casinos, AGCs, Bingo Premises, FECs, Betting shops and remote betting intermediaries to assess local risks to the licensing objectives, and to have policies, procedures and control measures in place to mitigate those risks.

Operators are required by the SR code to make the risk assessment available to licensing authorities when an application is submitted either for new premises licence or variation of a premises licence, or otherwise on request, and this will form part of the Council's inspection regime and may be requested when officers are investigating complaints.

Whilst applications will be considered on a case-by-case basis, the matters to be considered by operators when making their risk assessment could include:-

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.
- Urban setting such as proximity to schools, commercial environment, factors affecting footfall,
- Range of facilities in proximity to the licensed premises such as other gambling outlets, banks, post offices, refreshment and entertainment type facilities
- Known problems in the area such as problems arising from street drinkers, youths participating in anti-social behaviour, drug dealing activities, etc.
- Matters relating to children and young persons, including;
- Institutions, places or areas where presence of children and young persons should be expected such as schools, youth clubs, parks, playgrounds and entertainment venues such as bowling allies, cinemas etc.
- Any premises where children congregate including bus stops, café's, shops, and any other place where children are attracted,
- Areas that are prone to issues of youths participating in anti-social behaviour, including such activities as graffiti/tagging, underage drinking, etc.
- Recorded incidents of attempted underage gambling

Matters relating to vulnerable adults, including:-

- Information held by the licensee regarding self-exclusions and incidences of underage gambling,
- Gaming trends that may mirror days for financial payments such as pay days or benefit payments
- Arrangement for localised exchange of information regarding self-exclusions and gaming trends.



- Proximity of premises which may be frequented by vulnerable people such as hospitals, residential care homes, medical facilities, doctor's surgeries, council housing offices, addiction clinics or help centres, places where alcohol or drug dependant people may congregate

This list is not intended to be exhaustive. Operators should include in their assessment any matter that they deem relevant. The Council does expect any assessment to include information on the provisions of information on gambling responsibly, as well as self-exclusion measures – and how readily available both are to be available on a premises.

## 2.7 Conditions

Conditions may be imposed upon a premises licence in a number of ways. These are

- (a) **Mandatory** – set by the Secretary of State (some set out on the face of the Act) and some to be prescribed in regulations, for all, or classes of licence;
- (b) **Default** – to be prescribed in regulations made by the Secretary of State, to be attached to all or classes of licences unless excluded by the licensing authority;
- (c) **Specific** – conditions that can be attached to an individual licence by the licensing authority.

Conditions imposed by the Council will be proportionate to the circumstances that they are seeking to address. In particular, this Council will ensure that premises licence conditions:

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

The Council will not apply conditions upon a premises licence in relation to the following matters:

- 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

Conditions that are additional to the mandatory and default conditions will only be imposed where there is evidence of a risk to the licensing objectives.

## 2.8 Door Supervisors

It is not a mandatory requirement of the Act to impose a condition relating to door

supervision.

However, if the Council do consider it necessary to impose a condition on a premises licence requiring the presence of door supervisors, such persons will be required to hold the appropriate licence from the Security Industry Authority (SIA).

This requirement does not apply to door supervisors at licensed casino or bingo premises, who are exempt from the licensing requirements of the Private Security Industry Act 2001.

The Council may however impose specific requirements on door supervisors at such premises if considered appropriate in an individual case.

The Council will only impose a condition requiring door supervisors where such a condition is considered necessary and proportionate to be compatible with the licensing objectives

## **2.9 Adult gaming centres**

Persons operating an adult gaming centre must obtain an operating licence from the Commission and a premises licence from the Council. This will allow the operator to make four category B, C & D-3/B4 machines and any number of Category C machines available to their customers. No one under the age of 18 is permitted to enter an adult gaming centre.

In considering licence applications for adult gaming centres, weight will be given to the need to protect children and vulnerable persons from harm or being exploited by gambling. The Council will therefore expect applicants to demonstrate that there will be sufficient measures in place to promote this objective.

Applicants are encouraged to consider the following steps:

- Proof of age schemes
- CCTV
- Supervision of entrances / machine areas
- Location of and entry to premises (so as to minimise the opportunities for children to gain access)
- Notices / signage
- Training for staff on challenging persons suspected of being under-age
- Specific opening hours
- Self-barring schemes
- Provision of information leaflets / helpline numbers for organisations such as GamCare.
- Betwatch schemes

This list is not exhaustive, and is merely indicative of example measures.

## **2.10 Licensed family entertainment centres**

Operators of licensed family entertainment centres will require an operating licence from the Gambling Commission, and a premises licence from the Council. This

will allow the operator to make category C & D machines available to their customers.

Children and young persons will be able to enter licensed family entertainment centres and play on category D machines but will not be permitted to play on category C machines. As family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues. Where category C machines are available in licensed family entertainment centres the Council will normally require that:

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

Applicants are therefore encouraged to consider the steps set out at paragraph 2.6 of this statement in order to prevent children and young persons from gaining access to category C machines. In addition, applicants are encouraged to consider the following

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

This list is not exhaustive, and is merely indicative of example measures.

## **2.11 Tracks**

Tracks are sites (including racecourses and dog tracks) where sporting events take place. Operators of tracks will require a premises licence from the Council, but they do not need to obtain an operating licence from the Gambling Commission (although they may have one).

Tracks may be subject to one or more than one premises licence, provided each licence relates to a specified area of the track.

It will be a mandatory condition of all track licences that children and young persons are excluded from any areas where facilities for betting are provided, and any area where a gaming machine, other than a category D machine, is situated. Special dispensation from this rule is provided for dog tracks and horse racecourses, on days when racing takes place, in relation to the areas used for betting. On these days families will be entitled to attend the track or racecourse, and children enter the areas where facilities for betting are provided. This race day dispensation does not apply to the areas where gaming machines of category B & C are provided, and the Council will therefore wish to ensure that suitable measures are in place to prevent children from entering such areas.

Applicants should consider the steps set out at paragraph 2.6 in order to prevent the access of children and young people to machines of category B & C. In addition, applicants should consider the following

-Physical separation of areas

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

### **Gaming machines**

Holders of betting premises licences in respect of tracks who also hold a pool betting operating licence may make available up to four gaming machines (categories B2 to D) on the track.

The Council will therefore expect the applicant to demonstrate that suitable measures are in place to ensure that children are prevented from entering areas where machines (other than category D machines) are made available.

### **Condition on rules being displayed**

The Council will attach a condition to track premises licences requiring the track operator to ensure that the rules are prominently displayed in or near the betting areas, or that other measures are taken to ensure that they are made available to the public. For example, the rules could be printed in the race-card or made available in leaflet form from the track office.

### **Applications and plans**

The Council will require the following information from applicants for premises licences in respect of tracks: -

- detailed plans for the racetrack itself and the area that will be used for temporary “on-course” betting facilities (often known as the “betting ring”)
- in the case of dog tracks and horse racecourses, details of the fixed and mobile pool betting facilities operated by the Tote or track operator, as well as any other proposed gambling facilities

Plans will need to make it clear what is being sought for authorisation under the track betting premises licence and what, if any, other areas are to be subject to a separate application for a different type of premises licence.

## **2.12 Casinos**

**No Casinos resolution** - The Council has not passed a ‘no casino’ resolution under Section 166 of the Gambling Act 2005, but is aware that it has the power to do so. Should the Council decide in the future to pass such a resolution, it will update this policy statement with details of that resolution.

## **2.13 Betting Premises**

This paragraph deals with off-course betting, that is betting that takes place other

than at a track (commonly known as a licensed betting office). Operators of betting premises will require an operating licence from the Gambling Commission and a premises licence from the Council.

The holder of a betting premises licence may make available for use up to four gaming machines of category B (B2, B3 or B4), C or D.

Holders of Betting Premises Licence are also permitted (at the discretion of the Council) to have betting machines (otherwise known as self-service betting terminals [SSBTs]). Betting machines / SSBTs differ from gaming machines in that they are designed or adapted to be used to place bets on future real events, e.g. horse racing. These machines may be a substitute for placing a bet in person over the counter.

The Council may, in accordance with section 181 of the Act, restrict the number of gaming and / or betting machines, their nature, and the circumstances in which those machines are made available for use. When considering whether to impose such a condition, the Council will take into account the following: -

- 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;  
and
- whether the machines have been, or are likely to be used in breach of the licensing objectives.

The Council will therefore expect applicants to have fully considered these issues in their application and risk assessments and may ask for alterations to plans where it is not satisfied that adequate supervision of the machines can be ensured.

The Council will only restrict the number of betting machines where there is evidence that breaches of the licensing objectives have occurred or are likely to occur.

## **2.14 Bingo**

Operators of premises offering bingo (cash or prize) will require a bingo operating licence from the Gambling Commission, and a premises licence from the Council.

The holder of a bingo premises licence may, in addition to bingo in all its forms, make available for use up to four category B gaming machines (B3 & B4) and any number of category C & D machines.

It is important that if children are allowed to enter premises licensed for bingo that they do not participate in gambling, other than on category D machines. Where category C or above machines are available in premises to which children are admitted the Council will normally require that:

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

There are new rules laid out in the Act about the playing of bingo specifically in alcohol-licensed premises, clubs and miners' welfare institutes. Where the level of bingo played in these premises reaches a threshold of £2,000 during a seven-day period, it is referred to as 'high turnover bingo'. If it comes to the attention of the Authority that alcohol-licensed premises, clubs or institutes are playing bingo which exceeds this threshold, the Gambling Commission will be informed so that they discuss with the licensee issuing a bingo operating licence.

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## 2.15 Temporary Use Notices

Temporary use notices allow the use of premises for gambling where there is no premises licence but where a person or company holding a relevant operator's licence wishes to use the premises temporarily for providing facilities for gambling. Premises that might be suitable for Temporary Use Notices would include hotels, conference centres and sporting venues. The licensing authority can only grant a Temporary Use Notice to a person or company holding a relevant operating licence.

The Secretary of State has the power to determine what form of gambling can be authorised by Temporary Use Notices. At the time of writing this statement the relevant regulations state that Temporary Use Notices can only be used to permit the provision of facilities for equal chance gaming, where the gaming is intended to produce a single winner. In practice this means poker tournaments. There are a number of statutory limits in regards to temporary use notices. The meaning of "premises" in Part 8 of the Act is discussed in Part 7 of the Gambling Commission Guidance to Licensing Authorities. As with "premises", the definition of "a set of premises" will be a question of fact in the particular circumstances of each notice that is given. In the Act "premises" is defined as including "any place". In considering whether a place falls within the definition of "a set of premises", the licensing authority needs to look at, amongst other things, the ownership/occupation and control of the premises. 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.

If objections are received to a temporary use notice (from the Police, Gambling Commission, HM Revenues & Custom or any other licensing authority in whose area the premises are situated, the Council will hold a hearing to consider the representation (unless all the participants agree that a hearing is unnecessary).

If the Council, after a hearing has taken place or been dispensed with, considers that the temporary use notice should not have effect, it will issue a counter-notice

which may:

- prevent the temporary use notice from taking effect;
- limit the activities that are permitted;
- limit the time period of the gambling; or
- allow the activities to take place subject to a specified condition

The Council will apply the principles set out in paragraph 2.1 of this Statement of Policy to any consideration as to whether to issue a counter-notice.

#### **2.16 , Review of a premises licence**

A premises licence may be reviewed by the Council or on receipt of an application made by an interested party or responsible authority. When determining whether or not to initiate a review, the Council will have regard to its enforcement policy. This policy sets out the Council's approach to achieving compliance with the laws governing licensable activities and can be viewed online.

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### **3 Permits**

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

Unlicensed family entertainment centres will be able to offer category D machines if granted a permit by the Council. If an operator of a family entertainment centre wishes to make category C machines available in addition to category D machines, they will need to apply for an operating licence from the Gambling Commission and a premises licence from the Council.

The Council can grant or refuse an application for a permit, but cannot attach conditions.

As unlicensed family entertainment centres will particularly appeal to children and young persons, weight shall be given to child protection issues.

The Council will expect the applicant to show that there are policies and procedures in place to protect children from harm. Harm in this context is not limited to harm from gambling but includes wider child protection considerations.

The policies and procedures are expected to include:

- what staff should do if they suspect that truant children are on the premises
- how staff should deal with unsupervised young children on the premises how staff should deal with children causing perceived problems on or around the premises

The Council will also expect applicants to demonstrate

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

### 3.2 (Alcohol) Licensed premises gaming machine permits

Premises licensed to sell alcohol for consumption on the premises, can automatically have two gaming machines, of categories C and/or D. The holder of the premises licence authorising the sale of alcohol will simply need to notify the Council, and pay the prescribed fee.

The Council may remove the automatic authorisation in respect of any particular premises if;

- provision of the machines is not reasonably consistent with the pursuit of the licensing objectives;
- gaming has taken place on the premises that breaches a condition of section 282 of the Act;
- the premises are mainly used for gaming; or
- an offence under the Act has been committed on the premises.

If a premises wishes to have more than two machines, then the holder of the premises licence will need to apply for a permit. The Council shall consider that application having regard to the licensing objectives, any guidance issued by the Gambling Commission issued under Section 25 of the Act, and any other matters that are considered relevant.

The Council shall determine what constitutes a relevant consideration on a case-by-case basis, but weight shall be given to the third licensing objective i.e. protecting children and vulnerable persons from being harmed or being exploited by gambling. To this end, the Council will expect applicants to demonstrate

- that there will be sufficient measures in place to ensure that under 18 year olds do not have access to the adult only gaming machines.
- Measures 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.

With respect to the protection of vulnerable persons, the Council will expect applicants to provide information leaflets / helpline numbers for organisations such as GamCare.

It is recognised that some alcohol-licensed premises may apply for a premises licence for their non-alcohol licensed areas. An application for an Adult Gaming Centre premises licence would be necessary in these circumstances. The Council may decide to grant the application with a smaller number of machines and/or a different category of machines than that applied for. The Council will not attach any other conditions in granting such an application.

The holder of such a permit will be required to comply with any Code of Practice issued by the Gambling Commission about the location and operation of the machines.

### 3.3 Prize gaming permits



Applicants for prize gaming permits should set out the types of gaming that he or she is intending to offer. The applicant will be required to demonstrate:

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

In making its decision on an application for this type of permit the Council does not need to have regard to the licensing objectives but will have regard to any Gambling Commission guidance. Weight will be given to child protection issues. Relevant considerations are likely to include the suitability of the applicant (i.e. if the applicant has any convictions which would make them unsuitable to operate prize gaming) and the suitability of the premises. Applicants for prize gaming permits must disclose any previous relevant convictions to the Council.

The Council may grant or refuse an application for a permit, but will not attach any conditions. However, there are four conditions in the Act that permit holders must comply with. These are:

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

### **3.4 Club gaming and club machine permits**

Members clubs (but not commercial clubs) may apply for a club gaming permit. The club gaming permit will enable the premises to provide gaming machines (three machines of categories B4, C or D), equal chance gaming and games of chance.

If a club does not wish to have the full range of facilities permitted by a club gaming permit or if they are a commercial club not permitted to provide non-machine gaming (other than exempt gaming under section 269 of the Act), they may apply for a club machine permit, which will enable the premises to provide gaming machines (three machines of categories B4, C or D).

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

Examples include working men's clubs, branches of Royal British Legion and clubs with political affiliations.

The Council will only refuse such an application on one or more of the following grounds;

- the applicant does not fulfil the requirements for a members' or commercial club or 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 condition 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 Gambling Commission or the Police

The Council will have regard to the guidance issued by the Gambling Commission and (subject to that guidance), the licensing objectives.

There is a 'fast-track' procedure available for clubs which hold a club premises certificate under the Licensing Act 2003. Under the fast-track procedure there is no opportunity for objections to be made by the Gambling Commission or the Police, and the grounds upon which an authority can refuse a permit are reduced.

The grounds on which an application under the fast track procedure may be refused are;

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

The Council may grant or refuse an application for a club gaming or club machine permit, but will not attach any conditions. However, there are a number of conditions in the Act that the holder must comply with.

### **3.5 Cancellation of Permits**

#### **3.5.1 Gaming /Machine Permits**

The authority is able to cancel a permit. It may do so in specified circumstances which include if the premises are used wholly or mainly by children or young persons or if an offence under the Act has been committed. Before it cancels an authority must notify the holder giving 21 days' notice of intention to cancel, consider any representations made by the holder, hold a hearing if requested, and comply with any other prescribed requirements relating to the procedure to be followed.

#### **Gaming / Club Machine Permits**

Decisions relating to the cancellation of a Club Gaming or Club Machine Permit may not be made by an officer of the authority. Such decisions shall be dealt with by a

Licensing Sub Committee.

#### 3.5.2 Alcohol licensed premises permits

In the event of representations being received against a notice of cancellation, the matter will be determined by a licensing sub-committee. Where no representations are received or have been withdrawn, then the decision may remain with an officer.



While relative to the county of Surrey as a whole, the Borough is marginally less affluent. However in national terms it is more affluent. According to the Office for National Statistics, unemployment levels in Spelthorne are very low at 0.7% (April 2017), although skill levels and consequently incomes are below average for the wider area.

Politically, the Spelthorne constituency has a strong Conservative majority, with 30 Conservative councillors returned in the 2018 borough elections, four Ashford & Staines Residents councillors, three Liberal Democrat councillors, one Labour councillor and an unaffiliated independent councillor

The Campaign for Fairer Gambling commissioned a study into money lost on Category B2 Gaming Machines commonly referred to as Fixed Odds Betting Terminals (FOBTs). These are the high stake machines found in many betting shops. The report analysed the economic impact of FOBTs. The study appears to show that in the year 2013 to 2014, gamblers in Spelthorne lost more money on these machines (£3.3m) than other boroughs in Surrey. However, to put this into a wider context, the same survey shows losses in the neighbouring boroughs of Windsor and Maidenhead of £3.6m, Slough £5.4m, Richmond £5.9m and Hounslow £14.8m. These statistics are provided to assist applicants in completing risk assessments.

Each application will be determined on its individual merits.

## Annex 2

### Schedule of Consultees

<p><b>Persons or bodies representing The interests of those carrying on gambling businesses in the Borough:</b>  Association of British Bookmakers  mailto:mail@abb.uk.com  British Amusement Catering Trade Association  mailto:info@bacta.org.uk  Leisure Link Group  http://leisurelink.com/contact-us/  Racecourse Association Ltd  mailto:info@racecourseassociation.co.uk</p> <p><b>Persons or bodies representing the interests of those who are likely to be affected by the exercise of the authority's functions:</b>  All Elected (Ward) Councillors, Spelthorne Borough Council  All "Responsible Authorities" as defined under the Gambling Act  Spelthorne Borough Council Heads of Service  Surrey Police  GamCare  info@gamcare.org.uk  Responsibility in Gambling Trust  alan@responsiblegamblingtrust.org.uk  Samaritans  jo@samaritans.org  Surrey Youth Offending Team  surreycc.gov.uk  Community Groups, residents' groups and tenant's associations  The Salvation Army  <a href="mailto:info@salvationarmy.org.uk">info@salvationarmy.org.uk</a>  Licensing Solicitors (John Gaunt, Winckworth Sherwood, Poppleston Allen, Lockett &amp; Co., Blake Lapthorn and Gosschalks)</p>	<p><b>Neighbouring London, County and District Councils:</b></p> <ul style="list-style-type: none"> <li>• London Boroughs of: Hounslow, Hillingdon &amp; Richmond;</li> <li>• Elmbridge Borough Council</li> <li>• <del>Royal Borough Of Windsor &amp; Maidenhead</del></li> <li>• Runnymede Borough Council</li> <li>• Woking Borough Council</li> </ul> <p><b>Current holders of licences, permits etc. in Spelthorne:</b></p> <ul style="list-style-type: none"> <li>• Representatives of Licensing Act 2003 Premise Licence holders</li> <li>• Representatives of Qualifying Clubs with Club Premises Certificates</li> </ul>
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\* **Note:** This list is not intended to be exhaustive. Comments and observations are welcome from anyone interested in this policy. Should you have any comments about this policy statement please send them via e-mail or letter to [licensing@spelthorne.gov.uk](mailto:licensing@spelthorne.gov.uk) Licensing Department, Spelthorne Borough Council, Council Offices, Knowle Green, Staines, TW18 1XB

## **Annex 3**

### **Schedule of Responsible Authorities**

For the purposes of the Act, Responsible Authorities are public bodies that must be notified of all applications and who are entitled to make representation in relation to Premises

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#### **Spelthorne Licensing**

**Department** Spelthorne Borough  
Council Council Offices  
Knowle Green  
Staines  
TW18 1XB

#### **The Gambling Commission**

Victoria Square House  
Victoria Square  
Birmingham  
B2 4BP

#### **Licensing Northern Surrey Police**

Spelthorne Neighbourhood Team  
PO Box 101  
Guildford  
GU1 9PE

#### **Surrey Fire & Rescue Service**

Headquarters  
Croydon Road  
Reigate  
Surrey  
RH2 0EJ

Head of Planning

#### **Spelthorne Planning**

**Department**  
Spelthorne Borough Council  
Council Offices  
Knowle Green  
Staines  
TW18 1XB

**Surrey County Council's Childrens Services**

Quadrant Court  
35 Guildford Road  
Woking  
GU22 7QQ

**HM Revenue & Customs**

National Registration Unit  
Portcullis House  
21 India Street  
Glasgow  
Scotland  
G2 4PZ

**Surrey Trading Standards**

Consort House  
5-7 Queensway  
Redhill  
RH1 1YB

**Spelthorne Environmental Health Department**

Spelthorne Borough Council  
Council Offices Knowle  
Green Staines  
TW18 1XB

**Authorities for vessels:**

- Navigation Authority
- The Enforcement Agency
- The British Waterways Board
- The Secretary of State



#### Annex 4 – Council's Scheme of Delegation for its Function Under the Gambling Act 2005

Matter to be dealt with	Full Council	Sub-committee	Officers
Three year licensing policy	X		
Policy not to permit casinos	X		
Fee Setting – when appropriate	X (after recommendation from Licensing Committee and Executive)		
Application for premises licences		Where representations have been received & not withdrawn	Where no representations received / representations have been withdrawn
Application for a variation to a licence		Where representations have been received & not withdrawn	Where no representations received / representations have been withdrawn
Application for a transfer of a licence		Where representations have been received from the Commission	Where no representations received from the Commission
Application for a provisional statement		Where representations have been received & not withdrawn	Where no representations received / representations have been withdrawn
Review of a premises licence		X	
Application for club gaming / club machine permits		Where representations have been received & not withdrawn	Where no representations received / representations have been withdrawn
Cancellation of club gaming / club machine permits		X X	
			X

Applications for other permits			
Cancellation of licensed premises gaming machine permits		Where permit holder requests a hearing	Where permit holder does not choose to have representations considered
Consideration of temporary use notice		X (where representations are received)	X (where no representations are received)
Decision to give a counter notice to a temporary use notice		X	

## ANNEX 5 – GLOSSARY OF TERMS

**Admissible Representations:** - representations submitted by a Responsible Authority or Interested Party.

**Authorised Local Authority Officer:** - a Licensing Authority Officer who is an authorised person for a purpose relating to premises in that authority's area.

**Authorised Person:** - a licensing officer and an officer of an authority other than a Licensing Authority, both of whom have been authorised for a purpose relating to premises in that authority's area. The following are considered authorised persons:

- Inspectors appointed under the Fire Precautions Act 1971;
- Inspectors appointed under the Health and Safety at work, etc. Act 1974;
- Inspectors or Surveyors of ships appointed under the Merchant Shipping Act 1995; &
- A person in a class prescribed in regulations by the Secretary of State.

**Automated Roulette Equipment:** - equipment that is either linked to a live game of chance, e.g. roulette, or plays live automated games, i.e. operates without human intervention.

**Automatic Conditions:** - conditions attached automatically to premises licences or authorisations. The Licensing Authority has no discretion not to include or modify them.

**AWP machines:** - Amusement with Prize Machines

**BACTA:** - the British Amusement Catering Trade Association

**Betting Intermediary:** - someone who offers services via remote communication, such as the internet.

**Betting Ring:** - an area that is used for temporary 'on course' betting facilities.

**Bingo:** - a game of equal chance.

**Casino:** - an arrangement whereby people are given an opportunity to participate in one or more casino games.

**Casino Games:** - games of chance that are not equal chance gaming.

**Casino Premises Licence Categories:** - regional, large, small, casinos permitted under transitional arrangements.

**Casino Resolution:** - resolution concerning whether or not to issue Casino Premises Licences.

**Child:** - an individual who is less than 16 years old.

**Christmas Day Period:** - the period of 24 hours from midnight on 24 December.

**Club Gaming Machine Permit:** - a permit to enable the premises to provide gaming machines (three machines of Categories B, C or D)

**Club Gaming Permit:** - a permit to enable the premises to provide gaming machines (three machines of Categories B C or D), equal chance gaming and games of chance.

**Complex Lottery:** - an arrangement where:

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

**Conditions:** - conditions to be attached to licences by way of:

- Automatic provision
- Regulations provided by Sec. Of State
- Conditions provided by Gambling Commission
- Conditions provided by Licensing Authority
- Conditions may be general in nature (either attached to all licences or all licences of a particular nature) or may be specific to a particular licence,

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

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

**Delegated Powers:** - decisions delegated by the Licensing Authority either to a Licensing Committee, Sub-Committee or Licensing Officers.

**Disorders:** - in the case of gambling premises licences, disorder is intended to mean activity that is more serious and disruptive than mere nuisance.

**Domestic Computer:** - one used for in a residential property for private, non-commercial purposes and is exempt from a Gaming Machine Permit.

**Dual Use Computer:** - definition in forthcoming Regulations. Exempt from a Gaming Machine Permit.

**Equal Chance Gaming:** - games that do not involve playing or staking against a bank and where the chances are equally favourable to all participants

**EBT:** - Electronic Bingo Ticket Minder consisting of electronic equipment operated by a Bingo Operators Licence for the purposes of playing bingo.

**Exempt Lotteries:** - lotteries specified in the Gambling Act as permitted to be run without a licence from the Gambling Commission. There are four types:

- Small Society Lottery (required to register with Licensing Authorities)
- Incidental Non Commercial Lotteries
- Private Lotteries
- Customer Lotteries

**External Lottery Manager:** - an individual, firm or company appointed by the Small Lottery Society to manage a lottery on their behalf. They are consultants who generally take their fees from the expenses of the lottery.

**Fixed Odds Betting:** - general betting on tracks.

**Gaming:** - prize gaming where the nature and size of the prize is not determined by the number of people playing or the amount paid for or raised by the gaming and where the prizes are determined by the operator before the play commences.

**Gaming Machine:** - a machine used for gambling under all types of gambling activity, including betting on virtual events.

**Guidance to Licensing Authorities:** - guidance issued by the Gambling Commission dated April 2006.

**Human Rights Act 1998:** - Articles 1, 6, 8 and 10

Article 1: Protocol 1 – the right to peaceful enjoyment of possessions

Article 6: - the right to a fair hearing

Article 8: - the right of respect for private and family life

Article 10: - the right to freedom of expression

**Inadmissible Representation:** - a representation not made by a Responsible Authority or Interested Party.

**Incidental non-commercial lottery:** - a lottery that is run as an additional amusement at non-commercial events with tickets only sold and drawn during the event, such as a raffle at a dance, bazaar etc.

**Information Exchange:** - exchanging of information with other regulatory bodies under the Gambling Act.

**Interested Party:** - a person who in the opinion of the Licensing Authority

- 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 above, including Trade Associations, Trade Unions, Residents and Tenants Associations where they can demonstrate that they represent such persons.

In determining if a person lives or has business interests sufficiently close to the premises, the following factors will be considered: -

- The size and nature of the premises to be licensed.
- The distance of the premises from the location of the person making the representation.
- The potential impact of the premises (e.g. number of customers, routes likely to be taken by those visiting the establishment).
- The nature of the complaint, i.e. not the personal characteristics of the complainant but the interest of the complainant, which may be relevant to the distance from the premises.
- The catchment area of the premises (i.e. how far people travel to visit).

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

**Irrelevant Representations:** - representations that are vexatious, frivolous or will certainly not influence the authority's determination of the application.

**Large Lottery:** - where the total value of tickets in any one lottery exceeds £20,000 or tickets in separate lotteries in one calendar year exceeds £250,000. This type of lottery requires an operating Licence from the Gambling Commission.

**Licensed Lottery:** - large society lotteries and lotteries run for the benefit of local authorities will require operating licences to be issued by the Gambling Commission.

**Licensing Objectives:** - there are three objectives

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

**Live Gambling:** - gambling on a live game as it happens.

**Lottery:** - an arrangement which satisfies the statutory description of either a simple lottery or a complex lottery in Section 14 of the Act.

**Lottery Tickets:** - every lottery must have tickets for each chance

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

**Mandatory Conditions:** - conditions that must be attached to a Premises Licence, to a class of Premises Licence or licences for specified circumstances.

**Members Club:** - a club must have at least 25 members, be established and conducted 'wholly or mainly' for purposes other than gaming, be permanent in nature, not established to make commercial profit and controlled by its members equally.

**Non-commercial event:** - an event where all the money raised at the event, including entrance fees, goes entirely to purposes that are not for private gain.

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

**Occasional Use Notice:** - a notice that may only be issued in respect of a track, that permits betting on a track without the need for a Premises Licence and which only the person responsible for administration of events on the track or the occupier of the track may issue.

**Off Course Betting:** - betting that takes place other than at a track, i.e. at a licensed betting shop.

**Off Course Betting:** - betting that takes place in self-contained betting premises within the track premises providing facilities for off course betting, i.e. on other events, not just those taking place on the track. Normally operate only on race days.

**On Course Betting:** - betting that takes place on a track while races are taking place.

**Operating Licence:** - a licence issued by the Gambling Commission to permit individuals and companies to provide facilities for certain types of gambling, including remote or non-remote gambling.

**Permit:** - an authorisation issued by the Licensing Authority to provide gambling facilities where the stakes and prizes are low or gambling is not the main function of the premises.

**Personal Licence:** - a licence issued by the Gambling Commission to individuals who control facilities for gambling or are able to influence the outcome of gambling.

**Pool Betting (Tracks):** - pool betting may only be offered at a horse racecourse by the Tote and at a dog track by the holder of the premises licence for the track.

**Premises:** - 'any place' including anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water, a hovercraft or anything or any place situated on or in water. It is for the Licensing Authority to decide whether different parts of a building can be properly regarded as being separate premises.

**Premises Licence:** - a licence issued by the Licensing Authority to authorise the provision of gaming facilities on casino premises, bingo premises, betting premises, including tracks, adult gaming centres and family entertainment centres where an operator's licence and personal licence have been issued by the Gambling Commission. A licence is restricted to one premise only but one set of premises may have separate licences issued in respect of different parts of the building.

**Private lottery:** - there are three types of private lottery

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

**Prize Gaming:** - gaming in which the nature and size of the prize is not determined by the number of players or the amount paid for or raised by the gaming, the prizes having been determined before play commences, e.g. bingo with non-cash prizes. (NB: bingo with cash prizes and that carried on in commercial bingo halls will need to be licensed by the Gambling Commission; prize gaming does not include gaming by use of gaming machines.)

**Prize Gaming Permit:** - a permit issued by the Licensing Authority to authorise the provision of facilities for gaming with prizes on specific premises.

**Provisional Statement:** - an application to the Licensing Authority in respect of premises that are

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

**Relevant Representations:** - representations that relate to the Gambling Licensing Objectives, the Gambling Commission's Guidance, the Codes of Practice.

**Responsible Authorities:** - public bodies for the area in which the premises are mainly or wholly situated

- Licensing Authority in whose area the premise is partly or wholly situated
- Chief Officer of Police
- Fire & Rescue Service
- Planning Authority
- Environmental Health (related to pollution and harm to human health)
- Body competent to advise on protection of children from harm, i.e. Children & Young Peoples' Service
- Authority in relation to vulnerable adults
- Navigation Authority whose statutory functions are in relation to waters where a vessel is usually moored or berthed
- Environment Agency
- British Waterways Board
- Maritime & Coastguard Agency
- HM Revenue & Customs
- Gambling Commission

**Simple Lottery:** - an arrangement where

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

**SWP:** - a Skills-with-Prizes machine

**Skills with Prizes machine:** - a machine on which the winning of a prize is determined only by the player's skill and there is no element of chance. SWP's are unregulated.

**Small Lottery:** - where the total value of tickets in a single lottery is £20,000 or less and the aggregate value of the tickets in a calendar year is £250,000 or less.

**Small Society Lottery:** - a lottery promoted on behalf of a non-commercial society, i.e. lotteries intended to raise funds for good causes.



**Small Operations:** - independent on course betting operators with only one or two employees or a bookmaker running just one shop.

**Statement of Principles:** - matters the Licensing Authority may publish in the Statement of Licensing Principles that they intend to apply when considering an applicant's suitability in applications for permits for unlicensed family entertainment centres and prize gaming.

**Temporary Use Notice:** - a notice that may be issued in respect of a set of premises where there is no premises licence, but where a person or company holding an operating licence relevant to the proposed temporary use of premises wishes to use the premises temporarily for providing facilities for gambling.

**Totalisator (Tote):** - the only permitted operators of pool betting on horseracing tracks.

**Track:** - a site where races or other sporting events take place e.g. horse racing, dog racing or any other premises on any part of which a race or other sporting event takes place or is intended to take place.

**Travelling Fair:** - a fair that 'wholly or principally' provides amusements and must be on a site used for fairs for no more than 27 days per calendar year.

**Vehicles:** - includes trains, aircraft, sea planes and amphibious vehicles other than hovercraft.

**Vessel:** - anything (other than a seaplane or amphibious vehicle) designed or adapted for use on water; a hovercraft; or anything or part of any place situated on or in water.

**Virtual Betting:** - gambling by machine that takes bets on virtual races, i.e. images generated by computer to resemble races or other events.

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

**Young Person:** - an individual who is over 16 years of age but who is under 18 years of age.

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# Licensing Committee

05 December 2018



<b>Title</b>	Statement of Licensing Policy 2019 – 2024 – Key Decision		
<b>Purpose of the report</b>	To make a recommendation to Council on a Key Decision		
<b>Report Author</b>	Rob Thomas		
<b>Cabinet Member</b>	Councillor Daxa Patel	<b>Confidential</b>	No
<b>Corporate Priority</b>	This item is not in the current list of Corporate priorities but still requires a Cabinet decision		
<b>Recommendations</b>	<b>Licensing Committee is asked to recommend the revised Statement of Licensing Policy 2019 – 2024 to Council for adoption.</b>		
<b>Reason for Recommendation</b>	<b>Statutory requirement under the Licensing Act 2003.</b>		

## 1. Key issues

- 1.1 Spelthorne must review its Statement of Licensing Policy at least every three years under section 5 of the Licensing Act 2003. The current policy will therefore need to be revised this year.
- 1.2 The Licensing Committee agreed a draft revised policy for consultation on 31 October 2018. Consultation took place between 1 November 2018 and 29 November 2018 with stakeholders affected by licensable activities. There is discretion to consult more widely and the list of organisations and groups that have been consulted are contained in Annex 2 of the draft policy.
- 1.3 One response to the consultation was received from Surrey Police (**attached as Appendix A**). The Council's licensing department consider that the suggestions contained within, tie in with section 24.2 on the draft version of the policy, which relates to major festivals. It therefore suggests that the wording supplied by Surrey Police is integrated as an additional point, positioned immediately following this section of the document.

## 2. Options analysis and proposal

- 2.1 The preferred option is for Licensing Committee to recommend the policy to Council for its adoption subject to the above, in accordance with the timetable set out in this report.
- 2.2 There is an option for the Licensing Committee to either amend the proposed policy or reject it and propose its own version of a policy. However, the existing policy has served us well and reflects best practice and Central Government guidance. The newly amended version of the policy also takes into account recent changes to legislation.

- 2.3 Licensing Committee is asked to recommend approval of the revised Statement of Licensing Policy 2019 – 2024 to Council.
- 3. Financial implications.**
- 3.1 The costs of revising the policy and the consultation exercise will be met within existing budgets.
- 4. Other considerations**
- 4.1 In revising the policy and conducting the required consultation, the Council will meet the requirements of the 2003 Act.
- 4.2 There are no current proposals to change the fee structure under the 2003 Act, because only Central Government have this authority.
- 5. Timetable for implementation**
- 5.1 The legislative framework requires that Spelthorne's Statement of Licensing Policy be reviewed. Any revisions will be subject to the approval of Council in December 2018.
- 5.2 The proposed timetable is as follows:
- Report to Licensing Committee on 5 December 2018 to seek a recommendation to adopt a final proposed policy.
  - Recommendation to Council on 13 December 2018 to adopt the final proposed policy.
  - Publish updated policy and add to Spelthorne's website in January 2019.

**Background papers: There are none**

**Appendices:**

**Appendix A** response from Surrey Police, received on 20 November 2018

**Appendix B** Draft revised Statement of Licensing Policy 2019-2024

**From:** Rundle, Andy 2274  
**Sent:** 20 November 2018 13:29  
**To:** Licensing <licensing@spelthorne.gov.uk>  
**Subject:** FW: Draft revised statement of Licensing Policy 2019-24  
**Importance:** High

Dear Licensing team,

I would suggest that a reference to the role of the Safety advisory group (SAG) be made in the policy to ensure larger events requiring licensing have appropriate scrutiny.

Below is the reference to SAG taken from the Rushmoor Borough council 2018 proposed licensing policy for cabinet, for information and consideration.

### **6.20. Large / outdoor events and/or specialised activities**

6.21. Special issues and considerations may arise where large-scale, outdoor and/or specialised events are proposed. For this reason, the Licensing Authority **strongly recommends** that applicants –

(a) give notice (at the earliest possible opportunity **and** well before any formal application is submitted) of any proposed large / outdoor / special event; and

(b) discuss and develop any relevant event application proposals through a safety advisory group (SAG) (see below), where appropriate or otherwise invited to do so.

### **6.22. What we mean by ‘large / outdoor / special events’**

6.23. For the purposes of this section, large / outdoor / special events shall be given their widest possible interpretation and meaning and shall include, but not be limited to, those events –

(a) where specialised or unique activities, equipment or environments may be used or provided;

(b) of a significant size, nature or complexity; and/or

(c) that present a risk of disruption to the local community, local services or infrastructure.

### **6.24. What is the Safety advisory group (SAG)?**

6.25. As special considerations may apply, it is the policy and role of the Licensing Authority to facilitate and, where appropriate, help co-ordinate a safety advisory group (SAG) in connection with relevant proposals, applications and authorisations concerning large / outdoor / special events.

6.26. The SAG is a unique forum convened to consider the necessary policies, plans, procedures and/or risk assessments for relevant events. It may comprise of a mix of Responsible Authorities and other relevant agencies with an interest in

the management and organisation of such events. SAG membership will vary according to the circumstances.

**NB:** Whilst SAGs are a useful means to help identify the relevant considerations and steps necessary to promote the licensing objectives in respect of large / outdoor / special events and therefore help develop relevant application proposals, they are not responsible for 'sign off' or approval of such steps. This is a matter for the applicant.

### 6.27. When is the SAG used?

6.28. A SAG may be convened at an applicant's request or at the request of any relevant agency.

### 6.29. SAG limitations and benefits

6.30. It must be noted that SAGs are **not** responsible for the content of applications, which remains the sole responsibility of the applicant. The applicant must consider if and how to address the issues raised by the SAG and/or those matters outlined in this document. However, experience shows that applicants that go through the SAG process are less likely to attract representations in respect of their proposals.

**NB:** SAGs **do not** relieve Responsible Authorities or other persons of the need to make relevant representations where they believe this is appropriate (see Part R below).

Many thanks

Andy

Supt Rundle 2274

North Surrey Division

Surrey Police



## **SPELTHORNE BOROUGH COUNCIL**

### **STATEMENT OF LICENSING POLICY 2014-2019 – 2019-2024**

**Statement January 2014-2019**

This Statement of Principles was approved by Spelthorne Borough Council on the 19 December 2013.

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## **1.0 Introduction**

Section 5 of the Licensing Act 2003 requires a licensing authority to prepare and publish a statement of policy every five years. The legislation was amended two years ago to extend the statutory period requiring local authorities to review and update their Statement of Licensing Act policies from three to five years. However we will keep the policy under review and amend in the interim if necessary.

This statement provides information for existing licence holders, those wishing to apply for various licences under the Act, and for residents who may have views about applications. It also gives information on the various processes under the Act. However, separate guidance and information are available on request (see **Annex 2** for contact details).

## **2.0 The Spelthorne Area**

Spelthorne Borough Council is located 15 miles west of central London and sits in the far north-west corner of Surrey, close to the boundary of Berkshire. The Borough is also bordered by the London Boroughs of Hillingdon, Hounslow and Richmond. The Borough is 45% urban and the remainder protected as Green Belt.

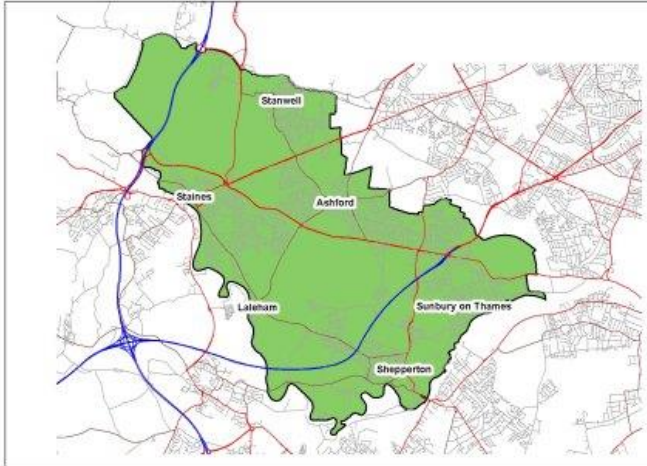
Spelthorne's resident population was 95,598 by the end of 2011, based on the 2011 census. The main centres of population are the towns of Staines, Ashford, Sunbury, Shepperton and Stanwell.

The local economy includes manufacturing and service industries, research, agriculture, the professions and many administration sites. In fact 20% of all commercial or industrial property in the county is located in the Borough, including the headquarters of national and international companies such as BP. Shepperton Film Studios and Kempton Park Racecourse are also located within the Borough. Heathrow, the busiest international airport in the world, lies on the Borough's northern edge and inevitably has a major impact on the area both economically (13% of Spelthorne's economically active population work there) as well as environmentally.

Transport links in the area are mainly good but traffic can get very congested. The busiest section of the M25 passes through the western part of the Borough while the M3 starts in the south of Spelthorne at Sunbury Cross. Bus and rail links to London are good, but poor to the rest of Surrey.

Spelthorne is home to a wide variety of licensed premises and has approximately ~~58-45~~ pubs/~~bars~~, ~~43-23~~ members' or sports' clubs, ~~405-107~~ shops selling alcohol, ~~64-55~~ restaurants and 48 "other" – including late night takeaways, cafés, hotels, ~~boats~~, and community halls.

## 2.1 MAP OF THE BOROUGH



## 3.0 LICENSING OBJECTIVES AND LICENSABLE ACTIVITIES

Section 4 of the Licensing Act requires the Licensing Authority to carry out its licensing functions with a view to promoting the **Licensing Objectives**, which are:

- The Prevention of Crime and Disorder
- Public Safety
- The Prevention of Public Nuisance
- The Protection of Children from Harm

Decision making will be based on promoting these licensing objectives. Decision makers will also have regard to this policy document and any guidance issued from time to time by the Secretary of State.

The policy relates to all “licensable activities” as defined by the act, namely:-

- Retail sale of alcohol (for the avoidance of confusion, the definition of alcohol was amended by the Policing and Crime Act 2017 to include alcohol “in any state”. This is to make it clear that products such as powdered and vaporised alcohol fall within the definition provided by the 2003 Act.)
- Supply of alcohol to club members
- Provision of ‘regulated entertainment’ (listed below) – to the public, to club members or with a view to profit
  - A performance of a play
  - An exhibition of a film
  - An indoor sporting event
  - Boxing or wrestling entertainment

- A performance of live music (except within limits defined by The Live Music Act 2012)
- Any playing of recorded music
- A performance of dance
- Entertainment of a similar description to that falling within the performance of live music, the playing of recorded music and the performance of dance
- The supply of hot food and/or drink from any premises between 11pm and 5am (known as Late Night Refreshment).

Note: The requirement to license “entertainment facilities” was removed in October 2012.

#### 4.0 PREMISES LICENCES AND CLUB PREMISES LICENCES

Premises licences are needed for any business that involves the use of any premises for the licensable activities outlined above. “Premises” does not necessarily have to be a building. If public access to the premises will be restricted to members and guests, a club premises certificate may be obtained.

The “operating schedule” is a key part of the application as it outlines what measures the applicant will put in place to promote the licensing objectives outlined above. These steps will normally become licence conditions. Applications must also contain details of the types of licensable activities, operating hours, and a plan of the premises.

Plans are not be required to be submitted in any particular scale, but must be in a format which is “clear and legible in all material respects”, i.e. they must be accessible and provide sufficient detail (including the relative size of any features relevant to the application) for the Council to be able to determine the application. There is no requirement for plans to be professionally drawn as long as they clearly show all the prescribed information.

#### 5.0 ANNUAL FEES

Premises licences are not renewed annually but a statutory annual fee is payable.

The 2003 Act requires a licensing authority to suspend a premises licence or club premises certificate if the annual fee is not paid when it is due. This does not apply immediately if the payment was not made before or at the time of the due date because of an administrative error, or because the holder disputed liability for the fee before or at the time of the due date. In either of these cases, there is a grace period of 21 days. This period is intended to allow the licensing authority and the licence or certificate holder an opportunity to resolve the dispute or error. If the dispute or error is not resolved during this 21-day period, the licence will be suspended.

### **SUSPENSION OF LICENCE FOR NON PAYMENT OF ANNUAL FEE**

If a licensing authority suspends a licence or certificate, it must notify the holder in writing and specify the date on which the suspension takes effect; this date must be at least two working days after the day the authority gives the notice. In Spelthorne, we shall give at least 7 days' notice. We will inform the police and other relevant responsible authorities that the licence or certificate has been suspended as soon as practicable.

A suspension ceases to have effect on the day on which the licensing authority receives payment of the outstanding fee from the licence or certificate holder. To enable the licence holder to demonstrate that the licence has been reinstated, the licensing authority is required to give the holder written acknowledgment of receipt as soon as practicable following receipt, and:

- a) If payment was received on a working day, no later than the end of the next working day, or;
- b) If payment was received on a day when the authority is not working, no later than the end of the second working day after the day on which the fee was received.

Once the outstanding payment has been received and the suspension lifted, we will inform the police and other relevant responsible authorities that the licence or certificate has been reinstated.

### **6.0 PERSONAL LICENCES**

A personal licence authorises the holder to sell alcohol, or authorise the sale of alcohol, in a premises that has a premises licence or other relevant authorisation such as a Temporary Event Notice (see below).

Individuals applying for a personal licence must prove their entitlement to work in the UK. Where an applicant's immigration permission to live and work in the UK is time-limited, a personal licence may be issued but will become invalid when the immigration permission expires. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as curtailment or revocation), any licence issued will automatically lapse.

Applicants must be over 18, must not have forfeited a personal licence within five years of the application, and have a ~~relevant~~ accredited licensing qualification. The application must be accompanied by a criminal record check that is less than one month old.

Where an applicant for a Personal Licence has certain types of conviction (for relevant or foreign offences as defined by the act) or, has been required to pay an immigration penalty, the Authority is required to notify the police and - in the case of immigration offences and penalties - the Secretary of State. In these cases a licence may still be granted, unless an objection is received within the prescribed period. A conviction for a relevant offence or foreign offence would have to be notified to Surrey Police and they would have an

~~opportunity to object to the personal licence being issued on crime and disorder grounds.~~

A police objection would normally lead to the application being decided by a licensing sub-committee. A conviction cannot be taken into account if it is “spent” for the purposes of the Rehabilitation of Offenders Act 1974.

When considering an objection notice or immigration objection notice the authority will take the following matters into consideration:

- the circumstances in which the offences were committed or the penalty imposed;
- the period that has elapsed since the offence(s) were committed or the penalty imposed;
- whether the offences/penalty reveal a pattern of offending or were a one-off occurrence; and
- any mitigating circumstances.

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In consideration of an objection notice the Authority will usually reject an application (or in the event of a review, revoke the licence) if it considers it appropriate to do so in order to promote the crime prevention objective.

In consideration of an immigration objection notice the Authority will reject the application/revoke the licence if it considers it appropriate to do so for the prevention of illegal working in licensed premises.

Prevention of crime is both an objective of the Licensing Act 2003 and an important responsibility of the Authority under the Crime and Disorder Act 1998. Granting a licence to a person with relevant convictions will in many cases undermine rather than promote the crime prevention objective. Similarly granting a licence to a person convicted of an immigration offence or who has paid an immigration penalty will in many cases go against the prevention of illegal working in licensed premises which itself is a crime.

Applicants must apply to the Licensing Authority where they live rather than where they work.

~~Personal licences are valid for 10 years.~~ The Licensing Authority will stay the same even if the holder moves out of the Borough. ~~This applies to the renewal of a personal licence at the end of the 10 years.~~ The personal licence holder must notify changes of name or address to the Licensing Authority and there is a statutory fee payable.

Where the Council becomes aware that a Personal Licence holder has been convicted of a relevant offence, foreign offence or required to pay an immigration penalty it may suspend the licence for a period not exceeding six months or revoke the licence. Before doing so the Council will serve a notice on the personal licence holder inviting them to make representations within 28 days regarding:

- the offence /penalty;
- any decision a court made regarding the licence at the time of the conviction; and
- any other relevant information (including the holder's personal circumstances).

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After the 28 day period has elapsed the authority will make a decision as to what action it will take based on the information provided to it. In circumstances where the Authority does not propose to revoke the licence, notice must be given to the Chief Officer of Police inviting representations as to whether the licence should be suspended or revoked. The Act does not require a hearing to be held at any stage during the process, although the Authority may invite the licence holder to make a personal representation. Licence holders (and the police) will be notified of the Authority's decision in writing along with their right of appeal.

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The Council can not take action if the licence holder has appealed against the conviction or sentence imposed in relation to the offence until the appeal is disposed of. Where an appeal is not lodged, the licensing authority can not take action until the time limit for making an appeal has expired.

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## 7.0 TEMPORARY EVENT NOTICES

Temporary Event Notices (TENs) can be given for small-scale licensable events. TENs may cover a wide range of activities such as permitting the sale of alcohol from a beer tent at a school fete or during the interval of a school play, to a pub who want to extend their permitted licensing hours. They are served rather than applied for.

The event must:

- have less than 500 people at any one time – including staff and any performers
- last no more than 168 hours, (7 days)

You must be at least 18 to serve a Temporary Event Notice.

If an applicant is organising separate but consecutive events, there must be at least a 24 hour gap between them.

An applicant can give up to five TENs a year. If they have a personal licence to sell alcohol, this limit is increases to 50 TENs a year.

A single premises can have up to 12 temporary events in one calendar year, as long as:

- the total length of the events is not more than 21 days
- one person doesn't make more than five applications for the premises



A TEN will be required for each event held on the same premises. Under the 2003 Act 'premises' can mean any place. Events authorised under a TEN will therefore not always be in a building with a formal address and can take place, for example, in public parks and plots within larger areas of land. In all cases, the premises user should provide a clear description of the area in which they propose to carry on licensable activities, including whether the premises are, for example, an open field or a beer tent.

#### **'Late TENS'**

A 'late TEN' can be submitted up to five working days before the event. If an applicant doesn't hold a personal licence, they can serve up to five notices (of which up to two may be late). If they hold a personal licence, the limit is 50 notices (of which up to 10 may be late).

If there are Police or Environmental health objections to a late TEN, then the event cannot go ahead. There are no provisions to hold hearings.

Guidance and further details on how to serve TENS are available separately. Although ten clear working days is the minimum possible notice that may be given, the Council prefers advance notice of events and literature published in documentation and on the website will ensure this is clear for applicants.

Only the Council can impose conditions on a TEN from the existing conditions on the premises licence or club premises certificate at the venue, in response to an objection from Environmental Health or Surrey Police. However, it may wish to act in an intermediary position in order to make recommendations for criteria an applicant should aim to meet – based upon the professional input of another authority: so as to avoid the need for counter-TENS needing to be served in response to future notices.

It is important for applicants to note that serving a TEN does not relieve the premises user from any requirements under planning law for appropriate planning permission, where it is required.

#### **8.0 CONDITIONS**

The authority wishes to encourage high quality, well managed premises. The operating schedule should describe how these high management standards will be achieved. In particular applicants will be expected to demonstrate:

- knowledge of best practice;
- that they understand the legal requirements of operating a licensed business; and
- a knowledge and understanding of the licensing objectives, relevant parts of the licensing policy, and their responsibilities under the Licensing Act 2003.

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Measures offered by applicants on their operating schedule will normally become licence conditions. They therefore must be enforceable and the meaning must be clear and unambiguous. The authority may alter the wording of a condition to achieve this. The context or meaning of the condition will not be changed.

The Licensing Authority may only attach conditions to a premises licence where "relevant representations" have been received. Relevant representations are those that relate to the licensing objectives, are about the particular application and relate to the particular premises.

Conditions will only be attached to a licence where they are appropriate for the promotion of one or more of the licensing objectives. They will focus on matters that are within the control of individual licensees and that are relevant to the type of premises and licensable activities that take place.

When considering conditions, the Licensing Authority will take into account the direct impact of the activities taking place at licensed premises on members of the public living, working or engaged in normal activity in the area concerned.

Conditions that duplicate provisions in other legislation would not normally be added to licences.

### **8.1 Authorisation of Sales**

There is a mandatory condition on all premises licences that permit the sale of alcohol that all such sales must be authorised by a person who holds a personal licence. It is recommended that this authorisation be given in writing and that this written authorisation be available for inspection by police officers (including suitably authorised police staff), trading standards or licensing officers.

## **9.0 ADMINISTRATION AND DECISION MAKING**

This Policy shall be decided upon by the full Council. The Licensing Committee will consist of a maximum of 15 Members of the Council. If there are relevant representations against an application, the Licensing Authority will try to resolve issues between applicants and those making representations to try to reach agreement so that a hearing is not necessary.

Members of the public who wish to submit a representation will be made aware that their personal details will be made available to the applicant, unless they clearly state that they wish for them to be redacted. Anonymous representations however, will not be accepted by the Licensing Authority.

Where relevant representations have been made and not subsequently withdrawn, applications will be heard by a sub-committee of three members drawn from the Licensing Committee.

The 2003 Act enables licensing authorities to act as responsible authorities as a means of early intervention; the Council's licensing department may do so where considered appropriate without having to wait for representations from other responsible authorities. In cases where Spelthorne's licensing department is also acting as a responsible authority and has submitted a representation against or in support of an application being determined by a sub-committee, it is important to achieve a separation of responsibilities within the authority - to ensure procedural fairness and eliminate conflicts of interest. A separation will be achieved by allocating distinct functions (i.e. those of licensing authority and responsible authority) to different officials within the authority. The officer advising the sub-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.

Guidance issued by the Home Office conveys that it should be considered reasonable for licensing authorities to expect other responsible authorities will 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. Each responsible authority has equal standing under the 2003 Act and may act independently without waiting for representations from any other responsible authority.

The circumstances in which licensing decisions may be delegated to an officer are set out in **Annex 3**.

## **10.0 CONSULTATION**

The Statement of Licensing Policy shall be formulated following wide consultation with other regulatory bodies, representatives of the trade, licence holders, local residents and businesses, the emergency services, supermarket and shop owners. A full list of consultees may be found at Annex 1.

## **11.0 FUNDAMENTAL PRINCIPLES**

It is recognised that licensing law is not the only means of controlling general anti-social behaviour, whether alcohol-related or not. However, licensing plays an important part in managing the night-time economy, particularly in town centres and any other identified "high risk" areas.

This authority recognises that individuals or businesses

- have the right to apply under the Act for a variety of permissions and have any such application considered on its individual merits
- have the right to make representations on an application or to seek a review of a licence or certificate.

The authority has a duty to prevent crime and disorder under Section 17 of the Crime and Disorder Act 1998 and are committed to working closely with Surrey Police, other agencies, local residents and businesses to achieve this.

The authority will act in accordance with the values, principles and standards set out in the Equalities Act 2010.

The Human Rights Act 1998 makes it unlawful for a local authority to act in a way that is incompatible with a convention right. The authority will have regard to the Human Rights Act when undertaking licensing functions, particularly the following relevant provisions:

- Article 6 – everyone is entitled to a fair and public hearing within a reasonable time, by an independent and impartial tribunal established by law
- Article 8 – everyone has the right to respect for his home and private and family life
- Article 1 of the first protocol – every person is entitled to the peaceful enjoyment of his or her possessions.

## **12. ENTITLEMENT TO WORK IN THE UK**

As with personal licences, individuals applying for a premises licence for the sale of alcohol or late night refreshment must be entitled to work in the UK. The Council must therefore be satisfied that any individual(s) who apply for a premises licence does have this entitlement. An application made by an individual without the entitlement to work in the UK will be rejected. This applies to applications which include the sale of alcohol and the provisions of late night refreshment, but does not include applications which apply to regulated entertainment only. For example, a person applying for a licence for a music venue who does not intend to sell alcohol or late night refreshment is not prohibited from applying for a licence on grounds of immigration status. However, they will commit a criminal offence if they work illegally.

The Council should establish whether or not an applicant has a lawful immigration status in the UK, is prohibited from working because they are in the UK illegally, or is subject to a condition that prevents them from holding a licence. To ensure that it does not discriminate against anyone, assumptions will not be made about a person's right to work in the UK or their immigration status on the basis of their nationality, ethnic origin, accent, the colour of their skin, or the length of time they have been resident in the UK and all licence applicants will be required to produce copies of documentation accordingly.

Where an applicant's immigration permission to live and work in the UK is time-limited, a licence may be issued but will become invalid when the immigration permission expires. In the event that the Home Office cuts short or ends a person's immigration permission (referred to as curtailment or revocation), any licence issued will automatically lapse.

## **13.0 PROCEDURAL MATTERS**

To ensure the application is completed fully, applicants should consider the contents of this policy statement, the government guidance issued under section 182 Licensing Act 2003 and relevant guidance published by the licensing authority.

Applicants are encouraged to seek advice from the licensing authority and responsible authorities before submitting an application. Failure to comply with the statutory requirements may result in an application or notice being invalid / rejected. Comprehensive guidance is available for applicants. Incomplete or unclear applications will not be automatically returned. This will not usually be the case where simple administrative adjustments can easily be made.

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-Guidance is equally available to residents or businesses that are interested in making representations or exploring the review process

#### **134.0 ELECTRONIC APPLICATIONS**

The Licensing Act 2003 (Premises licences and club premises certificates) (Amendment) (Electronic Applications etc) Regulations 2009 came into force in December 2009. This amendment was required to ensure that all licensing applications, with the exception of reviews and personal licences, are able to be made online. The applicant only needs to submit one application to the local authority. Once the fee has been paid then the local authority has the responsibility to ensure that all the other statutory recipients receive a copy.

At the end of the process, local authorities can provide either a paper licence and summary or an electronic licence and summary containing all the hours and conditions.

Please check Spelthorne's website [www.spelthorne.gov.uk](http://www.spelthorne.gov.uk) for further details

Paper applications will still have to be copied to all of the responsible authorities by post.

#### **145.0 PUBLIC RECORDS**

The authority has a web-based public access facility for viewing licensing applications. Current applications can also be commented on electronically. This can be accessed via <http://my.spelthorne.gov.uk/licensing/>

#### **156.0 CUMULATIVE IMPACT, LATE NIGHT LEVY (LNL), AND EARLY MORNING ALCOHOL RESTRICTION ORDERS (EMROs)**

"Cumulative impact" is the combined effect of a number of licensed premises in a particular area. Licensing authorities can adopt a special policy of refusing or restricting new licences on the grounds of the cumulative impact

that licensed premises may have in a particular area. The licensing authority must have evidence to support the need for such a policy.

Spelthorne Borough Council does not currently have such a policy for any part of the Borough but shall keep this under review.

A Late Night Levy (LNL) is an additional charge that can be applied to premises that operate late at night. It is a local power that licensing authorities can choose whether or not to exercise. It must cover the whole of the licensing authority's area. Licensing authorities can choose the period during which the levy applies every night, between midnight and 6am, and decide what exemptions and reductions should apply from a list set out in regulations. The licensing authority must have evidence to support the need for a LNL. Spelthorne Borough Council does not currently apply a LNL but shall keep this under review.

An Early Morning Alcohol Restriction Order (EMRO) is a power that can enable licensing authorities to restrict sales of alcohol in the whole or a part of their areas for any specified period between 12 midnight and 6 am, if they consider this appropriate for the promotion of the licensing objectives. Spelthorne Borough Council has not currently introduced any EMROs within the Borough but shall keep this under review.

## **167.0 LICENSING HOURS**

### **167.1 General**

Longer licensing hours can help to avoid the concentration of customers leaving premises at the same time, leading to friction at late night food outlets, taxi ranks and other sources of transport. It is also recognised that licensing hours should not restrict the development of safe evening and night-time entertainments that are important for investment and employment locally. However, providing consumers with greater choice and flexibility must always be balanced carefully against the rights of local residents to peace and quiet.

There is no general presumption in Spelthorne in favour of lengthening licensing hours: the overriding principle will be the promotion of the four licensing objectives.

Stricter measures for controlling noise are likely to be sought for late licences, particularly in residential areas and/or where there has been a history of noise complaints. Please also see measures outlined under the "Public Nuisance" heading below.

Consideration will always be given to the individual merits of any application.

### **167.2 Shops, stores and supermarkets**

Shops, stores and supermarkets will generally be permitted to sell alcohol during the normal hours they are open for shopping. However, there may be very good reasons for restricting those hours. For example, a limitation on the hours that alcohol can be sold may be appropriate, following police

representations, for shops known to be the focus of disorder and disturbance, or where youths gather and behave anti-socially.

### **167.3 Late night takeaways**

Applications for premises offering late night take away food and drink will be considered on their individual merits. However, such premises can be the focus of disorder with large numbers of people gathering there after other licensed premises have closed. The density and closing times of other licensed premises in the vicinity will therefore be taken into consideration. Applicants for late night takeaways in Staines Town Centre will also be encouraged to include the provision of CCTV and use of town centre radios on their operating schedules.

### **167.4 Non-standard hours**

It is recognised that businesses may wish to apply for non-standard hours for Bank Holidays, Christmas Eve or Saints days. However, any additional days should be clearly identified in their licence operating schedules with dates and times so that proper consideration can be made of their impact on the licensing objectives and so that the licence is clear and unambiguous in this respect.

## **178.0 ENFORCEMENT**

The licensing authority recognises that most businesses and individuals want to comply with the law. We will actively seek to help businesses and others meet their legal obligations without unnecessary expense, while taking firm action against those who flout the law or act irresponsibly, including prosecution where appropriate.

Protocols are in place for the targeting of agreed problem and high-risk premises, with a lighter touch being applied to those premises shown to be well managed and maintained.

Enforcement will take a graduated approach and will normally include education and support in the first instance. We will follow our enforcement policy, relevant Government Guidance and the Licensing Act 2003 when deciding the appropriate course of action to take.

In practice, regular joint visits are undertaken with partners such as the Police, Environmental Health, Fire and Trading Standards Officers. These include visits outside normal office hours and are mostly unannounced. Inspections will normally take place to premises that have been the subject of complaints, or where there has been a change of management or alteration to the conditions of the licence. These visits will either be pre-arranged or unannounced depending on the nature of the visit. Other factors that will determine the frequency of inspections include the location of the premises, the type of customers or activities, and confidence in the management.

It is expected that, in general, action will target “problem” premises through the review process. Where prosecution is considered to be necessary, the key principles of consistency, transparency and proportionality will be maintained.

## **189.0 THE REVIEW PROCESS**

Residents have the power to apply for a licence to be called in for review if the premises are causing problems. There is no requirement to live or work in the vicinity. Any responsible authority under the 2003 Act may apply for a review of a premises licence or club premises certificate. Therefore, the Council's licensing department may apply for a review if it is concerned about licensed activities at premises and wants to intervene early without waiting for representations from other persons. However, it is not expected that the Council will act as a responsible authority in applying for reviews on behalf of other persons or where the basis for intervention falls within the remit of another responsible authority. “Responsible Authorities” such as the Police, Environmental Health or Trading Standards can also call licences in for review.

A review can be requested at any time, however government guidance recommends that not more than one review in 12 months should be allowed on similar grounds unless there are compelling circumstances. Review applications cannot be made anonymously.

The Immigration Act 2016 made the Secretary of State a responsible authority in respect of premises licensed to sell alcohol or late night refreshment with effect from 6 April 2017. In effect this conveys the role of responsible authority to Home Office Immigration Enforcement who exercises the powers on the Secretary of State's behalf. When Immigration Enforcement exercises its powers as a responsible authority it will do so in respect of the prevention of crime and disorder licensing objective because it is concerned with the prevention of illegal working or immigration offences more broadly. The Council's licensing department will work closely with officers from Immigration Enforcement to enable them to carry out their functions as effectively as possible.

Licensing authorities are subject to certain timescales, set out in the legislation, for the review of a premises licence following a closure order under section 80 of the Anti-social Behaviour, Crime and Policing Act 2014 or an illegal working compliance order under section 38 of and Schedule 6 to the Immigration Act 2016. The relevant time periods run concurrently and are as follows:

- upon receipt of a notice that a magistrates' court has made a closure order, it has 28 days to determine the licence review – the determination must be made before the expiry of the 28th day after the day on which the notice is received;
- the hearing must be held within ten working days, the first of which is the day after the day the notice from the magistrates' court is received;



- notice of the hearing must be given no later than five working days before the first hearing day (there must be five clear working days between the giving of the notice and the start of the hearing).

A review application needs to be in writing on the statutory form. There will need to be clear and factual evidence to support the application and this should show that incidents are not isolated and that there is a direct link with the premises. Grounds for review must also be based on one or more of the licensing objectives.

### **19.1 Summary Reviews**

Summary reviews can be undertaken when the police consider that the premises concerned are associated with serious crime or serious disorder (or both). The summary review process allows interim conditions to be quickly attached to a licence and a fast track licence review. The provisions were inserted by section 21 of the Violent Crime Reduction Act 2006 and amended by sections 136-137 of the Policing and Crime Act 2017, including the addition of section 53D.

The process is outlined extensively in full in sections 53A – 53D of the 2003 Act, however for ease of reference a flowchart summarising the process is attached as **Annex 5**.

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## **2019.0 THE ROLE OF COUNCILLORS**

Local councillors can make representations or apply for the review of a licence. Local councillors are subject to the Local Authorities (Model Code of Conduct) Order 2007. The Code applies to any elected council member whether or not they are a member of the licensing committee. A member of a licensing committee, representing others or acting in their own right, would need to consider carefully at a committee meeting whether they had a prejudicial interest in any matter affecting the licence or certificate of the premises in question which would require them to withdraw from the meeting when that matter is considered (for example, where a councillor has made representations in their capacity as an elected member of the licensing authority). In addition, a member with a prejudicial interest in a matter should not seek to influence improperly a decision on the licence or certificate in any other way.

## **219.0 RELATIONSHIP WITH OTHER LEGISLATION**

The licensing authority recognises the need to avoid duplication with other legislation and will only seek to attach conditions to premises licences and club premises certificates where these are not already provided for in any other legislation. Operating schedule conditions that duplicate existing legislation may not be included on the licence.

## 242.0 PLANNING AND BUILDING CONTROL

Planning, Building Control and licensing regimes will be properly separated to avoid duplication and inefficiency. Licensing applications cannot be a re-run of a planning application as different considerations will apply. However, the granting of a licence which involves a material alteration to a building would not relieve the applicant of the need to apply for planning permission or building control consent where appropriate.

There are circumstances when as a condition of planning consent a closing time has been set that may be different to the licensing hours. In these circumstances the applicant must close at the earlier time.

Where businesses have indicated, when applying for a licence under the 2003 Act, that they have also applied for planning permission or that they intend to do so, licensing sub-committees and officers will consider discussion with their planning counterparts prior to determination - with the aim of agreeing mutually acceptable operating hours and scheme designs.

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## 232.0 INTEGRATING STRATEGIES

There are a number of other council and government policies and strategies that are relevant to licensing. Where possible, the licensing authority will aim to integrate its licensing policy with these.

Examples of council strategies relevant to licensing include:

- crime and disorder reduction strategies.
- leisure and cultural strategies
- transportation and planning strategies.

Examples of government strategies relevant to licensing include:

- Safe, Sensible, Social, formerly known as the National Alcohol Harm Reduction Strategy.
- Home Office Guidance: "Selling Alcohol Responsibly" which contains good practice examples from the alcohol retail and hospitality industries published in April 2010.
- Safer clubbing (The Safer Clubbing Checklist for club owners, managers and event promoters) is available on request.

## 243.0 THE LICENSING OBJECTIVES – OPERATING SCHEDULES

Applicants are advised to complete risk assessments, which can then be used to form the basis of the operating schedule. Measures that are outlined in operating schedules will generally become licence conditions. Failure to comply with licence conditions can lead to formal enforcement action or an application for a review of the licence, or both. Guidance is offered below as

to possible control measures that may assist applicants in completing operating schedules. These measures are not exhaustive and may relate to more than one licensing objective. Applicants are also advised to seek advice from the relevant agencies before submitting their applications.

#### 24.1 Crowded Places Guidance 2017

The Council is mindful that the UK faces a real threat from terrorism and crowded places remain an attractive target. Crowded places include those which are licensed are easily accessible to the public and attractive to terrorists. For this reason, applicants for premises where large groups of people will gather are strongly advised to reference NaCTSO's Crowded Places Guidance 2017 when completing risk assessments and considering measures which will become licence conditions.

#### 24.2 Major festivals

The Council expects the organisers of festivals to contact it's licensing department at the earliest opportunity to discuss arrangements for licensing activities falling under the 2003 Act. For some events, the organisers may seek a single premises licence to cover a wide range of activities at varied locations within the premises. This will involve the preparation of a substantial operating schedule, and the Council will be keen to offer advice and assistance about its preparation.

### **245.0 CRIME AND DISORDER**

Staines Town Centre is no longer considered a hotspot for alcohol-related crime and disorder. However it has the strongest night-time economy in the Borough with a mixture of restaurants, bars, pubs, late night takeaways and a cinema.

What applicants include on their operating schedules will depend on the type of premises, the location, and the proposed activities.

Premises that are mainly concerned with the sale of alcohol for consumption on the premises (**pubs, bars, proprietary clubs**) will need to address the risks to crime and disorder with measures in their operating schedules to:

- Prevent disorder on the premises
- Prevent drunkenness
- Prevent under age sales of alcohol
- Ensure customers enter and leave in an orderly manner
- Exclude illegal drugs
- Exclude offensive weapons

Examples include:-

- Active membership of pubwatch schemes

- Use of licensed door supervisors
- Physical security features e.g. use of shatterproof drinking glasses
- Information on amount of seating to be provided
- Training given to staff in crime prevention measures
- Use of town centre radios (Staines Town Centre) to enable licensed premises to communicate to each other and police
- Search procedures
- Measures to prevent the use or supply of illegal drugs
- Details of CCTV video cameras

This list is not exhaustive and will not suit all applications. Applicants should seek advice from Surrey Police before preparing their operating schedules in relation to the prevention of crime and disorder.

It is recognised that late night takeaways can be the focus of anti-social behaviour, and in Staines Town Centre the use of CCTV, licensed door supervisors at peak times, and signing up to the town centre radio may be considered necessary to address this.

**Shops and off licences** applying to sell alcohol will need to address the risks to crime and disorder with measures in their operating schedules. Examples include:-

- That there will be regular staff training (whether or not staff are paid) in relation to sale of alcohol to under age people and that training records shall be kept.
- All refusals to be recorded. in a refusals book. Refusals books shall consist of a bound book with consecutively numbered pages, and shall be held at the premises and available for inspection on demand at all times by the responsible authorities. Records shall include the reason for the refused sale, whether because the customer looked under 25 and could not provide ID, or the customer appeared to be intoxicated, or whether the sales assistant suspected that the sales may be made on behalf of someone who may be underage or intoxicated (known as proxy sales).
- Use of Electronic Point of Sale (EPOS) system to remind staff via a suitable visual prompt or audible warning. Alternatively stickers can be used over certain products to remind cashiers to check the customer's age.
- That there is CCTV coverage of the licensed premises and the immediate vicinity outside in accordance with Surrey Police's Operational Guidelines in the use of CCTV in licensed shops.
- That a personal licence holder may be required to be on duty at high risk times such as outside school hours and during the evenings, for example where a business has been prosecuted for underage sales and/or is a source of youth disorder.
- That staff shall not sell alcohol to any person they have reason to suspect may be buying the alcohol for a child and that there shall be signage to warn adults that it is an offence to buy alcohol on behalf of a

child. This is known as “proxy sales”. Where there is evidence of such sales taking place, consideration should be given to ensuring CCTV coverage outside the shop.

- In areas with problems with alcohol related youth crime and disorder, that licence holders shall participate in “Bottlewatch” schemes, if requested to do so by responsible authorities.
- In areas where there is an Offwatch scheme, that licence holders sign up to such a scheme.

This list is not exhaustive and applicants should seek advice from Surrey Trading Standards or Surrey Police before preparing their operating schedules

#### **245.1 Reviews**

A review of the licence may be sought by Responsible Authorities or any other person, where:

- A serious crime has occurred at, or can be linked to a particular premises
- There have been prosecutions or penalty notices served for underage sales
- There have been incidents which raise concerns that the premises are not being properly managed
- There have been breaches of the terms or conditions of the licence
- There have been repeated complaints from the public.

#### **245.2. Working with other agencies to prevent crime and disorder**

Current arrangements for partnership working and exchange of information between the relevant enforcement agencies will continue. In particular, the Licensing Authority shall work closely with Police and Trading Standards Officers with regard to prevention of the sale of alcohol to under age people.

The Violent Crime Reduction Act 2006 inserts Section 147A into the Licensing Act 2003. Section 147A creates an offence of selling alcohol to a child three times or more during a consecutive three month period. The new penalties created by this offence are:

- The magistrates’ court may order the premises licence to be suspended for maximum 3 months
- Trading standards or police may order a temporary (48hours) premises closure notice prohibiting sale of alcohol
- maximum £10,000 fine

Selling alcohol to under 18s can also result in

- £80 fixed Penalty Notice, or
- Prosecution with a fine of up to £5,000
- Revocation of a premises licence
- Revocation of a personal licence

## **245.3 NEW MANDATORY CONDITIONS**

### **The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010**

The Licensing Act 2003 (Mandatory Licensing Conditions) Order 2010 came into force on 6th April 2010 (with the exception of paragraphs 4 & 5 of the Schedule which came into force on 1st October 2010)

All paragraphs will apply to premises licences that permit the sale of alcohol on the premises ("on-licences"). Paragraph 4 only will apply to premises licences that permit the sale of alcohol for consumption off the premises ("off-licences")

(1) The responsible person shall take all reasonable steps to ensure that staff on relevant premises do not carry out, arrange or participate in any irresponsible promotions in relation to the premises.

(2) In this paragraph, an irresponsible promotion means any one or more of the following activities, or substantially similar activities, carried on for the purpose of encouraging the sale or supply of alcohol for consumption on the premises in a manner which carries a significant risk of leading or contributing to crime and disorder, prejudice to public safety, public nuisance, or harm to children—

(a) games or other activities which require or encourage, or are designed to require or encourage, individuals to—

- (i) drink a quantity of alcohol within a time limit (other than to drink alcohol sold or supplied on the premises before the cessation of the period in which the responsible person is authorised to sell or supply alcohol), or
- (ii) drink as much alcohol as possible (whether within a time limit or otherwise);

(b) provision of unlimited or unspecified quantities of alcohol free or for a fixed or discounted fee to the public or to a group defined by a particular characteristic (other than any promotion or discount available to an individual in respect of alcohol for consumption at a table meal, as defined in section 159 of the Act);

(c) provision of free or discounted alcohol or any other thing as a prize to encourage or reward the purchase and consumption of alcohol over a period of 24 hours or less;

(d) provision of free or discounted alcohol in relation to the viewing on the premises of a sporting event, where that provision is dependent on—

- (i) the outcome of a race, competition or other event or process, or
- (ii) the likelihood of anything occurring or not occurring;

(e) selling or supplying alcohol in association with promotional posters or flyers on, or in the vicinity of, the premises which can reasonably be

considered to condone, encourage or glamorise anti-social behaviour or to refer to the effects of drunkenness in any favourable manner.

2.

The responsible person shall ensure that no alcohol is dispensed directly by one person into the mouth of another (other than where that other person is unable to drink without assistance by reason of a disability).

3.

The responsible person shall ensure that free tap water is provided on request to customers where it is reasonably available.

4.

(1) The premises licence holder or club premises certificate holder shall ensure that an age verification policy applies to the premises in relation to the sale or supply of alcohol.

(2) The policy must require individuals who appear to the responsible person to be under 18 years of age (or such older age as may be specified in the policy) to produce on request, before being served alcohol, identification bearing their photograph, date of birth and a holographic mark.

5.

The responsible person shall ensure that–

(a) where any of the following alcoholic drinks is sold or supplied for consumption on the premises (other than alcoholic drinks sold or supplied having been made up in advance ready for sale or supply in a securely closed container) it is available to customers in the following measures–

(i) beer or cider: ½ pint;

(ii) gin, rum, vodka or whisky: 25 ml or 35 ml; and

(iii) still wine in a glass: 125 ml; and

(b) customers are made aware of the availability of these measures.

These conditions override any conditions already included in a premises licence or club premises certificate, so far as they are identical to the existing conditions or inconsistent with, and more onerous than, the existing conditions. The new conditions will apply to every licence and certificate authorising the sale and supply of alcohol from the point they come into force. As the new conditions are mandatory licensing conditions, any breaches will be treated in the same way as breaches of existing conditions. Failure to comply with any conditions attached to a licence or certificate is a criminal offence, which on conviction would be punishable by a fine of up to £20,000 or up to six months imprisonment or both. In most cases, we would expect there to be a review of those premises. This licensing authority takes any breach that impacts on the licensing objectives seriously.

#### **245.4 IRRESPONSIBLE DRINKS PROMOTIONS**

Licence holders are urged to follow the advice contained in the Home Office document “Selling Alcohol Responsibly: the New Mandatory Conditions”

published in April 2010. If in any doubt, you should discuss your proposals with your local Licensing Authority and/or police before running the promotion and heed any advice given. Failure to heed such advice may lead to criminal proceedings and/or a review of the licence.

## **245.5 PUBLIC SAFETY**

The public safety objective is about ensuring the physical safety of performers and people attending licensed premises. The risk to public safety will vary according to the type of premises and the activities that take place there. Most risks will be adequately covered by other legislation such as the Health and Safety at Work etc. Act 1974 or fire safety legislation. However other laws may not cover risks that are associated with particular types of activities or entertainment and will therefore need to be addressed in preparing licence applications.

Examples will include

- The provision of a suitable Residual Current Device (RCD) protection of electricity supplies to entertainers' equipment, including microphones, when regulated entertainment is organised on site
- Setting maximum numbers of people allowed (and use of clickers or counting machines when capacity levels are expected to be high)

Applicants are advised to seek advice from the Environmental Health Service (or other enforcement authority for Health and Safety at Work) and Surrey Fire and Rescue Service before preparing their operating schedules.

## **245.6 Reviews in relation to public safety**

### **Fire Safety**

Although existing fire safety legislation can be used to restrict or prohibit the use of premises where there is a fire safety risk, application for the review of a premises licence may be considered by the responsible authorities in the following circumstances:

- Where it is considered that the management had failed to maintain the appropriate level of fire safety provision
- Failure to comply with a fire related enforcement notice
- Following the outcome of any investigation and inspection of a fire occurring within a premises

### **Health and Safety**

Although existing health and safety legislation will primarily be used it may be necessary to apply for the responsible authorities to apply for the review of a premises licence in the following circumstances:

- Serious or regular contraventions of health and safety legislation
- Failure to comply with Improvement or Prohibition Notices



- Service of a Prohibition Notice where a significant risk to public safety exists
- Prosecution for failure to comply with health and safety legislation

## **245.7 PUBLIC NUISANCE**

Licensed premises can have a significant impact on communities from noise, litter, light, odour and anti-social behaviour.

### **245.7.1 Noise**

It is recommended that operating schedules contain sufficient information for officers to form a view as to whether noise from licensable activities is likely to cause a problem to people living nearby. Applicants should provide details of proposed noise control measures, particularly if premises are in residential areas where regulated entertainment is being applied for late at night, or where there is a history of noise complaints. The licensing authority will normally apply stricter conditions in these circumstances where relevant representations have been received. Whilst each application will be considered on its individual merits it should be noted that restricting the hours of regulated entertainment may be necessary to prevent public nuisance.

Measures could include:

- A simple requirement to keep doors and windows at the premises closed when music is being played
- Limiting amplified music to a particular area of the building
- Moving speakers away from external walls or walls that abut private premises, or adjusting the direction of the speakers
- Installation of acoustic curtains, seals to doorways, rubber speaker mounts
- Fitting self-closing devices on doors so that they do not stay open.
- Monitoring noise levels at the perimeter of premises and taking action to reduce the volume if it is likely to disturb nearby neighbours, e.g. it could be too loud if the words of the song are clearly audible
- Noise limiters on amplification equipment (if proportionate to the premises – noise limiters are expensive and are likely to be a burden for smaller premises)
- Prominent clear and legible notices displayed at all exits requesting the public to respect the needs of local residents and to leave the premises and the area quietly
- The placing of bottles and cans into bins outside the premises to take place at times that will minimise disturbance to nearby premises

### **245.7.2 Smokefree**

Since 1 July 2007 it became illegal to smoke in enclosed public buildings and workplaces in England. Customers who want to smoke will therefore have to do so outside licensed premises. Applicants will need to address the potential for public nuisance from this activity, e.g. noise and litter such as cigarette ends. Advice should be sought from the appropriate authorities to ensure that crime and disorder and public safety issues are adequately addressed. For example, it may be necessary to prevent customers from taking alcohol outside when they go out to smoke, or to designate smoking areas that are away from neighbouring residential properties, where necessary. Operating schedules should detail how noise nuisance and disorder in light of this will be dealt with.

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#### **245.7.3 Odours**

Conditions may be necessary to ensure that licensed premises are properly vented to prevent odours causing a nuisance to people who live or work nearby.

#### **245.7.4 Litter**

Late night takeaways are encouraged to include on their operating schedules reasonable assurances that the area in and around their business will be kept clear of litter associated with that business.

#### **245.7.5 Reviews in connection with Public Nuisance**

An application for review by responsible authorities or any other person may be applied for where:

- Complaints have been received that have been substantiated by investigating officers; and/or
- Breaches of licence conditions in respect of public nuisance have been identified; and/or
- Action is being considered under the Environmental Protection Act 1990, the Noise Act 1996 or section 40 of the Anti-Social Behaviour Act 2003; and/or
- Evidence of noise, litter, odours etc from the premises has caused a public nuisance over a period of time, and other approaches have failed.

#### **245.8 PROTECTION OF CHILDREN FROM HARM**

The Council is committed to the safeguarding of children and vulnerable persons. The Licensing Act 2003 places legal responsibilities on holders of Premises Licences and Club Premises Certificates, and those who work in licensed premises to ensure that children are protected from harm at all times when on licensed premises.

In exercising the Council's powers under Section 182 of the Act to designate a body which is competent to advise the Council about the

protection of children from harm, the following principles have been applied:

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

Having regard to the above principles and the guidance issued by the Home Office, the Council designates the Surrey County Council Children's Service for this purpose.

There are a great variety of premises for which licences may be sought. These will include theatres, cinemas, restaurants, pubs, cafes, take-aways, community halls and schools, all of which will have different risks to children. The general relaxation that gives children greater access to licensed premises is a positive step, which aims to promote more family friendly premises. However the risk of harm to children is equal in importance to the other licensing objectives and applicants must include in their operating schedules the steps they propose to take to prevent moral, physical, or psychological harm to children.

When considering applications for new licences and variations to existing licences, the Council will seek to be assured that applicants have considered safeguarding of children and vulnerable persons within the Operating Schedule of the application. Where alcohol is to be sold, applicants should include details of the measures they propose to prevent ~~the its~~ supply of ~~alcohol~~ to children. It is expected that:-

- staff will receive regular and adequate training on the law and practice relating to age restricted sales (including challenging purchasers, checking identification), such training to be properly documented and records made available for inspection.
- registers of refused sales will be maintained and made available for inspection
- Applicants should indicate whether they are signatories to the Portman Group Code of Practice.

Further additional examples of recommended management practice for the protection of children could include:

- exclusion from the premises in certain circumstances;
- the display of prominent warning notices about the supply of alcohol to minors.;
- consideration of and / or refusal to stock high strength beers, lagers, ciders, etc.

It is now mandatory for premises which sell or supply alcohol to have an age verification policy in place. The Council favours the Challenge 25 scheme and such a scheme volunteered as part of an operating schedule

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will be given the appropriate weight when the Council determines the licence application.

Applicants needing advice on how to avoid age-restricted sales should contact Surrey Trading Standards Service (contact details at **Annex 2**) before preparing their operating schedules.

There are certain restrictions in the Act relating to the presence of children on licensed premises. In the case of premises, which are used “exclusively or primarily” for the supply of alcohol for consumption on those premises, it is an offence to allow anyone under the age of 16 to be on such premises unless they are accompanied by an adult.

Where the consumption of alcohol takes place but is not the exclusive or primary activity at a particular venue, those under 16 are not allowed on the premises between midnight and 05.00 unless an adult accompanies them.

The licensing authority will not seek to further limit the access of children to any premises unless it receives representations to that effect based on concerns about physical, moral, or psychological harm to children. The following are examples of premises that will raise particular concern:-

- 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
- Where there is a known association with drug taking or dealing
- Where there is a strong element of gambling on the premises
- Where “adult” entertainment is being proposed.

Applicants seeking a licence that would enable them to provide alcohol as part of an alcohol delivery service should include in their operating schedule the procedures they intend to operate to ensure that:

- the person they are selling alcohol to is over 18;
- that alcohol is only delivered to a person over 18;
- that a clear document trail of the order process from order to delivery is maintained (with times and signatures) and available for inspection by an authorised officer;
- the time that alcohol is sold on the website / over the phone and the time; and
- that the alcohol is delivered is within the hours stated on the licence for the sale of alcohol.

#### **245. 8.1 Children and film exhibitions**

The licensing authority will expect applicants to explain in their operating schedules how they will restrict children from viewing age-restricted films. It is a mandatory condition on all premises licences that permit the exhibition of films that admission of children must be restricted in accordance with any recommendation by the relevant film classification body. Films are classified

according to the recommendations of the British Board of Film Classification ('BBFC') or the Council.

#### **245.8.2 Children and public entertainment**

Where a large number of children are expected to attend regulated entertainment (e.g. theatre production or film shows), the Licensing Authority would normally expect the applicant to demonstrate, in their operating schedules, the arrangements they intend to put into place in order to ensure their safety, examples could include:-

- that children performing at premises such as theatres or concert halls are kept under adult supervision at all times, including transfer from stage to dressing room.
- that children can be accounted for at all times, in case of evacuation or emergency.
- that an adult member of staff be stationed in the vicinity of each of the exits from any level, subject to there being a minimum of one member of staff per 50 children or part thereof
- if necessary, no standing to be permitted in any part of the auditorium during the performance
- that all staff employed to supervise children should be subject to an enhanced Criminal Records Bureau (CRB) check. Where relevant, unspent convictions are found the licensee should not employ such a person.

#### **245.8.3 Reviews in connection with protection of children from harm**

An application for review by the responsible authorities or any other person may be considered where:

- There have been underage sales or underage drinking taking place
- Breaches of licence conditions in respect of protection of children have taken place
- Complaints have been received that have been substantiated by investigating officer

#### **25.9 Public Health**

The Director of Public Health is responsible for making representations and observations on applications on behalf of health bodies. Public health is not yet a licensing objective but Public Health is a responsible authority under the Licensing Act, and the licensing authority believes that public health has much to add to licensing in relation to the local populations' alcohol related health needs. Health bodies such as Public Health have unique access to data not available to other responsible authorities which may inform licensing decisions. Public Health is useful in providing evidence of alcohol related health harms particularly in relation to cumulative impact policies.

## Annex 1 Table of Consultees

All contact will be by email where possible

Contact Name	Position / Organisation
All Councillors	Spelthorne Borough Council
All "responsible authorities"	
Staff:	
Daniel Mouward	Chief Executive
Lee O'Neil	Deputy Chief Executive
Terry Collier	Deputy Chief Executive
Heather Morgan	Head of Regeneration and Growth
Jackie Taylor	Head of Neighbourhood Services
Sandy Muirhead	Head of Commissioning and Transformation
Lisa Stonehouse	Leisure Services Manager
Tracey Willmott-French	Senior Environmental Health Manager
Deborah Ashman	Joint Head of Community Wellbeing
Karen Sinclair	Assistant Chief Executive
Terry Collier	Head of Corporate Governance
Michael Graham	
Alistair Corkish	Deputy ICT Manager
Roy Tilbury	Customer Services Operational Manager
Debbie O'Sullivan	Human Resources Manager
Punita Talwar	Audit Manager
Dawn Morrison	Communications Manager
Police:	
Gavin Stephens	Chief Supt.
Sharon Bush	Superintendent
Ian St John	Inspector
Iain Scott	Community Safety Sergeant
Jacquie Clark	Police Licensing Officer
Trade:	
	British Institute of Innkeeping (BII)
	British Beer and Pub Association (BBPA)
	Hogs Back Brewery
	Association of Licensed Multiple Retailers
	Village & Community Halls Advisor – Surrey Community Action
	Pubwatches
Chambers of Commerce	
	Surrey Chambers of Commerce
	Shepperton & District Business Community
	Ashford Chamber of Commerce
Media	
	BBC Southern Counties Radio
	Eagle Radio
	Heathrow Villager

	Radio Jackie Staines & Ashford News Surrey CC press office Trinity Mirror Southern Group Heathrow Villager Newsquest
Shopping Centres	Elmsleigh Shopping Centre Two Rivers Shopping Centre Sunbury Cross
Vulnerable people Groups	Chair of Local Adult Protection Group SADAS Alcohol Concern Turning Point Voluntary Action in Spelthorne
Solicitors	Cobbetts Poppleston Allen Licensing Solicitors TLT Solicitors Blake Laphorn solicitors Freemans Solicitors Horsey Lightly Fynn John Gaunt and Partners
Community groups	All Spelthorne schools All Spelthorne churches Residents' Associations in Spelthorne Staines Town Society  Neighbouring Councils: London Borough of Hounslow London Borough of Hillingdon London Borough of Richmond Runnymede Borough Council Elmbridge Borough Council

## Annex 2 – List of useful references and contacts

### RESPONSIBLE AUTHORITIES

**Licensing Team**  
Spelthorne Borough Council  
Council Offices  
Knowle Green  
Staines-upon-Thames  
TW18 1XB

Tel: 01784 444202

licensing@spelthorne.gov.uk

Surrey County Council **Trading Standards**  
Consort House, 5-7 Queensway  
Redhill  
RH1 1YB  
Tel: 01372 371700

e-mail:

trading.standards@bucksandsurreytradingstandards.gov.uk

**Surrey Fire & Rescue Service**  
Headquarters  
Croydon Road  
Reigate  
Surrey  
RH2 0EJ

Tel: 01737 733733

email: SFRSbusiness.support@surreycc.gov.uk

**Environmental Health**  
Spelthorne Borough Council  
Council Offices  
Knowle Green  
Staines-upon-Thames  
TW18 1XB

Tel: 01784 446291

e-mail: environmental.health.commercial@spelthorne.gov.uk

**Surrey Police Licensing Northern**  
PO Box 101  
Guildford  
GU1 9PE

Tel: 01784 862012

e-mail: licensingnorthern@surrey.pnn.police.uk

**Head of Planning**  
Spelthorne Borough Council  
Council Offices  
Knowle Green  
Staines-upon-Thames  
TW18 1XB

e-mail: Planning.development.control@spelthorne.gov.uk

**Public Health Business Support Team**  
Public Health NHS Surrey  
Room G55 County Hall  
Penrhyn Road  
Kingston Upon Thames  
KT1 2DN

Tel: 0208 541 7976

e-mail: public.health@surreycc.gov.uk

**Alcohol Licensing Team (Home Office)**  
Lunar House  
40 Wellesley Road  
Croydon  
CR9 2BY

e-mail: Alcohol@homeoffice.gsi.gov.uk

**Surrey County Council's Childrens Services**  
Quadrant Court  
35 Guildford Road  
Woking  
GU22 7QQ



**Newspaper groups:**

Trinity Mirror Southern Group  
(Surrey Herald, Staines and Ashford News, Staines Informer and Leader)  
89 Eastworth Road  
Chertsey  
Surrey  
KT16 8DX  
Tel 01932 561111

e-mail: [surreynewspapers@trinitysouth.co.uk](mailto:surreynewspapers@trinitysouth.co.uk)

Heathrow Villager\*  
260 Kingston Road  
Staines-upon-Thames  
TW18 1PG  
Tel 01784 453196

e-mail: [heathrow.villager@gmail.com](mailto:heathrow.villager@gmail.com)

(\*circulation in Stanwell, Ashford, some of Staines but not Sunbury or Shepperton)

**British Institute of Inn keeping (BII)**

[www.bii.org.uk](http://www.bii.org.uk)

**British Beer & Pub Association (BBPA)**

[www.beerandpub.com](http://www.beerandpub.com)

**Association of Licensed Multiple Retailers (ALMR)**

[www.almr.org.uk](http://www.almr.org.uk)

**Association of Convenience Stores**

[www.acs.org.uk](http://www.acs.org.uk)

**Portman Group**

[www.portmangroup.org.uk](http://www.portmangroup.org.uk)

**Citizencard**

[www.citizencard.com](http://www.citizencard.com)

**Connexions Card**

[www.connexionscard.com](http://www.connexionscard.com)

**Other useful information**

Licensing Act 2003

<https://www.gov.uk/government/publications/section-182-of-the-licensing-act-2003-amended-guidance>

### **Publications**

The Event Safety Guide – A guide to health, safety and welfare at music and similar events (HSE 1999) ('The Purple Book') ISBN 0 7176 2453 6

Managing Crowds Safely (HSE 2000) ISBN 0 7176 1834 X

5 Steps to Risk Assessment: Case Studies (HSE 1998) ISBN 0 7176 15804

The Guide to Safety at Sports Grounds (The Stationery Office, 1997) ('The Green Guide') ISBN 0 11 300095 2

Safety Guidance for Street Arts, Carnival, Processions and Large Scale Performances published by the Independent Street Arts Network, copies of which may be obtained through [www.streetartsnetwork.org](http://www.streetartsnetwork.org)

### Annex 3 – Delegation of licensing functions

<b>MATTER TO BE DEALT WITH</b>	<b>FULL COMMITTEE</b>	<b>SUB-COMMITTEE</b>	<b>OFFICERS</b>
Application for personal licence, no unspent convictions			All cases
Application for personal licence, with unspent convictions		If a police objection	All other 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 for a minor variation to a premises licence/club registration Certificate			All cases, in consultation with Chair of Licensing Committee and, where necessary, the relevant responsible authority
Application to vary designated personal licence holder		If a police objection	All other cases
Request to be removed as designated personal licence holder			All cases
Application for transfer of premises licence		If a police objection	All other cases
Application for Interim Authority		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 a police or Environmental Health representation to a temporary event notice		All cases	
Suspension a Premises Licence or Club Certificate for non-payment of annual licence fee			All cases

## Annex 4 – Criteria for applying cumulative impact policy

'Cumulative impact assessments' were introduced in the 2003 Act by the Policing and Crime Act 2017, with effect from 6 April 2018. Cumulative impact is the potential impact on the promotion of the licensing objectives of a number of licensed premises concentrated in one area. A cumulative impact assessment (CIA) may be published by the Council to help it to limit the number or types of licence applications granted in areas **where there is evidence** to show that the number or density of licensed premises in the area is having a cumulative impact and leading to problems which are undermining the licensing objectives. CIAs relate to applications for new premises licences and club premises certificates and applications to vary existing premises licences and club premises certificates in a specified area.

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The CIA must include a statement saying that the Council considers that the number of premises licences and/or club premises certificates in one or more parts of the area described is such that it is likely that granting further licences would be inconsistent with the authority's duty to promote the licensing objectives. As part of the publication a licensing authority must set out the evidential basis for its opinion.

The steps to be followed in considering whether to publish a CIA are summarised below.

- Identify concern about crime and disorder; public safety; public nuisance or protection of children from harm in a particular location.
- Consider whether there is good evidence that crime and disorder or nuisance are occurring, or whether there are activities which pose a threat to public safety or the protection of children from harm.
- If there is evidence that such problems are occurring, identify whether these problems are being caused by the customers of licensed premises, or that cumulative impact is imminent.
- Identify the boundaries of the area where problems are occurring (this can involve mapping where the problems occur and identifying specific streets or localities where such problems arise).
- Consult those specified in section 5(3) of the 2003 Act. As with consultations in respect of the licensing policy statement as a whole, it is for each licensing authority to determine the extent of the consultation it should undertake in respect of a CIA (subject to the statutory requirements).
- For the purposes of the consultation provide the persons specified in section 5(3) with the following information:
  - the reasons why it is considering publishing a CIA;
  - a general indication of the part or parts of its area which it is considering describing in the assessment;
  - whether it considers that the assessment will relate to all premises licence and club premises certificate applications and variation applications, or only to those of a particular kind described.
- Subject to the outcome of the consultation, include and publish details of the CIA, including the evidence in support of the assessment and the

particular kinds of premises the assessment relates to. Licensing authorities are not restricted to using general terms such as on-trade, off-trade and late night refreshment providers, and can apply their own descriptions such as vertical-drinking bars and night clubs if appropriate.

- Summarise the licensing authority's opinion in light of the evidence of cumulative impact (or any revision to an existing opinion) in the licensing policy statement and explain within the policy statement how the authority has had regard to any CIAs it has published under section 5A. The summary within the licensing policy statement should include, but is not limited to: the nature of the problems identified and the evidence for such problems; the geographical extent of the area covered by the assessment; the types of premises described in the assessment; and the types of applications for which it would likely be inconsistent with the licensing authority's duty to promote the licensing objectives to grant. 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 identifying 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 where a cumulative impact is imminent
- Consultation with persons/ bodies set out in s5(3) of Act as part of general consultation required in respect of the whole statement of licensing policy
- Subject to that consultation, inclusion of a special policy about future premises licences or club premises certificate applications from that area within the terms of the DCMS guidance within the statement of licensing policy
- Publication of the special policy as part of the statement of licensing policy
- Once adopted, a special policy creates a rebuttable presumption that applications for new premises licences or club premises certificates or material variations will normally be refused, if relevant representations are received to that effect, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact already being experienced.
- Applicants would need to address the special policy issues in their operating schedules in order to rebut such a presumption
- Policy must stress that the presumption against grant does not relieve responsible authorities or interested parties of the need to make a relevant representation before the Licensing Authority may lawfully consider giving effect to its special policy i.e. if no representation is received, the application must be granted (subject to such conditions that are consistent with the operating schedule and any mandatory

conditions required by the Act). However, responsible authorities or interested parties can make written representation maintaining that it is necessary to refuse the application for the promotion of crime and disorder and referring to information which had been before the Licensing Authority when it developed its statement of licensing policy

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- The absence of a special policy does not prevent any responsible authority or interested party making representations on a new application for the grant of a licence on the grounds that the premises will give rise to a negative cumulative impact on one or more of the licensing objectives
- 
- The Licensing Authority must regularly review any special saturation policies to see whether they are still needed or should be expanded
- 
- Must be a clear statement regarding the difference between commercial need and the cumulative impact of premises within an area e.g.
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- 'The Licensing Authority will not take 'need' (i.e. the commercial demand for premises offering a particular type of licensable activity) into account when considering an application, as this is a matter for planning control and the market. However, the impact on the promotion of the licensing objectives of the number, type and density of licensed premises in a given area, may lead to serious problems of nuisance and disorder outside and some distance from the premises. This is described as the 'cumulative impact', and is a proper matter for consideration by the Licensing Authority.'
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- Policy must not impose quotas — based on either the number of premises or the capacity of those premises — that restrict the consideration of any application on its individual merits or which seek to impose trading hours in particular areas
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After publishing a CIA the licensing authority must, within three years, consider whether it remains of the opinion set out in the assessment.